



## REGISTRATION ACADEMY

### Terms and Conditions for Training Services

These terms and conditions apply to any training services offered by The Registration Academy.

#### 1. DEFINITIONS

<b>“Contract”</b>	means the contract you have entered into by purchasing the services to which these terms and conditions apply;
<b>“Course Materials”</b>	material provided to Delegates by The Registration Academy in relation to the Training Services;
<b>“Customer”</b>	means a firm, company or other commercial enterprise (not being an individual consumer) to whom Services are provided;
<b>“Data Protection Legislation”</b>	means the Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Regulation of Investigatory Powers Act 2000, the Investigatory Powers Act 2016, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 and from 25 May 2018 the General Data Protection Regulation and any legislation implemented in connection with the General Data Protection Regulation and any replacement legislation coming into effect from time to time and all applicable laws and regulations relating to the processing of personal data and privacy, including as where applicable the guidance and codes of practice issued by the Information Commissioner;
<b>“Delegate”</b>	means any individual or person nominated by the Customer to attend and receive the Training Services;
<b>“Good Industry Practice”</b>	means using standards, practices, methods and procedures conforming to the Law and exercising that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged as the case may be in the same type of undertaking as that of The Registration Academy under the same or similar circumstances at the relevant time for such exercise;
<b>“Information Laws”</b>	means the Freedom of Information Act 2000, the Environmental Information Regulations 2004, the Data Protection Legislation and any codes of practice and guidance made pursuant to the same as amended or replaced from time to time;
<b>“Law”</b>	means any applicable statute or any delegated or subordinate legislation, any enforceable community rights within the meaning of section 2 of the European Communities Act 1972, duly applicable guidance code of practice, direction, judgment or determination with which The Registration Academy and/or the Service Provider is bound to comply including The Registration Academy's rules, procedures, guidelines, policies, codes of practice, financial regulations and standards from time to time;
<b>“Order Form”</b>	means The Registration Academy's standard form for ordering the Training Services, as signed by the Customer;
<b>“Personal Data”</b>	has the meaning given to that term in the Data Protection Legislation in force from time to time;
<b>“Registration Academy”</b>	means The Registration Academy operated by East Sussex County Council;
<b>“Training Services”</b>	means the training services to be provided by The Registration Academy to the Customer under the Contract;
<b>“Working Day”</b>	every week day apart from Saturday, Sunday, and United Kingdom statutory holidays.



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### 2. GENERAL

- 2.1 These terms and conditions must be read and accepted by the Customer prior to the purchase of any Training Services. The parties agree that these terms and conditions shall apply to any Training Services purchased by the Customer.
- 2.2 By placing an order for Training Services from The Registration Academy, the Customer warrants that it is legally capable of entering into binding contracts on behalf of the Customer, and acknowledge that where a purchase order is issued for the ordering of such services, these Terms and Conditions will prevail over any terms and conditions contained within any such purchase order.
- 2.3 Where the Customer has a specific agreement or contract in place for alternative services provided by The Registration Academy, the Customer acknowledges that for any instances of training within the scope of the Training Services, these Terms and Conditions will apply to such Training Services unless expressly acknowledged in writing by The Registration Academy.
- 2.4 The Registration Academy reserves the right to modify these terms and conditions and vary any course content or personnel from time to time.
- 2.5 Except as set out in these terms and conditions, any variations, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the parties.
- 2.6 The Registration Academy shall provide the Training Services exercising reasonable skill and care at all times.
- 2.7 All rights and duties which The Registration Academy has as a local authority or which The Registration Academy's officers have as local authority officers are reserved to The Registration Academy and The Registration Academy's officers.
- 2.8 Each of the Parties will pay their own costs and expenses incurred in connection with the negotiation, preparation, execution, completion and implementation of this Contract.

### 3. WARRANTIES

- 3.1 The Registration Academy warrants to provide the Training Services with all the care and skill to be expected of a qualified and competent contractor experienced in undertaking training of the same kind as the Training Services.
- 3.2 If the Services performed are in breach of clause 3.1, The Registration Academy will at its option make good the performance, re-perform the Service or refund the Charges to the Customer.
- 3.3 The obligations in clauses 3.1 and 3.2 shall not apply where:
  - 3.3.1 the defect in the Training Services was based upon information supplied by or varied from the normal Training Services at the specific request of the Customer; or
  - 3.3.2 the Customer failed to notify The Registration Academy of the defect within fourteen (14) days of the supply of the Training Services.

### 4. CUSTOMER OBLIGATIONS

- 4.1 Where The Registration Academy is required to perform the Training Services on Customer premises, the Customer agrees to provide a full and safe working environment for The Registration Academy's staff and contractors including any relevant safety wear and equipment as may be necessary in performing the required Training Services.
- 4.2 The Customer agrees to ensure that The Registration Academy staff and any sub-contractors engaged by The Registration Academy are informed of all relevant health & safety requirements of the Customers premises at the outset of any Training Services performed.

### 5. FEES & PAYMENT

- 5.1 Fees
  - 5.1.1 In consideration of the provision of the Training Services by The Registration Academy, the Customer shall pay the Fees to The Registration Academy.



