

# COMPUTER TRAINING SOLUTIONS

## CONDITIONS OF BUSINESS

### 1 Interpretation

#### 1.1 In these Conditions:

- “CTS”** means CTS (Computer Training Solutions) Ltd (a company registered in England & Wales under company number 5764867) whose registered office address is 1<sup>st</sup> Floor, Aztec Centre, Aztec West, Bristol, BS32 4TD
- “CTS Material”** means any Documents or other materials (including but not limited to instruction and training manuals and user guides in any format), and any data or other information provided by CTS relating to the Service
- “Client”** means the person named on the Specification Sheet for whom CTS has agreed to provide the Service in accordance with these Conditions
- “Client Material”** means any Documents or other materials and any data or other information provided by the Client relating to the Service
- “Contract”** means the contract for the provision of the Service
- “Delegate”** means the Client or any employee or agent of, or person otherwise so designated by, the Client to receive the Service at the request of the Client
- “Discounted Courses”** means courses which CTS may offer from time to time at a discounted rate
- “Document”** includes, in addition to a document in writing, any map, plan, graph, drawing or photograph, any film, negative, tape or other device embodying visual images and any disc or other device embodying any other data
- “Specification Sheet”** means the sheet to which these Conditions are appended
- “Service”** means the service to be provided by CTS for the Client and referred to in the Specification Sheet
- “Fees”** means the fees agreed between the Client and CTS for the provision of the Service or in the absence of such agreement CTS’s standard charges relating to the Service from time to time

1.2 The headings in these Conditions are for convenience only and shall not affect their interpretation.

## 2. **Supply of the Service**

2.1 CTS shall provide the Service to the Client subject to these Conditions. Any changes or additions to the Service or these Conditions must be agreed in writing by CTS and the Client.

2.2 The Client shall at its own expense supply CTS with all necessary Documents or other materials, and all necessary data or other information relating to the Service, within sufficient time to enable CTS to provide the Service in accordance with the Contract. The Client shall ensure the accuracy of all Client Material.

2.3 The Client shall at its own expense retain duplicate copies of all Client Material and insure against its accidental loss or damage. CTS shall have no liability for any such loss or damage, however caused. All CTS Material shall be at the sole risk of the Client from the time of delivery to or to the order of the Client.

2.4 The Service shall be provided in accordance with the Specification Sheet and otherwise in accordance with CTS's current brochure or other published literature relating to the Service from time to time, subject to these Conditions.

2.5 CTS may correct any typographical or other errors or omissions in any brochure, promotional literature, quotation or other document relating to the provision of the Service without any liability to the Client.

2.6 CTS may at any time without notifying the Client make any changes to the Service which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature or quality of the Service.

2.7 Any quotation given by CTS is an invitation to the Client to appoint within 28 days of the quotation date CTS to provide the Service in accordance with these Conditions and any other special terms referred to in the quotation or accepted and agreed by CTS.

2.8 If the Client submits an instruction containing terms inconsistent with or purporting to override these Terms, CTS's acknowledgement or acceptance of such instruction shall constitute a counter-offer on these Conditions.

2.9 With the exception of Discounted Courses (which for the avoidance of doubt cannot be cancelled), if the Client cancels all or any part of the Service, unless otherwise agreed by CTS, CTS shall be entitled to charge a cancellation fee as follows:-

Notice given 30 days or more prior to commencement of the anticipated provision of the Service: No charge

Notice given between 29 days and 7 days prior to commencement of the anticipated provision of the Service: 50% of the Fees

Notice given 6 days or less prior to commencement of the anticipated provision of the Service: 100% of the Fees

such cancellation fee being a genuine pre-estimate of the loss which will be suffered by CTS as a result of such cancellation.

