

1. Interpretation

1.1. Definitions. In these Conditions, the following definitions apply:

Additional Deliverables: has the meaning given to it in the Purchase Agreement (if any);

Agreement: means these Conditions and the Purchase Agreement (as applicable taken together);

Booked Courses has the meaning given to it in clause 5.2;

Client: as specified in the Purchase Agreement (as applicable);

Commencement Date: has the meaning given to it in clause 2;

Conditions: these standard terms and conditions;

Courses: means the training courses to be provided by Decoded to the Client as detailed in the Purchase Agreement;

Course Attendees: has the meaning given to it in clause 4.1;

Course Materials: any materials used by Decoded or our trainers during any Courses including any presentations, diagrams, pictures, audio, video, music, books, manuals, reports, data, written questions or exercises, code and any other works, content or materials of any kind whatsoever;

Decoded Staff: as defined in clause 4.1(f);

Deliverables: means the Courses and any Additional Deliverables (if any) as specified in the Purchase Agreement;

Fees: means the Course Fees and any Additional Fees payable by the Client for the supply of the Services in accordance with clause 6 and as set out in the Purchase Agreement;

Group Company: means in relation to a company, any holding company of it and any subsidiary of any such holding company;

Intellectual Property Rights: means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights in confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

Purchase Agreement: means the Purchase Agreement signed by the Client and Decoded (if any) which together with

these Conditions form the Agreement between the Parties;

Payment Schedule: means the schedule for payment of Fees as set out in clause 6 or (if applicable) in the Purchase Agreement;

Services: means the provision of Courses and any Additional Services (if any) to be provided by Decoded; and

Venues: means any venue that the parties have agreed will be used for the delivery of Courses by Decoded as detailed in the Purchase Agreement or as otherwise agreed between the parties.

1.2. Other Defined Terms. Defined terms used in these Conditions that are not herein defined shall have the means given to such terms as set forth in the Purchase Agreement.

2. Basis of the Agreement

2.1. The Purchase Agreement shall become effective when signed by both parties. (the "Commencement Date").

3. Decoded's obligations

3.1. In consideration for payment of the Fees, Decoded shall provide the Client with the Services in accordance with these Conditions.

3.2. Decoded shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services.

3.3. Decoded warrants to the Client that the Services will be provided using reasonable care and skill.

4. Client's obligations

4.1. The Client shall:

- a) cooperate with Decoded in all matters relating to the Services;
- b) provide Decoded, its employees, agents, consultants and subcontractors, with access to the Client's premises, office accommodation and other facilities as may reasonably be required by Decoded in order to provide the Services on the Client's premises (if applicable);
- c) be responsible for ensuring its employees and other representatives are able to attend any Courses that it has ordered;
- d) be responsible for the actions of its employees and other representatives who attend any Courses ("**Course Attendees**");

- e) be responsible for the health and safety of all Course Attendees and any of Decoded employees, consultants, representatives or other persons involved in the delivery of the Services ("**Decoded Staff**"), for any Courses that take place at any Venues owned or operated or otherwise procured by the Client;
- f) if requested to do so by Decoded procure that any Course Attendees sign any release forms or other contractual documentation that Decoded may reasonably require prior to their attendance at any Courses; and
- g) not solicit or attempt to solicit, whether directly or indirectly, the services of any Decoded Staff at any time during the Term and for a period of 12 months after the expiry or termination of this Agreement.

4.2. If Decoded's performance of any of its obligations under the Agreement is prevented or delayed by any act or omission by the Client or any of its employees or other representatives or any failure by the Client to perform any relevant obligation (a "**Client Default**"):

- a) Decoded shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Client remedies the Client Default;
- b) Decoded shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from Decoded's failure or delay to perform any of its obligations; and
- c) the Client shall reimburse Decoded on written demand for any costs or losses sustained or incurred by Decoded arising directly or indirectly from the Client Default.

5. Provision of Courses

- 5.1.** Courses shall be provided by Decoded at the Venues and at the dates and times that are specified in the Purchase Agreement unless otherwise agreed between the parties in writing.
- 5.2.** Any Courses that have been confirmed and accepted by both parties in writing ("**Booked Courses**") may only be changed in accordance with this clause 5.
- 5.3.** Unless otherwise specified in the Purchase Agreement:
 - a) the Client may re-schedule any Booked Courses to a different date without any additional charge provided that it notifies Decoded in writing not less than 30 days prior to the scheduled date for that Course (subject to availability);

- b) the Client agrees to pay (in addition to the initial Course Fee for such Course) 50% of the Course Fee for any Booked Courses that the Client re-schedules on less than 30 days' notice to Decoded (for the avoidance of doubt this only relates to re-scheduling the same course where the relevant Course Fees are the same) and the parties agree that such fee is reasonably proportionate to the expected probable loss on the part of Decoded as a result of Client failing to give adequate notice;
- c) if the Client wishes to both re-schedule a Course and make changes to that Course such that the price of the new Booked Course is greater than the original Booked Course then the client agrees to pay the full price of the new Booked Course plus 50% of the original Booked Course that is being re-scheduled;
- d) any substitute dates the Client proposes remain subject to acceptance by Decoded;
- e) Decoded may cancel or re-schedule any Booked Courses if it deems it reasonably necessary to do so for any reason; and
- f) the Client will be offered a full refund for any Course Fees that relate to any Booked Courses that Decoded either cancels or re-schedules as an alternative to accepting the re-scheduled Course date.

