



AGREEMENT relating to the provision of education and training courses

PARTIES

- (1) EDUCATION FOR HEALTH (charity registration number 1048816 and company registration number 3090774) whose registered office is at The Athenaeum, 10 Church Street, Warwick CV34 4AB, United Kingdom (“EFH”).
- (2) The party named in the Schedule below (“the Third Party”).

BACKGROUND

(A) EFH will provide education and training through a Third Party identified in the Schedule where the provision of the Venue and Students are the responsibility of the Third Party on the Terms and Conditions of this Agreement.

(B) Our Agreement with you as the relevant Third Party comes into existence on the date this Agreement is signed, having provided information required to complete the Schedule below. You must then return one copy of the Agreement to EFH at the address shown above.

(C) Your signature below indicates your acceptance of our Terms and Conditions as incorporated within this Agreement.

SCHEDULE

Third Party Details

Third Party Name: _____

Organisation Represented
(e.g. PCT or SHA) _____

Third Party Address
(including Post Code): _____

Third Party Email Address: _____

Third Party Phone No: _____

Third Party Fax No: _____

Contact Name & No:
(If different from above) _____

Purchase details

Course Title & Level: _____

Delivery Format: _____

Agreement to be returned to EFH by: _____

Student applications to be received at EFH by: _____

Module Start or Workshop Date: _____

Materials (if applicable) available to Students week commencing: _____

1st Study Day Date: _____ Venue: _____

2nd Study Day Date: _____ Venue: _____

3rd Study Day Date: _____ Venue: _____

4th Study Day Date: _____ Venue: _____

1st Coursework to be posted by: _____ 2nd Coursework to be posted by: _____

Contracted Number of Students: _____ Minimum Number of Students: _____

Course Fee: _____

Other Fees (EG: International Postage): _____

Total Fee Payable: _____

Special terms agreed: _____

Purchase Order Number: _____

Invoicing details (if different from above)

Invoice Name: _____

Invoice Address: _____

You hereby confirm this Agreement and acceptance of the Terms and Condition contained within it

Signed by: _____

Signed by: _____

Position:.....

Position:.....

for and on behalf of EDUCATION FOR HEALTH

for and on behalf of

Signature Date:.....

Signature Date

TERMS AND CONDITIONS

1. DEFINITIONS & INTERPRETATION

1.1 These Terms are the Terms and Conditions of the Agreement between EFH and the Third Party.

1.2 In these Terms, unless the context otherwise requires, the following words and phrases shall have the following meanings:

1.2.1 **Agreement:** the agreement set out in this document which incorporates the Schedule and the Terms;

1.2.2 **Confidential Information:** secret or confidential commercial, financial, marketing or other information in any form or medium whether disclosed orally or in writing before or after the date of the Agreement and whether or not designated specifically to be confidential by the disclosing party;

1.2.3 **Course:** Workshop or Module as the case may be;

1.2.4 **Equipment:** All the equipment required to deliver a Course as detailed in Appendix A(Guide to the study days);

1.2.5 **Intellectual Property Rights:** any copyright, patent, trade mark or design (whether registered or unregistered), database right or other intellectual property right subsisting or enforceable with respect to the Courses and Learning Materials;

1.2.6 **Materials:** any written or graphic material supplied to the Student or the Third Party by EFH including online or other electronically-stored materials;

1.2.7 **Module:** training validated by the OU awarded a credit value;

1.2.8 **OU:** the Open University;

1.2.9 **Payments:** the payments to be made by the Provider to EFH as set out in the Schedule and provided for in Term 8 ;

1.2.10 **Schedule:** the Schedule to the Agreement set out above which contains the details of the provision of the Course agreed by the parties;

1.2.11 **Students:** persons who have applied to attend the Course;

1.2.12 **Terms:** these Terms and Conditions;

1.2.13 **Third Party:** the individual or organisation identified as the person signing this Agreement;

1.2.14 **Trainer:** the person appointed by EFH to deliver the facilitated and taught components of the Course;

1.2.15 **Venue:** the room organised and funded by the Third Party for the delivery of the Course;

1.2.16 **Workshop:** Training that has not been validated by the OU and has no credit value.

- 1.3 Any reference in these Terms to “writing” or related expressions includes a reference to facsimile transmission, email or comparable means of electronic communication.
- 1.4 Any reference in these Terms to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.5 Any special terms agreed between the parties must appear in the Schedule to be valid.
- 1.6 The headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement or any particular clause within it.

