

SkillSet Ltd Standard Terms and Conditions

A.1. SkillSet Terms

- A.1.1 These terms are referred to as the SkillSet terms and shall apply to the provision of services and goods under contracts into which they are expressly incorporated.
- A.1.2 Once incorporated, these terms shall apply to the exclusion of all other terms and conditions including any which the Client may purport to apply under any confirmation of instruction or similar document. The SkillSet terms shall continue to apply for all services provided by SkillSet to the Client under any contract hereafter until expressly excluded in writing.

A.2. The Assignment and Terms of Reference

- A.2.1 SkillSet agrees to carry out the Assignment in accordance with the Proposal, in which these SkillSet terms form an appendix.
- A.2.2 The Client agrees to cooperate with SkillSet in the performance of SkillSet's services and to give such support, facilities and information as may be reasonably required.

A.3. Charges and Payments

- A.3.1 The Client agrees to pay the charges and expenses in accordance with the provisions in the Proposal.
- A.3.2 Unless otherwise indicated in the proposal, all time, travel and subsistence and other costs will be invoiced calendar monthly in arrears.
- A.3.3 Unless otherwise indicated in the proposal, payment is due 30 days after invoice date.
- A.3.4 All sums due from the Client which are not paid on the due date (without prejudice to the rights of SkillSet under these terms) shall bear interest from day to day at the same annual rate as is prescribed in section 6 of the Late Payment of Commercial Debts (Interest) Act 1998.
- A.3.5 SkillSet may from time to time increase the rates referred to in the Proposal subject to 90 days' notice. Rate increases will not apply to orders already accepted from the Client and acknowledged in writing by SkillSet. This clause A.3.5 is subject to clause A.14.3.
- A.3.6 During any period for which payments from the Client are overdue, the obligations of SkillSet may be suspended.

A.4. Minimum Term and Renewal

- A.4.1 Off-the-shelf eLearning licences and hosting and support services will continue for an initial minimum term of 12 months. Upon expiration of the initial term, this agreement shall automatically renew for successive periods of 12 months unless specified otherwise in the proposal or either party provides written notice of termination to the other party at least 90 days before the end of the then-current term.

- A.4.2 Unless otherwise specified in the Agreement, prices for services are subject to increase on the anniversary of the agreement's start date. Price increases will be in line with the annual change in the Retail Prices Index (all items) published by the UK Office for National Statistics. The Client will normally be notified of any price increases at least 30 days in advance of the renewal date.
- A.4.3 Support services purchased for call off on an as-needed basis are termed Support Credits. The Client will direct how these are to be used within the year following their purchase. Any unused Support Credits at the end of that year will expire and cannot be used subsequently.

A.5. Confidentiality

- A.5.1 SkillSet undertakes not at any time to divulge or allow to be divulged to any person any confidential information relating to the business affairs of the Client other than to sub-contractors who have signed an appropriate secrecy undertaking or others where the Client has consented to the disclosure, either expressly or by implication.

A.6. Resourcing

- A.6.1 SkillSet shall have discretion as to which of its Consultants are assigned to perform its services but shall consult with the Client concerning any significant changes.

A.7. Intellectual Property

- A.7.1 SkillSet undertakes not to cause or permit anything which may damage or endanger the intellectual property of the Client or the Client's title to it or assist or allow others to do so.

A.8. Liability and Insurance

- A.8.1 Skillset shall not be liable to the Client for loss or damage to the Client's property unless due to negligence or other failure of SkillSet to perform its obligations under this agreement or the general law.
- A.8.2 SkillSet shall have no liability to the Client for any indirect, special or consequential loss to the Client arising out of or in connection with the provision of any goods or services pursuant to this agreement (except in respect of death or personal injury resulting from negligence) and the total liability of SkillSet for any other loss of the Client arising pursuant to this agreement in respect of any one event or series of connected events shall not exceed the indemnity cover (if any) arranged pursuant to the Proposal or if no such cover has been agreed between the Client and SkillSet the charges payable by the Client in respect of SkillSet's services hereunder.

A.9. Termination for Breach

- A.9.1 The following obligations are conditions of this agreement and any breach of them shall entitle the party not in breach to terminate this agreement by immediate written notice and the rights and liabilities of the parties shall then be determined in accordance with clause A.10.
- A.9.2 Failure on the part of the Client to make punctual payment of all sums due to SkillSet under the terms of this agreement.

- A.9.3 Failure on the part of either party to remedy any breach of its obligations hereunder within thirty days following written notice from the party not in breach that: refers to this clause, specifies the breach with full particulars, indicates how the breach is to be remedied and specifies the party not in breach's opinion of a reasonable time for remedy.
- A.9.4 The levying of distress or execution against either party or the making by it of any composition or arrangement with creditors or the presentation of a petition for the party's liquidation or bankruptcy or administration or appointment of a receiver over any part of the party's assets.
- A.9.5 The doing or permitting of any act by which SkillSet's rights in any intellectual property may be prejudiced or put in jeopardy.
- A.9.6 Any serious or persistent breach by either party of its obligations hereunder.