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### 5.2 **Payment Terms**

- 5.2.1 The Customer shall pay the Fees to The Registration Academy within thirty (30) days of the date of Registration Academy's invoice.
- 5.2.2 If the Customer fails to make payment on the due date, The Registration Academy shall be entitled to charge the Customer interest at the annual rate of two percent (2%) a year above the Bank of England's base rate from time to time and at two percent (2%) a year for any period when that base rate is below zero percent (0%). It is agreed by the parties that this clause 5.2.2 provides The Registration Academy with a substantial remedy pursuant to sections 8 and 9 of the Late Payment of Commercial Debts (interest) Act 1998.

### 6. **ORDERS**

- 6.1 The times and places for the performance of the Training Services shall be as set out in the Order Form.
- 6.2 Failure to notify of any delay shall not on its own entitle the Customer to terminate the Contract or withhold payment against The Registration Academy's invoice. Unless otherwise agreed in writing with The Registration Academy, the Customer shall not be entitled to cancel any order for Training Services once the first performance of the Training Services has been performed by The Registration Academy.

### 7. **CONFIDENTIALITY**

- 7.1 Each party acknowledges and agrees that any and all information concerning the other's business or these terms and conditions is confidential ("**Confidential Information**") and each party agrees that it shall not permit the duplication, use or disclosure of any such Confidential Information to any person (other than its own employee, agent or sub-contractor where the same requires such information for the performance of the Training Services) unless such duplication, use or disclosure is specifically authorised in writing by the other party, or is required by the operation of Law. Confidential Information does not include information, which at the time of disclosure is generally known by the public (other than by the unauthorised act of the disclosing party). The parties shall take all reasonable steps to ensure that their employees, agents and sub-contractors keep Confidential Information confidential.

### 8. **DATA PROTECTION**

- 8.1 By providing Personal Data of any Delegate to The Registration Academy, the Customer confirms that they are entitled to disclose such Personal Data under the terms of the Data Protection Legislation and that The Registration Academy shall be entitled to Process such Personal Data for the purposes of providing the Training Services.
- 8.2 Both parties shall, and ensure that their representatives shall, duly observe all their obligations under the Data Protection Legislation, which arise in connection with the performance of the Contract.

### 9. **INTELLECTUAL PROPERTY**

- 9.1 Each party confirms that it owns, or has all necessary rights in the use of, all intellectual property in relation to the Training Services and each acknowledges that such intellectual property shall remain the property of, or the rights in the use of shall remain with, the originating party, unless otherwise agreed in writing between parties.
- 9.2 Each party agrees to indemnify the other against any actions, costs, liabilities, losses, damages and expenses which the other may suffer or incur as a result of any claim by a third party in relation to ownership or use of any relevant intellectual property, provided by the other party.
- 9.3 The Customer shall not, and shall procure that all Delegates do not, copy, distribute or publish any Course Materials without The Registration Academy's prior written consent.

### 10. **FORCE MAJEURE**

- 10.1 Neither party will be liable to the other for any failure or delay or for the consequences of any failure or delay in performance of their respective obligations under these terms and conditions if it is due to any event beyond the reasonable control and contemplation of the parties including, without limitation, acts of God, war, industrial disputes, protests, fire, flood, storm, tempest, explosion, an act of terrorism and national emergencies.

### 11. **LIABILITY**

- 11.1 Subject to clause 11.2, neither party shall be liable to the other party (as far as permitted by Law) for indirect special or consequential loss or damage in connection with the Contract which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, use, goodwill or business opportunities whether direct or indirect.
- 11.2 Notwithstanding any other provision of this Contract neither party limits or excludes its liability for:
- 11.2.1 fraud or fraudulent misrepresentation;
  - 11.2.2 death or personal injury caused by its negligence, or that of its employees, agents or Sub-Contractors;
  - 11.2.3 breach of any obligation as to title implied by statute; or
  - 11.2.4 any other act or omission, liability for which may not be limited under any applicable Law.
- 11.3 Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to the Contract.
- 11.4 Subject to Clauses 11.1 and 11.2, The Registration Academy's total aggregate liability under the Contract is limited to the amount paid for the Training Services concerned.