2.10 Where the Client is a consumer the Contract is subject to the Client's right of cancellation under the Consumer Protection (Distance Selling) Regulations 2000 as follows:-

2.10.1 the Client has the right to cancel the contract at any time up to the end of seven working days after the day upon which his booking is made. If the Service is to be provided within 7 working days of the booking being made the Client agrees that the Client's right to cancel ends at the time the performance of the Services starts. A working day is any day other than weekends and bank or other public holidays.

2.10.2 To exercise the Client's right of cancellation, the Client must give written notice to CTS. Once the Client has notified CTS that he is cancelling the Contract, CTS will refund or recredit the Client within 30 days for any sum that has been paid by the Client or debited from the Client's debit or credit card for the Service.

2.11 If the Client is a consumer their statutory rights are not affected by these terms and conditions.

2.12 Where the Client is not a consumer the right to cancel set out in clause 2.10 will not apply.

### **3 Fees**

3.1 Subject to any special terms agreed (save in respect of the Discounted Courses to which the provisions of clause 8 shall apply), the Client shall pay the Fees and any additional sums which are agreed between CTS and the Client for the provision of the Service or which, in CTS's sole discretion, are required as a result of the Client's instructions or lack of instructions, the inaccuracy of any Client Material or any other cause attributable to the Client.

3.2 The Fees shall be exclusive of travel, accommodation, subsistence expenses and any other out of pocket expenses and disbursements incurred by CTS or its employees or other representatives in providing the Service and which shall be invoiced separately by CTS. CTS agrees that the payment of such expenses is subject to such limits and other conditions as may be agreed between CTS and the Client from time to time.

3.3 All Fees quoted to the Client for the provision of the Service are exclusive of any Value Added Tax, for which the Client shall be additionally liable at the applicable rate from time to time.

3.4 Subject to clause 8, the Fees shall be paid in full by the Client (together with any applicable Value Added Tax, and without any set-off or other deduction) at least 7

days before the commencement of the anticipated provision of the Service. In cases where the Service is being booked less than 7 days before the commencement of the anticipated provision of the Service the Fees shall be payable in full at the time of booking. Time for payment is of the essence and CTS will not provide the Client with confirmation of booking (which shall include all information relating to and directions to the venue) until payment (or a delivery reference number in accordance with clause 3.5 below) has been received in full.

- 3.5 The Fees may be paid by credit or debit card, and except where full payment is due at the time of booking also by BACS or by cheque. Card details should be given by telephone to CTS and not transmitted by e-mail as CTS will accept no responsibility for the safety of card details transmitted by e-mail. Cheques should be sent to CTS by means of recorded post and the delivery reference number confirmed to CTS by e-mail. Remittance advice slips should be sent to CTS [in a manner specified on the invoice] or [at its registered office address, emailed to [ address ] , or faxed to 01454 203457].
- 3.6 Any additional sums that CTS shall be entitled to invoice the Client in accordance with these Conditions shall be invoiced following the completion of the provision of the Service, or at other times agreed with the Client, and such additional sums shall be payable immediately.
- 3.7 If payment is not made on a due date, CTS shall be entitled, without limiting any other rights it may have:
- 3.7.1 to charge interest on the outstanding amount (both before and after any judgment) at the rate of 3 % above the base rate from time to time of National Westminster Bank plc from the due date until the outstanding amount is paid in full.
- 3.7.2 to cease all further work on behalf of the Client whether under this or any other contract without liability in respect of any or loss or damage sustained by the Client as a result PROVIDED THAT in any such event the Client shall not in any respect be released from its obligations to CTS.
- 3.8 Where the Client requests and CTS agrees to provide additional services which are not part of the Service then those services will be chargeable as agreed or failing agreement at CTS's standard rates from time to time.