6. Fees and payment

- 6.1.** The Fees for all Booked Courses and any Additional Services (if applicable) shall be as set out in the Purchase Agreement. The Client agrees to pay the Fees in accordance with the Payment Schedule and this clause 6.
- 6.2.** Unless otherwise specified in the Purchase Agreement, Decoded shall be entitled to invoice the Client for any Fees due for any Booked Courses as soon as the order has been placed and the Client shall pay each invoice submitted by Decoded within 30 days of the date of the invoice or no later than 15 days prior to any Booked Courses if sooner.
- 6.3.** The Client agrees to pay for all reasonable out of pocket expenses that may be incurred by any Decoded Staff in connection with the delivery of the Services including without limitation any travel, accommodation and subsistence expenses which shall be invoiced to the Client at cost from time to time.

- 6.4.** If the Client fails to make any payment due to Decoded by the due date for such payment, late payments shall accrue interest at a rate of the lesser of 1.5% per month compounded continuously or the highest rate allowed by applicable law. Such interest charge shall accrue without notice or demand for payment by Decoded from the invoice date until the date paid. The Client shall pay all costs incurred by Decoded in collecting amounts due under the Agreement, including, without limitation, reasonable attorneys' fees and costs.

7. Intellectual property rights

- 7.1.** As between Decoded and the Client all Intellectual Property Rights in any Course Materials, the Additional Deliverables (if any) or any other products or materials arising out of or in connection with the Services shall be owned by Decoded.
- 7.2.** Decoded hereby grants a non-exclusive, royalty free, non-transferable licence to the Client to use the Course Materials and any Additional Deliverables solely for its own internal business purposes during the Term of this Agreement.
- 7.3.** Any rights which are not granted in this Agreement are hereby expressly reserved by Decoded.
- 7.4.** If any Intellectual Property Rights exist in any work, code, data, content or other materials created by any Course Attendees during any Courses Ordered hereunder (the "**Attendee Contributions**") and such Intellectual Property Rights are owned by the Client, subject to clause 8 the Client hereby grants an irrevocable, non-exclusive, royalty free, worldwide licence to Decoded for as long as applicable law allows to use such Attendee Contributions in any other training courses it offers in the future, including any training courses offered to other persons, or in other parts of its business without any restriction whatsoever.

8. Confidentiality

- 8.1.** In this clause, "**Confidential Information**" means the existence and terms of this Agreement and all information (in any form or media, whether oral or written) acquired by a party (whether before or after the date of this Agreement and whether directly or indirectly) as a result of negotiating, entering into or performing this Agreement, which relates to the affairs or business of the other party or its products, operations or know-how and which ought reasonably to be treated as being confidential or which has been marked as confidential by the disclosing party.
- 8.2.** Each party will treat all Confidential Information as strictly confidential and:

- a) will take all proper steps to prevent its unauthorised use or disclosure;
- b) will not itself make use of any Confidential Information for a purpose other than the performance of its obligations and exercise of its rights under this Agreement;
- c) will not disclose Confidential Information to any person (other than in accordance with this clause 8).

- 8.3.** Each party may disclose Confidential Information to any of its directors, employees, officers, professional representatives, advisers, sub-contractors, agents and to any Group Company to the extent that disclosure is reasonably necessary for the purposes of this Agreement, provided that the relevant party will ensure that any such persons are made aware of and comply with such party's confidentiality obligations under this clause 8 and shall procure their compliance with it and be responsible for any breaches of these obligations by them.

- 8.4.** Each party may disclose Confidential Information where such disclosure would otherwise be prohibited by this clause 8 if and to the extent:

- a) it is required by law, by any governmental or other regulatory authority, by a court or other authority of competent jurisdiction;
- b) it can be shown by that party (to the other party's reasonable satisfaction) to have been known by it before disclosure to it by the other party;
- c) it can be shown by that party (to the other party's reasonable satisfaction) to have been subsequently lawfully disclosed to that party by a third party who did not impose any restrictions on its disclosure and did not obtain it (whether directly or indirectly) from the other party;
- d) the information was or becomes in the public domain (other than by reason of a breach of this clause by that party); or
- e) the parties agree in writing that such disclosure may be permitted.

- 8.5.** Decoded shall have the right to refer to the Client as being a customer on its website or in any marketing or promotional material from time to time.

- 8.6.** Notwithstanding the termination of this Agreement for whatever reason, the obligations and restrictions in this clause shall continue after the date of such termination.

