

TERMS AND CONDITIONS FOR THE SUPPLY OF TRAINING AND COACHING SERVICES

1. INTRODUCTION

1. Flux Capacity Ltd agrees to provide and the Customer agrees to undertake and pay for the training courses and/or facilities supplied under this agreement. The terms and conditions of this agreement apply to standard or bespoke course undertaken at the Customers premises or external premises.
2. In the case of bespoke training and coaching services all charges quoted by Flux Capacity Ltd are valid for a period of 60 days unless stated otherwise.

2. INDIVIDUAL COURSES

1. Provisional course bookings for bespoke training and coaching services may be made by telephone. However, to confirm each booking the customer agrees that they will return a signed copy of these Terms and Conditions to Flux Capacity prior to attending the course. Flux Capacity Ltd reserves the right to refuse attendance to the course in the event that the Terms and Conditions document is not returned prior to commencement of the course.
2. The description and date and charges for the course are set out on the proposal. Flux Capacity reserves the right to improve the specification and format of its courses for the benefit of its Customers without notice to the customer.
3. The course will be given at venue agreed with the Customer. In the case of attended training and coaching, Flux Capacity Ltd reserves the right to nominate a reasonable alternative venue and will advise the Customer of this.
4. Flux Capacity Ltd reserves the right to cancel or reschedule any course if the number of attendees is insufficient to justify the running of the course, or if Flux Capacity is prevented from doing by events beyond its reasonable control, including in particular but not limited to illness of training staff.
5. In the event that Flux Capacity is obliged to cancel or reschedule any course under the provisions of clause 2.4 Flux Capacity Ltd will notify the Customer forthwith. Flux Capacity Ltd will in addition refund all monies paid by the Customer, or at the Customers option apply the monies to a rescheduled or alternative course. Flux Capacity Ltd accepts no liability for travel, accommodation or incidental costs incurred by the Customer in the event that any course is cancelled or rescheduled.

3. COURSES AT CUSTOMER PREMISES

1. By prior agreement with Flux Capacity Ltd and subject to the provisions of this clause Flux Capacity Ltd agrees that it will provide specific training course(s) to the Customer at the Customer's premises for the charges set out in this Agreement.
2. The Customer shall be responsible for the provision of a suitable and secure training room at the Customer's premises for the duration of the course, (the specification of which will be agreed with Flux Capacity Ltd prior to the course being given) together with all heating, lighting and power supply at no cost to

Flux Capacity Ltd. The customer agrees not to change the room once it has been agreed. Flux Capacity Ltd will provide a trainer, course materials and appropriate audio and visual equipment. The customer will allow Flux Capacity Ltd access to the training room in advance of the commencement of the course so that computer equipment can be set up and any required alterations to the room layout can be made.

3. Customer will indemnify Flux Capacity Ltd against any loss of or damage to equipment and/or injury to or death of its employees or agents arising out of its use of equipment under the provision of this except where the cause arises out of the negligence of Flux Capacity Ltd.

4. BESPOKE COURSES

The Customer may request Flux Capacity Ltd to develop a new course or modify an existing course specifically to the customer's requirements. If such a request is accepted by Flux Capacity Ltd;

- the Customer will analyse and determine its requirements for the course,
 - the Customer and Flux Capacity Ltd will jointly prepare and agree the specification for the course, including but not limited to the content of the course, course notes, the depth to which the content is to be covered, the time to be allocated to each subject, the number of days over which the course is to be given and the type and experience of the Customers personnel who will attend the course.
 - the Customer will confirm the foregoing matters in writing to Flux Capacity Ltd or by signing and returning the proposal to Flux Capacity Ltd prior to any development work being carried out. If the Customer wants to modify a standard course Flux Capacity Ltd will supply details of the subjects covered within said course.
1. In consideration of carrying out development or modification work on the course the Customer agrees to pay Flux Capacity Ltd the then current per diem charges. Any estimate of the amount of time necessary to develop the course shall be given by Flux Capacity Ltd in good faith and shall not be binding on Flux Capacity Ltd. All charges for bespoke work are due and payable to Flux Capacity Ltd upon the completion of the development work, whether or not the course is actually provided by Flux Capacity Ltd, the Customer or any third party.
 2. The Customer may request Flux Capacity Ltd to vary the extent or content of the course either during or after development. All such requests will be made in writing. Flux Capacity Ltd shall not unreasonably refuse to carry out such variations. The Customer agrees to Flux Capacity Ltd standard daily development charges for any variations carried out by Flux Capacity Ltd. No work shall be carried out until such variation and consequential amendments have been recorded in writing.

5. PAYMENT TERMS

1. Once you register for our service, you will receive an invoice for payment for the full amount of the program cost. Unless otherwise agreed in writing, your allocation on the training program is not guaranteed until this payment is received in full by the due date. If payment is not received by the due date we reserve the right to offer your allocation to another client.
2. Accommodation and transportation costs are the responsibility of the Participant.
3. All fees are exclusive of GST unless otherwise specified.
4. For individual attendance on a course a deposit is required at the time of booking. The balance is due 14 days prior to the commencement of the course.
5. For a bespoke course, development work will be billed on completion and are due to be paid within 14 days. Pay for bespoke course delivery will be included in the Agreement but will not exceed 14 days after the delivery of the course.
6. If the customer fails to make payment on the due date Flux Capacity Ltd reserves the right to levy a late payment charge at 7.5% .