#### **4 Rights in Client Material and CTS Material**

- 4.1 The property and any copyright or other intellectual property rights in:
- 4.1.1 any Client Material shall belong to the Client
- 4.1.2 any CTS Material shall, unless otherwise agreed in writing between the Client and CTS, belong to CTS, subject only to the right of the Client to use the CTS Material for the purposes of utilising the Service.
- 4.1.3 any Document or other item belonging to a third party and used by CTS, under

licence or as otherwise agreed by that third party, in the provision of the Service (“Third Party Material”) shall belong to the relevant third party

and the Client hereby agrees and undertakes that it will not copy or distribute (whether electronically or in hardcopy format) any CTS Material or Third Party Material and shall so far as possible ensure that all Delegates refrain from copying or distributing the same. The Client shall indemnify CTS against any loss, damages, costs, expenses or other claims arising from any such infringement or alleged infringement.

- 4.2 Any Client Material or other information provided by the Client which is so designated by the Client shall be kept confidential by CTS, and all CTS Material or Third Party Materials or other information provided by CTS which is so designated by CTS shall be kept confidential by the Client (who shall so far as possible ensure that all Delegates shall keep the same confidential); but the foregoing shall not apply to any Documents or other materials, data or other information which are public knowledge at the time when they are so provided by either party, and shall cease to apply if at any future time they become public knowledge through no fault of the other party.
- 4.3 The Client warrants that any Client Material and its use by CTS for the purpose of providing the Service will not infringe the copyright or other rights of any third party, and the Client shall indemnify CTS against any loss, damages, costs, expenses or other claims arising from any such infringement or alleged infringement.
- 4.4 On rare occasions certain items of CTS Material or Third Party Material which are intended to be handed to Delegates may not be available on the day the Service is provided. On such occasions CTS will provide the Client with the relevant materials for distribution to Delegates as soon as is practicable after the provision of the Service. CTS will have no further liability to the Client in respect of such materials.

## **5 Warranties and Liability**

- 5.1 CTS warrants to the Client that the Service will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the Specification. Where CTS supplies in connection with the provision of the Service any goods (including CTS Materials or Third Party Material) supplied by a third party, CTS does not give any warranty, guarantee or other term as to their accuracy, quality, fitness for purpose or otherwise, but shall, where possible, assign to the Client the benefit of any warranty, guarantee or indemnity given by the person supplying the goods to CTS.
- 5.2 CTS shall have no liability to the Client for any loss, damage, costs, expenses or other claims for compensation arising from any Client Material or instructions supplied by the Client which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Client (including its responsibility to check that the Service includes the required content to meet the its own requirements for the Service).

5.3 Except in respect of death or personal injury caused by CTS's negligence, or as expressly provided in these Conditions, CTS shall not be liable to the Client by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of CTS, its employees or agents or otherwise) which arise out of or in connection with the provision of the Service or their use by the Client.

5.4.1 The following provisions set out CTS's entire liability (including any liability for the acts and omissions of its employees or agents) to the Client in respect of:

5.4.1.1 any breach of its contractual obligations arising under this Agreement;  
and

5.4.1.2 any representation statement or tortious act or omission including negligence arising under or in connection with this Agreement.

AND THE CLIENT'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF THIS CLAUSE 5.4

5.4.2 Any act or omission on the part of CTS falling within Clause 5.4 shall for the purpose if this Clause 5.4 be known as an 'Event of Default'

5.4.3 CTS's liability to the Client for death or injury resulting from its own or that of its employee's negligence shall not be limited.

5.4.4 Subject to the limit set out in Clause 5.4.5.1 CTS shall accept liability to the Client in respect of damage to the tangible property of the Client resulting from the negligence of CTS or its employees.

5.4.5 Subject to the provisions of Clause 5.4.3 CTS's entire liability in respect of any Event of Default shall be limited to damages of an amount equal to:

5.4.5.1 £[ ] in the case of an Event if Default falling within Clause 5.4.4;  
and

5.4.5.2 in the case of any other Event of Default aggregate of the Fees paid by the Client hereunder.

