

Waxman Training Academy - Terms & Conditions of Service

1. INTERPRETATION

1.1 In these Conditions, the following definitions and rules apply:

Booking Confirmation: has the meaning given to it in condition 2.2;

Booking Form: the booking form issued to the Customer by Waxman or obtained by the Customer from Waxman's website and completed by the Customer;

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;

Commencement Date: has the meaning set out in condition 2.2;

Conditions: these terms and conditions as amended from time to time in accordance with condition 15.9;

Contract: the contract between Waxman and the Customer for the supply of Training Services in accordance with these Conditions;

Course: a training course, where the Training Services are provided;

Course Certificate: the certificate given to the Delegate, evidencing that the Delegate has successfully completed the Course;

Course Fees: the fees payable by the Customer for the supply of the Training Services in accordance with condition 6;

Course Materials: any documentation or materials including handouts and manuals provided to the Customer and/or the Delegate(s) either prior to or during a Course;

Course Specification: the description or specification of the Training Services provided in writing by Waxman to the Customer;

Customer: the person specified in the Booking Form who purchases Training Services from Waxman;

Date(s): the date(s) upon which a Course is to take place as set out in the Booking Confirmation;

Delegates: means the members of the Customer's staff who are to receive the Training Services, as set out in the Booking Form;

Force Majeure Event means any event beyond the reasonable control of Waxman;

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

Order: the Customer's order for Training Services as set out in the Booking Form overleaf;

Trainer: the person delivering the Training Services;

Training Location: the place at which the Course is to be held, as confirmed by Waxman in the Booking Confirmation;

Training Services: the training services, including the Course Materials, supplied by Waxman to the Customer as set out in the Course Specification;

Waxman: Waxman Training Academy Limited registered in England and Wales with company number 07698623; and

Waxman Materials: materials, equipment, documents and other property of Waxman.

1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and its successors or permitted assigns;

1.3 A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted and any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

1.4 A reference to **writing** or **written** includes faxes and emails; and

1.5 Condition headings do not affect the interpretation of these Conditions.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Training Services in accordance with these Conditions. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Order shall only be deemed to be accepted when Waxman issues written acceptance of the Order ("**Booking Confirmation**") at which point and on which date the Contract shall come into existence ("**Commencement Date**").

2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Waxman, which is not set out in the Contract.

2.4 Any descriptive matter or advertising issued by Waxman are issued or published for the sole purpose of giving an approximate idea of the Training Services described in them. They shall not form part of the Contract or have any contractual force.

3. SUPPLY OF TRAINING SERVICES

3.1 Waxman shall supply the Training Services to the Customer in accordance with the Course Specification. Waxman shall use all reasonable endeavours to perform the Training Services on the Date(s) and at the Training Location, but any Course may be cancelled or postponed, and Training Locations may change, at any time up to 72 hours before the Training Services are due to commence.

3.2 Waxman warrants to the Customer that the Training Services will be provided using reasonable care and skill and the Trainer shall be suitably qualified to deliver the Training Services.

3.3 Upon successful completion of the Course, Waxman shall either provide and present a Course Certificate to the Delegate or, for recognised certification courses, inform the relevant certification body that the Delegate has successfully completed the Course, so as to enable the certification body to issue a Course Certificate to the Delegate.

3.4 Waxman constantly strives to improve the content of its Courses and therefore reserves the right to modify the Course Specification without notice to the Customer. Waxman shall also have the right to make any changes to a Course which are necessary to comply with any applicable law or safety requirement.

4. CUSTOMER'S OBLIGATIONS

4.1 The Customer shall:

4.1.1 ensure that the details on the Booking Form are complete and accurate;

4.1.2 co-operate with Waxman in all matters relating to the Training Services;

4.1.3 provide Waxman with such information, materials and access as Waxman may reasonably require in order to supply the Training Services, and ensure that such information is accurate in all material respects; and

4.1.4 obtain and maintain, all necessary licences, permissions and consents which may be required for the Delegates to attend the Course.

