

Soteria Risk, Safety & Resilience Consultancy – Terms and Conditions for Delivering Training

These Terms and Conditions shall apply to the provision of training services by Soteria RSRC, hereinafter called “the Company” to the Client.

1. Definitions and Interpretation:

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Acceptance” means the acceptance of our proposal, the signing (electronically or otherwise) of a Service Agreement, the placement of an order and/or the Client’s written consent to receive the services and includes the acceptance of these Terms and Conditions.

“Client” means the individual, firm or corporate body purchasing the services. Where an individual is entering into this Contract on behalf of a business, the individual confirms they have the authority to enter into this Contract on behalf of that business and the business shall be the Client in the context of this Contract.

“Contract” means the contract formed upon Acceptance by the Client as above.

“Course” means any individual training session or series of training sessions provided by us to the Client, which form the Course(s) as detailed in the Proposal. If the accepted Proposal is for more than one training session, the Contract will be for all of the sessions concerned.

“Delegate” means any individual attending a Course booked by the Client.

“Expense” means any cost incurred by us in direct relation to the provision of the services.

“Trainer” means the team of, or individual trainer(s) assigned by the Company to run the Course or deliver the programme.

“Proposal” means the proposal for the performance of the services, which remains open for acceptance for a period of 30 days and shall constitute our entire scope of works; and

“Website” means soteriarsrc.co.uk

1.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

1.2.1 “we”, “us”, “our” is a reference to the Company.

1.2.2 “writing” and “written” includes emails, faxes and similar communications.

1.2.3 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time.

1.2.4 “these Terms and Conditions” is a reference to these Terms and Conditions and each of the Schedules as amended or supplemented at the relevant time.

1.2.5 a Clause or paragraph is a reference to a Clause of these Terms and Conditions.

1.2.6 a “Party” or the “Parties” refer to the parties to these Terms and Conditions.

1.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon their interpretation.

1.4 No terms or conditions stipulated or referred to by the Client in any form whatsoever shall in any respect vary or add to these Terms and Conditions unless otherwise agreed by us in writing.

1.5 Words imparting the singular number shall include the plural and vice versa. References to any gender shall include the other gender. References to persons shall include corporations.

2. Training Services

2.1 Details of the training Courses, together with the standard prices, are as detailed on our Website. However, the Client is required to contact us in order to obtain an official Proposal. The Contract is formed as soon as we receive Acceptance, which may be via the Client’s written acceptance of our Proposal, the signing (electronically or otherwise) of a Service Agreement, the placement of an order and/or the Client’s request for us to commence the services and includes the acceptance of these Terms and Conditions.

2.2 We will send information relating to the Course and will allocate a Trainer to the Client once the Contract is formed. It is the Client’s responsibility to request any information relating to the Course which has not been received, such as start times and Course location, and to fully brief all Delegates on this information. We reserve the right to change the allocated Trainer(s) before and/or part-way through a Course. In this event, we will discuss this with the Client where possible and will provide a suitable replacement, to be decided at our sole discretion.

2.3 If any Delegate is attending a refresher Course to obtain recertification, we will require proof of the relevant current, in-date certificate (where necessary), which must be valid throughout the duration of the Course.

2.4 Where any Course has separate theory and practical elements, each Delegate may be required to pass the theory element before the practical part can commence. Should any Delegate fail to pass the theory element, they will be unable to continue, and no reimbursement will be given.

2.5 Should any Delegate fail to pass any element of the course there will be no reimbursement given.

2.6 Certification may be sent up to 12 weeks from completion of the Course and will only be issued once payment has been received by us in full in accordance with clause 4.

2.7 We will provide professional advice and recommendations in relation to the services, but we cannot accept responsibility for any actions taken as a result of such advice or recommendations, nor can we guarantee the success or outcomes of any training services provided. Further, we shall not be liable for any consequences should any professional advice not be taken.

2.8 We shall use all reasonable endeavours to complete our obligations under the Contract, but time will not be of the essence in the performance of these obligations.

3. Delegates

3.1 With the exception of NEBOSH courses, the Client shall be entitled to substitute delegates without penalty, provided we are advised of this in advance of the course start date.