9. Limitation of liability:

- 9.1.** Nothing in this Agreement shall limit or exclude either party's liability for:

- a) death or personal injury caused by negligence;
- b) fraud or fraudulent misrepresentation; or
- c) any other liability that cannot be excluded by law.

9.2. Subject to clause 9.1: CLIENT EXPRESSLY UNDERSTANDS AND AGREES THAT DECODED SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR ANY OTHER DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF CLIENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING OUT OF, OR RESULTING FROM ANY SERVICE OR DELIVERABLE PROVIDED UNDER THIS AGREEMENT. IN NO EVENT SHALL DECODED'S TOTAL LIABILITY TO CLIENT FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, OR OTHERWISE) EXCEED THE FEES PAID TO DECODED BY CLIENT DURING THE SIX MONTHS PRECEDING THE DATE ON WHICH THE UNDERLYING CLAIM ACCRUED. IF ANY PORTION OF THIS LIMITATION OF LIABILITY IS FOUND TO BE INVALID, LIABILITY IS LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW.

9.3. This clause 9 shall survive termination of the Agreement.

10. Term and termination

10.1. This Agreement shall commence on the Commencement Date and shall continue, unless terminated earlier in accordance with this clause 10, until the day after the last Course ordered hereunder has been completed at which point it shall expire (the "Term").

10.2. Without prejudice to its other rights or remedies under this Agreement, this Agreement may be terminated by either party in the event of (i) any material default in or material breach of the terms and conditions of this Agreement by the other party, after the other party has received written notice of default and thirty (30) business days (or ten (10) business days, in the case of a monetary default) to cure such default; or (ii) the filing of any voluntary or involuntary petition against the other party under the bankruptcy or insolvency laws of any applicable jurisdiction, which petition is not dismissed within sixty (60) days of filing, or upon any appointment of a receiver for all or any portion of the other party's business.

10.3. Without limiting its other rights or remedies, Decoded may terminate the Agreement with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under this Agreement on the due date for payment and fails to pay all outstanding amounts within 7 days after being notified in writing to do so.

10.4. Without limiting its other rights or remedies, Decoded may suspend provision of the Services if the Client becomes subject to any of the events listed in clause 10.2, or Decoded reasonably believes that the Client is about to become subject to any of them, or if the Client fails to pay any amount due under this Agreement on the due date for payment.

11. Consequences of termination

11.1. On termination of the Agreement for any reason:

11.2. the Client shall immediately pay to Decoded all of Decoded's outstanding unpaid invoices and interest (if any) and, in respect of any Services supplied but for which no invoice has been submitted, Decoded shall submit an invoice, which shall be paid by the Client within 7 days of receipt;

11.3. the Client's licence to use the Course Materials and any Additional Deliverables shall automatically expire;

11.4. the Client shall at Decoded's election either return or destroy all Course Materials and Additional Deliverables in its possession provided that Decoded acknowledges that any Course Attendees may keep any Course Materials provided to them during any Courses for their own personal use only;

11.5. the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry; and

11.6. clauses which expressly or by implication survive termination shall continue in full force and effect.

12. Force majeure

12.1. For the purposes of this Agreement a "Force Majeure Event" means an event beyond the reasonable control of Decoded including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Decoded or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

12.2. Decoded shall not be liable to the Client as a result of any delay or failure to perform its obligations under this Agreement as a result of a Force Majeure Event.

12.3. If the Force Majeure Event prevents Decoded from providing the Services for more than 2 months, either party shall, without limiting their other rights or remedies, have the right to terminate this Agreement immediately by giving written notice to the other party.

13. General

13.1. This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter.

13.2. Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement. No party shall have any claim for innocent or negligent misrepresentation based upon any statement in this Agreement. For the avoidance of doubt, nothing in this clause shall limit or exclude any liability for fraud.

13.3. No amendment of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13.4. This Agreement is personal to the Client and the Client shall not assign, transfer, subcontract or deal in any other manner with any of its rights and obligations under this Agreement without the prior written consent of Decoded.

13.5. Each party shall and shall use all reasonable endeavours to procure that any third party shall promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to this Agreement.

13.6. No failure or delay by Decoded to exercise any right or remedy it may have, or any single or partial exercise of the same, under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy.

13.7. If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the legality, validity and enforceability of the other provisions of this Agreement shall not be affected.

13.8. If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

13.9. Any notice or other communication to be given pursuant to this Agreement shall be in writing and shall be delivered personally or by commercial courier or sent by pre paid first class post to the other party at the addresses at the top of this Agreement to such other address as is notified to the other party in writing from time to time, and shall be deemed to have been given:

- a) if personally delivered, at the time of delivery;
- b) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; and
- c) if sent by pre paid first class post, at 9.00 am on the first business day after posting.

13.10. This agreement does not and is not intended to confer any rights or remedies upon any person other than the parties hereto.

13.11. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to any conflict of law provisions thereof. The parties hereby submit to the exclusive jurisdiction of courts of the State of New York in New York County and waive any objections to the venue of such courts..