4.2 If Waxman's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or the Delegate(s) or failure by the Customer or the Delegate(s) to perform any relevant obligation (**Customer Default**):

4.2.1 Waxman shall without limiting its other rights or remedies have the right to suspend performance of the Training Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Waxman's performance of any of its obligations;

4.2.2 Waxman shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Waxman's failure or delay to perform any of its obligations; and

4.2.3 the Customer shall reimburse Waxman on written demand for any costs or losses sustained or incurred by Waxman arising directly or indirectly from the Customer Default.

5. DELEGATES

5.1 It is the Customer's responsibility to ensure that the Course is suitable for the Delegates.

5.2 The Customer shall procure that all Delegates shall have read and understood any Course Materials provided and shall meet any necessary prerequisites. Waxman reserves the right to ask a Delegate to leave the Course if the Delegate does not meet any Course prerequisites.

5.3 The Customer shall procure that all Delegates will abide by any site rules and regulations operating at the Training Location.

5.4 The Customer shall procure that all Delegates shall act reasonably throughout the Course. Waxman may remove a Delegate from a Course, where, in the reasonable opinion of the Trainer, the Delegate is behaving unreasonably or in an unacceptable manner.

6. COURSE FEE AND PAYMENT

6.1 The Course Fees for the Training Services are fixed and shall be as set out in the Booking Form and confirmed by Waxman in the Booking Confirmation. All Course Fees are exclusive of VAT. Payment can be made by electronic bank transfer, credit card or debit card.

6.2 A non-returnable deposit of 20% of the Course Fees will be payable by the Customer no later than four Business Days after the Customer receives the Booking Confirmation. If the deposit is not paid within this time, the Customer's booking will be cancelled and the places on the Course will become available to other customers.

6.3 Payment of the remaining Course Fees should be received by Waxman 10 Business Days prior to the Course Date or at the time the Customer receives the Booking Confirmation, whichever is later. The Delegates will not be permitted to attend a Course unless the balances of all Course Fees have been received by Waxman prior to the Date.

6.4 Waxman shall be entitled to charge the Customer for any expenses reasonably incurred by the Trainer in connection with the Training Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses.

6.5 If the Customer fails to make any payment due to Waxman under the Contract by the due date for payment ("**Due Date**"), Waxman shall have the right to charge interest on the overdue amount at the rate of 2.5% per annum above the then current base rate of HSBC Bank plc accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment.

6.6 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Waxman. Waxman may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Waxman to the Customer.

7. TRANSFERS AND CANCELLATION

7.1 Delegate substitutions may be made up to 24 hours prior to the Date without penalty, providing Waxman is informed in writing. No Delegate substitutions will be permitted after this time.

7.2 If the Customer wishes to cancel a Course or transfer a Delegate to another Course, the following fees ("**Transfer/Cancellation Fees**") shall be due within 30 days of the date of such cancellation or transfer (after taking into account any deposit already received by Waxman):

WRITTEN NOTICE GIVEN	CANCELLATION FEE	TRANSFER FEE
29 days or more	None	None
15 – 28 days	20% of Course Fee	10% of Course Fee
5 - 14 days	50% of Course Fee	25% of Course Fee
0 - 5 days	100% of Course Fee	50% of Course Fee

7.3 Notification of any transfer or cancellation must be made in writing to Waxman.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 Ownership of all Intellectual Property Rights in or arising out of or in connection with the Training Services (including in the Waxman Materials and the Course Materials) shall be and remain vested in Waxman.

8.2 Delegates may use the Course Materials for their own personal development purposes but not for any other purpose and the Customer shall not copy, duplicate, redistribute, re-publish or in any way use any part of the Course Materials or prepare derivative works or incorporate the Course Materials in any other work for commercial use or exploitation without Waxman's prior written consent.

9. CONFIDENTIALITY

9.1 A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its Training Services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This condition 9 shall survive termination of the Contract.

9.2 Waxman may make reference to the existence of the Contract for marketing purposes, provided that no confidential information is disclosed.