A.10. Termination and Consequences

- A.10.1 In the event of this agreement being terminated and without prejudice to any other remedy available to SkillSet the Client shall immediately pay SkillSet any sums due under the terms of this agreement.
- A.10.2 Upon termination, all services provided by SkillSet will cease. Access to any systems and materials will cease.

A.11. Recruitment of SkillSet's Staff

- A.11.1 The Client undertakes that it (including for this purpose any subsidiary or associated company) or any person connected with it will not, without SkillSet's prior written consent, directly or indirectly recruit as an employee or engage as an independent contractor any person employed or so engaged by SkillSet in connection with the services provided hereunder during the term of this agreement or for a period of twelve months after such person last provided services to the Client.
- A.11.2 If the Client breaches the undertaking in sub-clause A.11.1, the Client will pay SkillSet liquidated damages of a sum equal to 33% of the annual remuneration or payment and any other benefits payable to the relevant individual by SkillSet at the rate payable during the week immediately prior to such individual ceasing to provide services to Skillset and the Client acknowledges that such sum represents the likely loss to SkillSet's business resulting from any such breach.
- A.11.3 If the Client recruits any such person with SkillSet's prior written consent and consequently is not in breach of the undertaking in sub-clause A.11.1, the Client will pay SkillSet a sum equal to 25% of the annual remuneration or payment and any other benefits payable to the relevant individual by SkillSet at the rate payable during the week immediately prior to such individual ceasing to provide services to SkillSet.

A.12. SkillSet's Outputs, Materials, and Information

- A.12.1 All intellectual property rights including copyright which are capable of existing in documents, computer software or information or (without limit) other materials created or provided pursuant to this contract by SkillSet shall be and remain SkillSet's property.
- A.12.2 The Client undertakes to keep all materials, documents and information provided to it by SkillSet confidential to itself and its employees and not to distribute any product of the services provided hereunder to any third party without SkillSet's prior written consent.
- A.12.3 Any materials produced or supplied to the Client by SkillSet in which intellectual property rights are capable of subsisting shall be licensed to the Client for internal use only in connection with the purposes of the Terms of Reference and such license shall forthwith terminate if notice is given by SkillSet terminating this contract pursuant to clause A.9.
- A.12.4 The Client and SkillSet undertake with each other not during the course of this contract to infringe the intellectual property rights of any third party.

A.13. NOT USED

A.14. SkillSet's References to Client

- A.14.1 Subject to clause A.5 (Confidentiality) SkillSet shall be entitled to refer to its provision of services to the Client for any purpose in connection with SkillSet's business.

A.15. NOT USED

A.16. Force Majeure

- A.16.1 Both parties shall be released from their respective obligations in the event of national emergency, war, prohibitive governmental regulation or if any other cause beyond reasonable control of the parties or either of them renders the performance of this agreement impossible, whereupon all money accrued due under this agreement shall be paid.

A.17. Miscellaneous

- A.17.1 Warranty – Each of the parties warrants its power to enter into this agreement and has obtained the necessary approvals to do so.
- A.17.2 Whole agreement – Each party acknowledges that this agreement (as varied) and the conditions contain the whole agreement between the parties and that it has not relied upon any oral or written representations made to it by the other or its employees or agents and has made its own independent investigations into all matters relevant to it.
- A.17.3 Change of address – Each of the parties shall give notice to the other of the change or acquisition of any address or telephone, telex, or similar numbers at the earliest possible opportunity but in any event within 24 hours of such change or acquisition.

- A.17.4 Notices – Any notice to be served on either of the parties by the other shall be pre-paid recorded delivery or registered post to the address of the relevant party shown at the head of this agreement or such other address substituted in writing under clause A.17.2 (and if more than one address any such address) or by facsimile transmission or by electronic mail or by telex and shall be deemed to have been received by the addressee within 72 hours of posting or 24 hours if sent by facsimile transmission or by electronic mail or by telex to the correct facsimile number or electronic mail number of the addressee (with the correct answer back).
- A.17.5 Headings – Headings contained in this agreement are for reference purposes only and should not be incorporated into this agreement and shall not be deemed to be any indication of the clauses to which they relate.
- A.17.6 Joint and Several – All agreements on the part of either parties which comprise more than one person or entity shall be joint and several and the neuter singular gender throughout this agreement shall include all genders and the plural of the successor in title to the parties.
- A.17.7 Proper law and jurisdiction –
 - A.17.7.1 This agreement shall be governed by English law in every particular including formation and interpretation and shall be deemed to have been made in England.
 - A.17.7.2 Any proceedings arising out of or in connection with this agreement may be brought in any court of competent jurisdiction in England or Wales.
 - A.17.7.3 The submission by the parties to such jurisdiction shall not limit the right of SkillSet to commence any proceedings arising out of this agreement in any other jurisdiction it may consider appropriate.
 - A.17.7.4 Any notice of proceedings or other notices in connection with or which would give effect to such proceedings may without prejudice to any other method of service be served upon any party in accordance with clause A17.4.
 - A.17.7.5 In the event that the Client is resident outside England, its address for service in England shall be the address for such service nominated in this agreement and any time limits in any proceedings shall not be extended by virtue only of foreign residence of the Client.
- A.17.8 Waiver – Failure by either party to enforce at any time or for any period one or more of the terms or conditions of this agreement shall not be the waiver of them or the right at any time subsequently to enforce all terms and conditions of this agreement.
- A.17.9 Status of SkillSet Consultants –
 - A.17.9.1 SkillSet Consultants shall be contractors and not employees of the Client.