3.2 Should the Client wish to increase the number of Delegates above the maximum number allowed for in our Proposal, we will advise if this will be possible and if so, of any increase in

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cost and will require written authorisation before continuing. We require a minimum of 21 days' notice prior to the Course start date. If the Client provides less than 21 days' notice, or if we are advised by the Trainer that additional Delegates attended on the day of the Course, we will invoice the Course fee plus an additional fee for each additional Delegate and shall invoice for any costs incurred by us as a result.

3.3 Should the Client wish to decrease the number of Delegates, we require a minimum of 21 days' notice prior to the Course start date. The price will remain the same where we have quoted for a maximum number of delegates. Where our price quoted is on a per-Delegate basis, we will advise if the reduction in numbers will be possible and if so, our price will be reduced only by the amount of any Course material no longer needed.

3.4 Delegates are required to provide photo-ID prior to the issue of a certificate of learning.

3.5 Delegates are required to attend on time for each Course session. If a Delegate is late, we reserve the right to refuse entry. If a Delegate is late or fails to attend the entire Course or any Course session for any reason, no refund or reduction in fees will be given. The Delegate is required to attend all Course sessions in order to obtain the relevant certification.

3.6 All Delegates must be suitable to attend the relevant Course. Delegates must be over 16 and have sufficient communication skills. For First Aid training, Delegates must be physically able to provide first aid in accordance with the Health & Safety Executive Approved Code of Practice. We will be unable to provide certification where this clause is not complied with.

3.7 If any Delegates require a sign language interpreter or are unable to speak and understand English to a reasonable level, it is the Client's responsibility to provide an interpreter if the accrediting body allows interpreters. We recommend the Client makes provisions for only one foreign language per session to avoid disruption. If no interpreter is provided or if the Trainer believes, at their sole discretion, that any Delegate is unable to understand the Course information to a suitable level, we reserve the right to cancel the Course and all fees will remain payable as below.

3.8 The Delegates must observe the regulations at any premises at which the Course is being carried out. Delegates must leave promptly at the agreed time and will be responsible for their own personal belongings at all times.

4. Fees and Payment

4.1 The Client agrees to pay the fees as detailed in the accepted Proposal in accordance with the terms of payment herein. Any fees quoted, unless expressly stated otherwise, are inclusive of examination fees. Any examination re-sits required will be charged where applicable.

4.2 In addition, we shall charge to the Client any incidental Expenses for materials used and for third party goods and services supplied in connection with the provision of the services.

4.3 The Client will pay for any additional services provided by us that are not specified in the Contract. These additional services shall be charged in accordance with our current, applicable rate in effect at the time of the performance or such other rate as may be agreed. Any charge for additional services

will be supplemental to the amounts that may be due for Expenses.

4.4 All new Clients are required to pay for the Course in full up front at the time of booking. Thereafter, at our sole discretion, we may offer to invoice the Client after the Course has been delivered, or upon cancellation in accordance with these Terms and Conditions. In any event, we reserve the right to withhold any Course certification until payment has been received by us in full. 4.5 All invoices must be paid within 30 days from the date of invoice. If the Client disputes any invoice, this must be notified to us in writing within this 30-day period. Failure to do so will be deemed as acceptance of the invoice and will render the invoice immediately due and payable.

4.6 All sums payable by either Party pursuant to the Contract are exclusive of VAT or any other tax (except corporation tax) unless otherwise stated, for which that Party shall be additionally liable. All payments by the Client shall be made in pounds sterling without any set-off, withholding or deduction.

4.7 The time of payment shall be of the essence. If the Client fails to make any payment on the due date then we shall, without prejudice to any right which we may have pursuant to any statutory provision in force from time to time, have the right to suspend the services, not deliver any further Course sessions, and charge the Client interest on a daily basis at an annual rate equal to the aggregate of 8% above the base rate of the Bank of England from time to time on any sum due and not paid on the due date in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall be calculated cumulatively on a daily basis and shall run from day to day and accrue after as well as before any judgment.

5. Client's Responsibilities

5.1 The Client is responsible for:

5.1.1 providing us with any information, advice and assistance relating to the services as we may reasonably require within sufficient time to enable us to perform the services in accordance with the Contract.

5.1.2 appointing a primary contact to act as the Client's representative to liaise with us in connection with the services.