6. CANCELLATION AND MONEY BACK GUARANTEE

If an individual wishes to cancel or change their booking the following charges will be incurred;

- Cancel outside 6 weeks of course commencement- Lose 50% of total course cost
 - Cancel outside of 3 weeks of course commencement - Lose 75% of total course cost
 - Cancel within 3 weeks of course commencement - Lose 100% of total course cost
 - Change to an alternative date outside of 6 weeks of commencement date \$150 adjustment fee.
 - Change to an alternative date within 6 weeks of commencement date \$250 adjustment fee.
1. If Customer cancels a bespoke course for any reason, 30 days prior to a scheduled course commencement date, then all development work undertaken up to that point and a cancellation charge of 50% of the course fee will become immediately due for payment.
 2. If Customer cancels a bespoke course for any reason, less than 30 days prior to a scheduled course commencement date, then all development work undertaken up to that point and a cancellation charge of 90% of the course fee will become immediately due for payment.
 3. If you are not satisfied with the product or service that we have provided you with, then please let us know within 7 days of making your investment. We will investigate your complaint in the first instance and attempt to put it right. If you are still dissatisfied then we will request a written explanation and if we agree that we have not provided the service that we have advertised and that you paid for, then we will refund your investment less any charges that we have incurred.

7. WARRANTY AND LIMITATION OF LIABILITY

1. The courses are provided under this Agreement at the Customer request. The Customer accepts that they are responsible for verifying that the courses are suitable for their requirements. Flux Capacity Ltd will use all reasonable skill and care in the preparation and presentation of its courses and courses supplied under clause 4. All other conditions, warranties, guarantees and representations whether express or implied, statutory or otherwise are excluded.
2. Other than as specified in this clause Flux Capacity Ltd's liability for loss and or damages shall be limited to a claim for damages. The maximum aggregate liability will be the charges for the course or hire of facilities out of which the loss or damage has arisen.
3. Flux Capacity Ltd will not be responsible for indirect, special or consequential loss (including loss of anticipated profit or data), howsoever arising even if it has been advised of the possibility of such potential loss.
4. Except in respect of the liability of Flux Capacity Ltd or its employees, or in respect of a claim for non-payment of monies due under this Agreement, no action regardless of form arising out of the provisions of training courses or facilities under this agreement may be brought by either party more than two years after the cause.
5. The Customer warrants that all the attendees on the course are properly authorised by the customer to attend and that they are suitably qualified to attend. The Customer acknowledges Flux Capacity Ltd's right to refuse admission or require the removal of any attendee where there are doubts about identity, qualifications or if the attendees behaviour is unacceptable.

8. COPYRIGHT

1. The copyright and all other intellectual property rights in all courses developed under the provisions of clause 4 shall remain the sole and exclusive property of Flux Capacity Ltd. The Customer undertakes that it will not copy or permit the copying of course materials, nor disclose or permit disclosure or sell or hire the same to third parties, nor use the same for running the customer's own courses unless the express written permission of Flux Capacity Ltd is given.

9. GENERAL

Either party may terminate this Agreement, if the other; is in breach of a material obligation and has not commenced continuing and effective steps to remedy the same within 14 days of a notice calling upon it to do so;

- has an order made or a resolution passed for its winding up,
- becomes insolvent or unable to pay its debts as they fall due,
- ceases or threatens to cease to carry on business.
- Any such termination shall be without prejudice to any accrued rights or outstanding obligations of either party at date of termination.



1. This Agreement constitutes the entire agreement between the parties in relation to this contract and supersedes any and all prior agreements, discussions, understandings, representations or promises. Each party warrants to the other that it has not relied upon any representation not recorded here which has induced it to enter into this contract. No amendment of the Conditions will be valid unless confirmed in writing by authorised signatories of both parties on or after the date of this contract.
2. No delay or forbearance by either party in enforcing its respective rights will prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or any later breach.
3. Neither party will assign or transfer all or any part of this contract without the prior written consent of the other party except that assignments of associated companies of Flux Capacity Ltd are permitted.
4. In the event that any of the provisions of the conditions is judged illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced.
5. Neither party will be liable to the other for any delay in or failure to perform its obligations under this contract (other than a payment of money) where such delay or failure results from force majeure, act of God, fire, explosion, accident, industrial dispute or any other cause beyond reasonable control.
6. Any notice given under this contract by either part to the other must be in writing and may be delivered personally or by recorded delivery or registered post and in case of post will be deemed to have been received on the third working day after the date of posting. Notices must be delivered or sent to the address of the parties on the Order or Order Acceptance or to any other address in writing by either party to the other after the date of this contract. This contract is governed by New Zealand law and the parties submit to the non-exclusive jurisdiction of the New Zealand Courts.
7. You consent to us using any feedback obtained from you in regards to our services for marketing and advertising purposes.
8. You consent to the promotion of training events via social media channels and the use of your company name and logo in promotional materials, unless previously agreed otherwise in writing.

Signature

Date

Name (print)

Title

Company

ABN