A.17.9.2 In such capacity, SkillSet shall bear exclusive responsibility for payment or for using reasonable endeavours to ensure payment by a relevant third party (as appropriate) of Consultants' National Insurance contributions and for the discharge of any income tax and VAT liability arising out of remuneration for work performed by Consultants under this agreement.

A.17.9.3 SkillSet Consultants shall not be subject to directions from the Client as to the manner in which they shall perform their work.

A.17.10 Assignment or sub-contracting – SkillSet shall be entitled to sub-contract any of its rights or duties under this agreement.

A.17.11 Set-off – The Client shall not be entitled to withhold payment of any sum otherwise payable to SkillSet by reason of any claim, set-off or for damages in relation hereto.

A.18. Mediation

A.18.1 In the event of any dispute arising between the parties in connection with this agreement, the parties will in good faith seek to resolve that dispute through mediation. The mediator shall be agreed upon within seven days of one party requesting mediation, failing which the mediator shall be then appointed by the then Professional Standards Manager of the Institute of Management Consultancy. Unless otherwise agreed, the parties shall share equally the costs of the mediation. If the dispute is not resolved within 30 days or one of the parties refuses to participate in mediation, the dispute shall be resolved by way of litigation. Nothing in this clause shall prevent either party seeking a preliminary injunction or other judicial relief at any time if in its judgment such action is necessary nor shall SkillSet be precluded from issuing proceedings or taking any other step in relation to non-payment of monies due.

A.19. Anti-Bribery and Corruption

A.19.1 SkillSet has a zero tolerance policy on bribery and corruption. It does not give or accept bribes (including "facilitation payments") or other illegal inducements, and will not condone any such action by its employees, agents, representatives, and consultants. SkillSet will never penalise any member of staff, employee, agent, representative or consultant for refusing to pay a bribe or facilitation payment, notwithstanding that such refusal might result in SkillSet losing or not winning business.

A.19.2 It is a condition of this contract that the giving or acceptance of bribes or other illegal inducements will entitle SkillSet to summarily terminate the contract and recover from the Client any losses, damages or costs incurred due to the Client's breach.

A.19.3 The Client shall report to SkillSet any attempt by any person to procure the payment of any bribe or illegal inducement.

A.20. Data Protection

- A.20.1 SkillSet acts as the data processor with respect to the personal data it processes on behalf of the Client. The Client is the data controller.
- A.20.2 SkillSet shall use personal data only to:
 - 20.2.1 Control access to the learning management system provided by SkillSet.
 - 20.2.2 Provide reports to the data controller, as required.
 - 20.2.3 As otherwise directed in writing by the data controller.
- A.20.3 SkillSet will implement appropriate technical and organisational measures to protect personal data against unauthorised or unlawful processing and against accidental loss, destruction, or damage.

A.21. Off-the-Shelf eLearning Licenses

- A.21.1 Grant of License - Upon receipt of payment, SkillSet grants the Customer a limited, non-exclusive, non-transferable right ("License") for each authorised user to access and complete the learning materials purchased under this Agreement.
- A.21.2 Allocation of Licenses -

Licenses are allocated automatically when an individual user first accesses a course.

Each License is assigned to a single named user and cannot be shared, transferred, or reassigned once activated.

The same user may re-access the course at any time during the license period using their original login credentials.
- A.21.3 License Period -

Each License is valid for the period defined in the corresponding Order Form, unless otherwise agreed in writing, and then annually on renewal.

Upon expiry of the license period, user access to the relevant course(s) will automatically terminate unless renewed.
- A.21.4 Scope of Use - Licenses permit use of the courses solely for the Customer's training and educational purposes. The Customer and its users must not reproduce, distribute, modify, or make the content available to any third party without SkillSet's prior written consent.
- A.21.5 License Quantities -

The Customer must purchase a sufficient number of Licenses for all users who will access the courses.

If additional users require access, further Licenses must be purchased in advance.

SkillSet reserves the right to audit use to ensure compliance with the agreed number of Licenses.

- A.21.6 License Management - SkillSet may suspend access where License limits are exceeded or payment terms are not met.