5.1.3 ensuring any preparatory and follow up work is carried out by the Client (and the Delegate(s) as appropriate) as instructed by the Trainer.

5.1.4 providing suitable Delegates in accordance with clause 3. Should the behaviour of a Delegate prove disruptive at any stage during the provision of the services, at our sole discretion, we shall be entitled to request the immediate removal of said Delegate from this and any future Course session.

5.1.5 advising us of any medical condition or special requirement of any Delegate which may affect the Course.

5.1.6 providing the venue and facilities for all Course sessions, unless specifically stated to the contrary. We require a readily available 240V power supply, access to any equipment relevant to the Course and sufficient space to accommodate the Delegates comfortably with room to carry out any practical element of the training. The training area must be isolated from normal site activity, well-ventilated/heated, suitably lit for notetaking and with easy access and egress for fire safety.

5.1.7 observing all health and safety legislation and regulations where any Course session is to be carried out at the Client's

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premises or any premises organised by the Client and providing suitable insurance for the same.

5.1.8 ensuring Delegates have the correct PPE appropriate to any practical Course being undertaken.

5.1.9 ensuring any plant or equipment relevant to the course is provided in safe working condition.

5.2 If the Client fails to meet any of the provisions of clause 5.1 above, without limiting our other rights or remedies, we shall:

5.2.1 have the right to suspend performance of the services until the Client remedies the default or cancel or abandon the Course session as appropriate.

5.2.2 not be held liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from our failure or delay in performing any of our obligations as a result.

5.2.3 be entitled to claim for any costs or losses sustained or incurred by us arising directly or indirectly from the Client's default.

5.3 Where we are responsible for providing the facilities, the Client should advise us as soon as possible of any special requirements, such as disability access and any dietary requirements. The facilities shall be charged for in accordance with our Proposal and shall become due for payment in accordance with clause 4. We reserve the right to change any details relating to the venue, facilities or arrangements and will endeavour to contact the Client in advance where possible.

6. Delays & Abortive Visits: Our price is based on being able to complete our services in the agreed number of hours or consecutive days over the period as detailed in the Proposal. We reserve the right to recover any costs incurred by way of delays or abortive visits, or for any other delays attributable to the Client including, but without limitation, failing to carry out agreed actions or not providing necessary information or services, or failing to give proper notice to terminate or cancel as detailed herein and these will be charged at our standard fee rates applicable at the time.

7. Errors or Discrepancies: The Client shall be responsible for the accuracy of any information submitted to us and for ensuring that the Proposal reflects their requirements. Our Proposal is based on the information provided to us at the time of its preparation. Should any errors or discrepancies become evident which affect the order value, we reserve the right to make any adjustments to it.

8. Variation and Amendments

8.1 If the Client wishes to vary the services to be provided, they must notify us in writing as soon as possible. We shall endeavour to make any required changes, and any additional costs thereby incurred shall be invoiced to the Client.

8.2 If, due to circumstances beyond our control, we have to make any change in the arrangements relating to the provision of the services, we shall notify the Client immediately. We shall endeavour to keep such changes to a minimum and shall seek to offer the Client arrangements as close to the original as is reasonably possible in the circumstances.

8.3 Any agreed variation or amendment will be carried out in accordance with these terms and conditions and any price increase necessitated as a result shall be payable in accordance with the terms for payment herein.

9. Rescheduling and Cancellation

9.1 No Course may be cancelled or rescheduled without our agreement in writing.

9.2 Should the Client wish to reschedule a Course session with us; we require a minimum of 21 days' notice in advance of the session date. We will endeavour to reschedule to meet the Client's preferred date and time, however, we cannot guarantee this will be possible. Any rescheduled session may be subject to the payment of a transfer fee.

9.3 Should the Client cancel a Course session with us; we shall be immediately entitled to payment for:

9.3.1 100% of our fees if the cancellation takes place 21 days or less before the session date.

9.3.2 10% of our fees if the cancellation takes place 21 or more days before the session date.

9.4 If, due to unforeseen circumstances, we have to reschedule or cancel a session, we will contact the Client as soon as possible to minimise disruption and will book another session as soon as reasonably possible. We accept no responsibility for any certificates expiring as a result of a cancelled Course session.