10. DATA PROTECTION

10.1 Waxman agrees that it will comply with the requirements of the Data Protection Act 1998 (as amended from time to time) ("**DPA**") in so far as it relates to the Training Services.

10.2 Waxman agrees that it will only use personal data provided by the Customer for the purpose of carrying out its obligations in providing the Training Services. Waxman will ensure that all reasonable and appropriate security measures are in place to protect the personal data. Personal data has the meaning given to it in the DPA.

10.3 Waxman may store the names of the Customer or Delegates for the purpose of advising them of the availability of further courses that may be of interest in the future.

11. NON-SOLICITATION

The Customer shall not during the term of the Contract and for 12 months after a Course, entice or solicit for employment with it or any other entity any Trainer who has been engaged to provide the Training Services.

12. LIMITATION OF LIABILITY

12.1 Nothing in these Conditions shall limit or exclude Waxman's liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors or for fraud or fraudulent misrepresentation.

12.2 Subject to condition 12.1, Waxman shall have no liability for any losses or damages which may be suffered by Customer or any Delegate, whether such losses or damages are suffered directly or indirectly or are immediate or consequential and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories arising out of or in connection with the provision of the Course and/or the use of or reliance on the Course Materials:

- 12.2.1 loss of profits, anticipated profits or revenues;
- 12.2.2 failure to make anticipated savings;
- 12.2.3 loss of business opportunity or contract;
- 12.2.4 loss of goodwill or damage to reputation;
- 12.2.5 loss or corruption of data; and
- 12.2.6 business interruption costs.

12.3 Subject to condition 12.1, Waxman's aggregate liability arising out of or in connection with provision of the Course and/or the use of or reliance on the Course Materials, whether such liability arises in contract, tort (including negligence) or otherwise howsoever, shall not exceed the Course Fee.

12.4 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

12.5 This condition 12 shall survive termination of the Contract.

13. TERMINATION

13.1 Waxman may cancel any Course and/or terminate the Contract at any time up to 72 hours before the Training Services are due to commence.

13.2 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

- 13.2.1 the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 5 Business Days of that party being notified in writing of the breach;

13.2.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

13.2.3 the other party has a receiver or administrative receiver appointed over it or over any part of its undertaking or assets;

13.2.4 the other party passes a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction shall make an order to that effect;

13.2.5 the other party shall become subject to an administration order or enters into any voluntary arrangement with its creditors; or

13.2.6 the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.

13.3 Without limiting its other rights or remedies, Waxman may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the Due Date.

13.4 Without limiting its other rights or remedies, Waxman shall have the right to suspend provision of the Training Services under the Contract or any other contract between the Customer and Waxman if the Customer becomes subject to any of the events listed in condition 13.1, or Waxman reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the Due Date.

14. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

14.1 the Customer shall, on receipt of a Waxman invoice, immediately pay to Waxman all monies and interest due and owing, including (if Waxman is the terminating party) any Cancellation Fees applicable in accordance with condition 7.2;

14.2 the Customer shall return all Waxman Materials and any Course Materials, which have not been fully paid for. If the Customer fails to do so, then Waxman may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;

14.3 the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

14.4 conditions which expressly or by implication have effect after termination shall continue in full force and effect.

15. GENERAL

15.1 Waxman shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

15.2 The Customer shall not, without the prior written consent of Waxman, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

15.3 Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class or post or recorded delivery to its registered office or its principal place of business, or sent by email.

15.4 A notice shall be deemed to have been duly received if delivered personally, when left at the address referred to in this condition 15.3, if sent by first class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if sent by email, on the next Business Day after transmission. This condition 15.4 shall not apply to the service of any proceedings or other documents in any legal action.

15.5 A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy. Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

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

15.7 Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

15.8 A person who is not a party to the Contract shall not have any rights under or in connection with it.

15.9 Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when agreed in writing and signed by Waxman.

15.10 The Contract, these Conditions and any disputes or claims arising out of or in connection with their subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of England.

15.11 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract and/or these Conditions or their subject matter or formation (including non-contractual disputes or claims).