5.4.6 Subject to Clause 5.4.3 CTS shall not be liable to the Client in respect of any Event of Default for loss of profits or any type of special indirect or consequential loss (including loss or damage suffered by the Client as a result if an action brought by a third party) even if such loss was reasonably foreseeable or CTS had been advised of the possibility of the Client incurring the same.

5.4.7 If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise to only one claim under this Agreement.

- 5.4.8 The Client hereby agrees to afford CTS not less than 28 days in which to remedy any Event of Default hereunder.
- 5.4.9 Except in the case of Event of Default arising under Clause 5.4.3 CTS shall have no liability to the Client in respect of any Event of Default unless the Client shall have served notice of the same upon CTS within 3 months of the date it became aware of the circumstances giving rise to the Event of Default or the date when it ought reasonably to have become so aware.
- 5.4.10 Nothing in this Clause 5.4 shall confer any right or remedy upon the Client to which it would not otherwise be legally entitled.
- 5.5 CTS shall not be liable to the Client or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of CTS's obligations in relation to the Service, if the delay or failure was due to any cause beyond CTS's reasonable control.
- 5.6 CTS will use its best endeavours to comply with any agreed date or dates for the supply of the Services but, unless otherwise expressly agreed, such date or dates shall constitute only statements of expectation and shall not be binding. Accordingly, the time of the supply of the Services shall not be of the essence and if CTS fails to supply the Services by any specified date, such failure shall not constitute a breach of the contract and the Client shall not be entitled to treat the contract as thereby repudiated or to rescind it or any related Contract in whole or in part or claim compensation for such failure or for any consequential loss or damage resulting therefrom. Subject to clause 8, in the unlikely event that the provision of the Service has to be cancelled by CTS a further date will be set at a time convenient to both parties.
- 5.7 CTS makes no representations as to the benefit to the Client arising out of the provision of the Service and there is neither expressed nor shall there be implied into the Contract between CTS and the Client and any conditions or warranties as to the same.
- 5.8 All information provided as part of the Service is given in good faith and CTS will not be held responsible for actions taken by the Client or Delegates, or any other individual or organisation as a result of the information provided during or after provision of the Service.
- 5.9 It is CTS's policy to monitor constantly the Service. Every care has been taken to ensure the accuracy of, and verify the content of the information given in providing the Service to the Client. However the Client acknowledges changes will occur after the Service have been designed or devised or after publication of materials used by CTS in the provision of the Service and the Client agrees that they book or purchase the Services on this basis.

## **6 Termination**

- 6.1 Subject to the other provisions of these Conditions, the Contract between the Client and CTS shall terminate automatically on the completion of the provision of the Service.
- 6.2 Subject to clause 2.9 and clause 8 either party shall be entitled to terminate the Contract at any time by giving not less than one months' written notice to the other, provided that if the Client terminates in breach of this Clause the Client shall pay the Fees for all the Services supplied or contracted to be supplied up to and including the date of termination and the Client shall further indemnify CTS in full against all loss (including loss of profit) costs, damages, charges and expenses incurred by CTS as a result of termination.
- 6.3 Either party may (without limiting any other remedy) at any time terminate the Contract by giving written notice to the other if the other commits any breach of these Conditions and (if capable of remedy) fails to remedy the breach within 30 days after being required by written notice to do so, or if the other goes into liquidation, (in the case of an individual or firm) becomes bankrupt, makes a voluntary arrangement with his or its creditors or has a receiver or administrator appointed.