9.5 For cancellations/deferrals within 7 days preceding the course commencement date, we reserve the right to charge any such delegate fees that have been incurred for each day of the course deferral.

9.6 For NEBOSH deferrals that occur during the course duration, we reserve the right to charge any such delegate fees that have been incurred for each day of the course deferral.

9.7 No NEBOSH exam fees can be refunded if a delegate defers their place after an exam is booked.

10. Termination

10.1 We shall be entitled to terminate this Contract immediately in the event that the Client has failed to pay the fees when required to do so and fails or refuses to do so following the expiry of a written notice from us requesting such payment within 7 days.

10.2 Either Party has the right to terminate this Contract immediately if the other:

10.2.1 has committed a material breach of this Contract, unless such breach is capable of remedy, in which case the right to terminate immediately will be exercisable if the other Party has failed to remedy the breach within 14 days after a written notice to do so: or

10.2.2 goes into bankruptcy or liquidation either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets.

10.3 In the event of termination, all payments required under this Contract shall become due and immediately payable. Any and all obligations of the Parties which either expressly or by their nature continue beyond the termination, cancellation or expiration of this Contract shall survive termination on a pro-rata basis.

11. Confidentiality

11.1 For the purposes of this clause 11, Confidential Information shall include all technical or commercial know-how, specifications, inventions, processes or initiatives which are of

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a confidential nature. Both we and the Client shall undertake that, except as provided by sub-Clause 11.2 or as authorised in writing by the other Party, it shall at all times during the continuance of the Contract and for 2 years after its termination:

11.1.1 keep confidential all Confidential Information.

11.1.2 not disclose any Confidential Information to any other party.

11.1.3 not use any Confidential Information for any purpose other than as contemplated by the Contract.

11.1.4 not make any copies of or record in any way or part with possession of any Confidential Information; and

11.1.5 ensure that (as applicable) none of its directors, officers, employees, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 11.1.1 to 11.1.4.

11.2 Subject to sub-Clause 11.3, either Party may disclose Confidential Information to:

11.2.1 any of their sub-contractors or suppliers.

11.2.2 any governmental or other authority or regulatory body; or

11.2.3 any of their employees or officers or those of any party described in sub-Clauses 11.2.1 or 11.2.2.

11.3 Disclosure under sub-Clause 11.2 may be made only to the extent that is necessary for the purposes contemplated by the Contract, or as required by law. In each case the disclosing Party must first inform the recipient that the Confidential Information is confidential. Unless the recipient is a body described in sub-Clause 11.2.2 or is an authorised employee or officer of such a body, the disclosing Party must obtain and submit to the other Party a written undertaking from the recipient to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made.

11.4 Either Party may use any Confidential Information for any purpose, or disclose it to any other party, where that Confidential Information is or becomes public knowledge through no fault of that Party.

11.5 When using or disclosing Confidential Information under sub-Clause 11.4, the disclosing Party must ensure that it does not disclose any part of that Confidential Information which is not public knowledge.

11.6 The provisions of this Clause 11 shall continue in force in accordance with their terms, notwithstanding the termination of the Contract for any reason.

12. Documentation: We include for any documentation to be submitted in our normal standard format only. If additional copies or specific requirements are needed, we reserve the right to apply additional charges. We shall retain title to the documentation and no documentation shall be handed over until all payments as detailed above have been paid in full.

13. Literature and Representations: Any marketing literature is presented in good faith as a guide to represent the services offered and does not form a part of the Contract. None of our trainers or agents are authorised to make any representation concerning the services unless confirmed by us in writing. In entering into the Contract, the Client acknowledges that it does not rely on and waives any claim for breach of any such representations, which are not so confirmed.

14. Intellectual Property

14.1 Subject to a written agreement to the contrary, we or our agents reserve all intellectual property rights which may subsist in the provision of the services. Under no circumstances shall material provided by us be lent, hired out, sold or otherwise circulated by either manual or electronic means, nor shall it be photocopied or otherwise reproduced without our express written consent. We reserve the right to take such actions as may be appropriate to restrain or prevent infringement of such intellectual property rights.

14.2 Any improvement, modification to or extension of any intellectual property provided by us shall become our property and subject to clause 14.1 above.

14.3 The Client shall not be entitled to use our name, logo or emblem (or that of any of our trainers, agents or sub-contractors) without our prior written consent.