### 12. **INSURANCE**



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- 12.1 The Customer agrees to have in place suitable employer's liability and public liability insurance at all times that the Training Services are performed by The Registration Academy on the Customer's premises.
- 12.2 The Registration Academy shall have in place the following insurances:
- 12.2.1 public liability insurance with a limit of indemnity of not less than ten million pounds (£10,000,000) in relation to any one claim or series of claims arising from the Services;
  - 12.2.2 employer's liability insurance with a limit of indemnity of not less than five million pounds (£5,000,000) in relation to any one claim or series of claims arising from the Services; and
  - 12.2.3 professional indemnity with a limit of cover of not less than one (1) million pounds (£1,000,000) in relation to any one claim or series of claims arising from the Training Services.
- 13. NOTICES**
- 13.1 Any demand notice or communication may be given by first class prepaid post and shall be deemed to have been duly served forty eight (48) hours after being posted (excluding Saturday, Sunday and public holidays).
- 14. FREEDOM OF INFORMATION**
- 14.1 The parties acknowledge that they are each subject to the requirements of the Information Laws and shall assist and fully and promptly cooperate with each other to enable the other party to comply with their respective information disclosure obligations.
- 15. DISPUTES**
- 15.1 In the event of a dispute concerning the Training Services ("**Dispute**") the parties shall use their reasonable endeavours to resolve the Dispute as soon as practicable by negotiation between the parties.
- 15.2 In the event that the Dispute cannot be resolved by negotiation under clause 15.1 within two (2) months or such other period as may be agreed between the parties, both parties shall attempt to settle it by mediation.
- 15.3 The procedure for mediation and consequential provisions relating to mediation are as follows:-
- 15.3.1 a neutral adviser or mediator (the "**Mediator**") shall be chosen by agreement between the parties or, if they are unable to agree upon a Mediator within ten (10) Working Days after a request by one (1) party to the other or the Mediator agreed upon is unable or unwilling to act, either party shall within ten (10) Working Days from the date of the proposal to appoint a Mediator or within ten (10) Working Days of notice to either party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution (or any successor body) ("**CEDR**") to appoint a Mediator;
  - 15.3.2 the parties shall within ten (10) Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the parties may at any stage seek assistance from CEDR to provide guidance on a suitable procedure;
  - 15.3.3 unless otherwise agreed, all negotiations connected with the Dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings;
  - 15.3.4 if the parties reach agreement on the resolution of the Dispute, the agreement shall be reduced to writing and shall be binding on the parties once it is signed by their duly authorised representatives; and
  - 15.3.5 failing agreement, either of the parties may invite the Mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both parties.
- 15.4 If the parties fail to resolve the Dispute by mediation within two (2) Months of the Mediator being appointed, or such longer period as may be agreed between the parties, then any dispute or difference between them may be referred to the courts pursuant to clause 0 (Governing Law and Jurisdiction).
- 16. CONSEQUENCES OF TERMINATION**
- 16.1 The termination of the Contract howsoever arising is without prejudice to the rights, duties and liabilities of either party accrued prior to termination. The clauses of these terms and conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.
- 17. CONTRACTS (RIGHT OF THIRD PARTIES) ACT 1999**
- 17.1 It is agreed for the purposes of the Contracts (Rights of Third Parties) Act 1999 that these terms and conditions are not intended to, and do not, give to any person who is not a party to the Contract any rights to enforce any provisions contained therein.



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### **18. ASSIGNMENT**

18.1 Neither party shall be entitled to assign or transfer any of its rights or obligations hereunder without the prior written agreement of the other (which shall not be unreasonably withheld or delayed).

### **19. WAIVER**

19.1 No failure or delay by a party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

19.2 Nothing in these terms and conditions shall be considered as waived by any party unless a waiver is given in writing by that party and specifically states that it is a waiver of such term or provision. No waiver shall be a waiver of a past or future Default or breach, nor shall it amend, delete or add to the terms, clauses or provisions of the Contract unless (and then only to the extent) that it is expressly stated in that waiver.

### **20. INVALIDITY / SEVERABILITY**

20.1 If any of these terms and conditions (or part thereof) shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity shall not impair or affect any other of the terms and conditions all of which shall remain in full force and effect.

### **21. VARIATION**

21.1 The Contract may only be varied or amended in writing and any such variation must be signed by the parties and refer to this clause.

### **22. ENTIRE AGREEMENT**

22.1 These terms and conditions, and the Contract into which they are incorporated, contain all the terms which the parties have agreed in relation to the provision of the Training Services. The Contract supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this clause shall not exclude liability in respect of any fraudulent misrepresentation.

### **23. NO PARTNERSHIP**

23.1 Nothing in the Contract shall be construed as creating a partnership within the meaning of the Partnership Act 1890, or as a contract of employment between the Service Provider and The Registration Academy.

### **24. COMPLIANCE WITH LAWS AND REGULATIONS**

24.1 Each party shall observe and abide by and shall require its sub-contractors to observe and abide by all Laws, regulations and by-laws as may apply in relation to the matters contemplated by these terms and conditions.

### **25. GOVERNING LAW AND JURISDICTION**

25.1 The parties agree that the Contract shall be construed in accordance with the laws of England and, subject to clause 0 (Disputes), the Parties submit to the exclusive jurisdiction of the English Courts.

### **26. FAIR PROCESSING**

26.1 All information that The Registration Academy holds concerning the Customer or any Delegate will be held and processed in accordance with the provisions of the Data Protection Legislation.

26.2 Personal Data received from the Customer pursuant to the Contract shall be used by The Registration Academy to administer the Training Services. The Registration Academy shall not, without the Customer's consent, supply any Personal Data provided by the Customer or any Delegate to any third parties except where:

26.2.1 such transfer is a necessary part of the activities undertaken by The Registration Academy; or

26.2.2 The Registration Academy is required to do so by operation of Law.

26.3 As an individual, any Delegate shall have a right under the Data Protection Legislation to obtain information about their Personal Data held by The Registration Academy, including a description of the Personal Data held.

**Last Updated – December 2017**

**Registration Academy**

Operated by East Sussex County Council