## **7 Special Offers**

- 7.1 From time to time CTS may offer certain incentives to the Client for ordering the Service, such as but not limited to free gifts. Such incentives do not form part of the Contract, and the Client is not entitled to rescind the Contract or withhold payment of the Fees or any part thereof as a result of any issue arising from any such incentive or its provision.
- 7.2 Such incentives will only become due to the Client after all Services necessary to qualify for the incentive have been paid for in full and completed by the Client. If the Client cancels the Service or any part thereof or receives a refund for the Service or any part thereof at any time prior to completion the Client shall not be entitled to receive the incentive. If the incentive has already been provided to the Client, the Client shall immediately return it to CTS.
- 7.3 Where goods are offered as an incentive, CTS accepts no liability for the goods including for any defects in the goods, and makes no warranties in relation to the quality or fitness for purpose of the goods. The Client shall refer any problem with or claim in relation to the goods directly to the manufacturer of the goods.
- 7.4 CTS reserves the right to exchange any incentive featured on its website or in its literature for an alternative or to amend the terms or withdraw the incentive without notice to the Client. Incentives will be strictly subject to availability and provided on a "first come first served" basis.

## **8 Discounted Courses**

8.1 From time to time CTS may offer Discounted Courses. Such courses will be provided subject to these Conditions (save as where the clauses of these Conditions provide otherwise) and also to the following additional terms;-

8.1.1 Discounted Courses are available to commercial clients only and cannot be purchased by consumers;

8.1.2 Discounted Courses must be paid for in full immediately at the time of booking by credit or debit card;

8.1.3 Discounted Courses cannot be cancelled at any time by the Client and no refund will be made in relation to the Discounted Courses;

8.1.4 CTS reserves the right to cancel a Discounted Course at any time before the course commences if fewer than 3 delegates have booked to attend it. Such cancellation shall be without liability to the Client and without obligation to offer any alternative. If such cancellation occurs the Client will be offered the same number of delegate places on a future Discounted Course, which may be a Discounted Course relating to a different subject matter should the client prefer.

## **9 Miscellaneous Matters**

9.1 Where the Service is to be delivered at the Client's premises or other venue organised by the Client it shall be the responsibility of the Client to provide suitable and safe facilities (including, without limit, heating, lighting, sufficient power points and washroom facilities) as well as refreshments and lunch for the Delegates and CTS employees or agents delivering the Service.

9.2 The Service will consist of the provision of a CTS employee or agent between the hours of 9.30 to 4.30 (or as otherwise agreed by the parties), such period to include suitable refreshment breaks. On some occasions, depending upon the skill and knowledge of the Delegates, the content of the Service may be completed early and in such cases the CTS employee or agent will be prepared to remain available until 4.30 (or as otherwise agreed) to answer any questions or to provide assistance to Delegates in respect of individual work projects. It is the responsibility of the Delegates to bring any such matters to the attention of the CTS employee or agent and in the absence of any such matters the day may be brought to an early end. CTS will have no liability to the Client in such circumstances.

9.3 On occasions CTS may provide Delegates with laptop computers to assist in the delivery of the Service. Such equipment shall be in reasonable working order at the time it is provided to a Delegate and CTS shall accept no responsibility should a fault later occur. It is the responsibility of the Client to ensure that such equipment is insured against loss, damage or theft for full new replacement value whilst it is in the possession of the Delegate. CTS shall have the right to invoice the Client directly for full new replacement value where such equipment is lost, damaged or stolen and for the avoidance of doubt the Client shall be liable in respect of such invoice whether or not he complies with the requirement to ensure such insurance cover.

9.4 CTS employees and agents are under contract with CTS to provide the Service. Clients should not therefore seek to make private arrangements with CTS employees or agents for the further provision of services as any such arrangement will be in contravention of their contractual obligations to CTS.

## 10 **General Contractual Provisions**

10.1 These Conditions (together with the terms, if any, set out in the Specification Sheet) constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in writing between the parties. All other terms and conditions, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.

10.2 CTS shall be entitled to sub-contract the whole or any part of its obligations hereunder without the prior written consent of the Client.

10.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

10.4 No failure or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

10.5 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

10.6 For the purposes of the Contracts (Rights of Third Parties) Act 1999, and notwithstanding any other provision of this Agreement this Agreement is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

10.7 English law shall apply to the Contract, and the parties agree to submit to the non-exclusive jurisdiction of the English courts.