14.4 The Client warrants that any document or instruction furnished or given by them shall not cause us to infringe any letter patent, registered design or trade mark in the execution of these services and shall indemnify us against all loss, damages, costs and expenses awarded against or incurred by us in settlement of any claim for infringement of any patent, copyright, design, licence, trademark or any intellectual property rights which results from our use of the Client's information.

15. No Employment: Nothing in this Contract shall render or be deemed to render us an employee or agent of the Client or the Client an employee or agent of ours.

16. Assignment and Sub-Contracting

16.1 The Client shall not be entitled to assign the benefits under the Contract.

16.2 We may sub-contract the performance of any of our obligations under the Contract without the prior written consent of the Client. We shall be responsible for every act or omission of the sub-contractor as if it were an act or omission of our own. However, we accept no liability if the subcontractor goes into liquidation or otherwise ceases to trade.

17. Liability and Indemnity

17.1 Nothing in these Terms and Conditions excludes or seeks to exclude our liability for death or personal injury caused by our negligence, or for fraud or fraudulent misrepresentation.

17.2 With the exception of clause 17.1 above, we will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under the express terms contained herein, be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by our servants or agents or otherwise) in connection with the performance of our obligations under the Contract.

17.3 All warranties or conditions whether express or implied by law are hereby expressly excluded to the maximum extent permitted by law.

17.4 The Client shall indemnify us against all damages, costs, claims and expenses suffered by us arising from loss or damage to any premises, property or equipment (including that of third parties) caused by the Client, or his agents or employees.

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17.5 In the event of a breach by us of our express obligations under these Terms and Conditions, the remedies of the Client will be limited to damages, which in any event, shall not exceed the fees and Expenses paid by the Client for the services.

17.6 Any property including both hardware and software supplied to us by or on behalf of the Client shall be held and worked upon by us at the Client's risk. We shall not be liable for any loss or damage to any such property.

18. Restrictive Covenants

18.1 Neither we nor the Client will, during the term of the Contract and for a period of 12 months from its expiry or termination, without the other's prior written consent, appoint in any way or cause to be employed, engaged or appointed an employee, agent, director, consultant or independent contractor of the other.

18.2 Whilst the above restrictions are considered by the parties to be reasonable in all the circumstances, it is agreed that if taken together they are adjudged to go beyond what is reasonable in all the circumstances for our protection but would be judged reasonable if part or parts of the wording of them were deleted or its period reduced or an area defined, they shall apply with such words deleted or with such modifications as may be necessary to make it valid and effective.

19. Force Majeure: Neither Party shall be liable for any failure or delay in performing their obligations under the Contract where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

20. Waiver

20.1 No waiver by us of any breach of the Contract by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision. A waiver of any term, provision or condition of the Contract shall be effective only if given in writing and signed by the waiving Party and then only in the instance and for the purpose for which the waiver is given.

20.2 No failure or delay on the part of any party in exercising any right, power or privilege under the Contract shall operate as a waiver of, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise of any other right, power or privilege.

21. Severance: The Parties agree that, in the event that one or more of the provisions of these Terms and Conditions are found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (and the Contract, as appropriate). The remainder of these Terms and Conditions shall be valid and enforceable.

22. Data Protection: Both parties agree to comply with all applicable data protection legislation including, but not limited to, the General Data Protection Regulation 2016 and any subsequent amendments thereto.

23. Third Party Rights: No part of the Contract is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply.

24. Notices

24.1 All notices under the Contract shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice. Notices shall be deemed to have been duly given: when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; when sent, if sent by fax or email and a successful transmission report or return receipt is generated; on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or on the tenth business day following mailing, if sent by airmail, postage prepaid. In each case notices shall be addressed to the most recent address, email address, or fax number notified to the other Party.

24.2 Service of any document for the purposes of any legal proceedings concerning or arising out of the Contract shall be effected by either Party by causing such document to be delivered to the other Party at its registered or principal office, or to such other address as may be notified to one Party by the other Party in writing.

25. Law and Jurisdiction

25.1 These Terms and Conditions and the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

25.2 Any dispute, controversy, proceedings or claim between the Parties relating to these Terms and Conditions or the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.