2. GRANT OF RIGHTS

In consideration of the Payments, EFH as the originator and provider of the Course identified in the Schedule hereby grants its non-exclusive and non-transferable consent to enable the Third Party to recruit Students to attend the Course and to retain the Venue for the purpose of delivery of the Course

3. CONDITIONS

- 3.1 EFH reserves the right to alter the structure of the Course without prior notice, provided that the quality is not affected.
- 3.2 EFH reserve the right to cancel the Course, or any part of such Course in unavoidable circumstances at which time EFH will notify the Third Party of these circumstances and, at its sole discretion, offer alternative dates or a refund.
- 3.3 All Materials supplied shall remain the property of EFH until payment in full is received.
- 3.4 Copyright in the Materials is reserved by EFH. The Materials are supplied on condition that they are not reproduced or copied by any means or are transferred or transmitted to any third parties other than Students as part of the delivery of the Course.

4. STUDENTS

- 4.1 Module Students are registered with the OU by EFH at the commencement of the Course following which the OU certification fee is not transferable or refundable
- 4.2 The number of Students attending any Course
 - 4.2.1 may not exceed the contracted number set out in the Schedule without the further express permission of EFH (and subject to further charge);
 - 4.2.2 may not fall below the minimum stipulated in the Schedule but in the event that it does, EFH reserve the right to cancel this course on behalf of the Third Party as the interactive experience will be impaired. In this instance a cancellation fee will be payable dependant on the date EFH inform the Third Party the course has been cancelled.

- 4.3 If any Student fails the Course or any part of the Course, or voluntarily defers the Course and requires re-allocation, a fee in addition to the Payments is payable with respect to any re-sit or re-submission or re-allocation but no additional fees will be payable under this Agreement.
- 4.4 EFH have the right to refuse any Student admission to, or continuance in, any course, at its discretion.
- 4.5 All Students must complete the relevant EFH application/registration form for the course they are attending.
- 4.6 Upon request EFH will provide information in relation to student applications, attendance and whether there was a successful or unsuccessful outcome of training.
- 4.7 Examination results are issued only to Students individually unless EFH has the written permission of the Student in question to release them.

5. **OBLIGATIONS OF EFH**

- 5.1 EFH shall process all Student applications forwarded by the provider with respect to the Course in a timely and efficient manner.
- 5.2 At the request of the Third Party EFH shall where reasonable assist with some aspects of marketing the Course.
- 5.3 EFH shall work with the Third Party in all reasonable respects to allow for the delivery of the Course on the relevant date and shall, subject to these Terms being fulfilled make a trainer available to deliver the Course on the relevant date.
- 5.4 EFH will keep a record of Students for its further legitimate marketing purposes and to obtain OU certification where applicable.

6. **OBLIGATIONS OF THE THIRD PARTY**

- 6.1 The Third Party shall execute and return the Agreement to EFH within the timescale stipulated in the Schedule as a condition of the Third Party being permitted to proceed with the booking of the Course.
- 6.2 The Third Party shall ensure that the Venue can accommodate all the requirements detailed in Appendix I (Guide to Running a Course)
- 6.3 The Venue shall comply with the requirements of the Special Education Needs and Disability Act 2001 together with all relevant health and safety and fire regulations and shall, if so requested by EFH, provide certificates or other evidence of compliance with the foregoing legislation.
- 6.4 The Third Party shall effect full third party and occupier's liability insurance at a level of £5,000,000 with respect to the Venue and the Equipment and other facilities provided if the Venue is owned by the Third Party, but in the event that the Venue is owned by another third party, the Third Party shall ensure that the other third party has effected such insurance and in either case, if EFH so requests it, the Third Party shall produce copies of the relevant policies of insurance or other evidence of insurance cover.
- 6.5 The Third Party shall liaise with EFH to ensure that all Equipment requirements are fulfilled.

- 6.6 The Third Party shall forward each Students relevant EFH application/registration form to EFH by the date on the Schedule.
- 6.7 The Third Party will make Students aware in advance of the relevant Course of
- 6.7.1 the delivery format as set out in the Schedule;
 - 6.7.2 the key date or dates of the Course;
 - 6.7.3 the location of the Venue with comprehensive directions;
 - 6.7.4 the relevant facilities provided or made available at the Venue.

7. **WARRANTIES, INDEMNITIES AND LIMITATION OF LIABILITY**

- 7.1 The Third Party warrants to EFH that:
- 7.1.1 it is entitled to enter the Agreement with EFH;
 - 7.1.2 it is not aware of any rights of any third party which would or might render the performance of the Third Party's obligations under the Agreement to be unlawful.
- 7.2 The Third Party confirms that it has read and understood these Terms, the Schedule and the Appendices attached to this Agreement.
- 7.3 The liability of EFH for any breach of this Agreement shall be limited to all reasonably foreseeable and direct losses including any reasonable expenses of Students which the Third Party refunds to Students in the event of the cancellation of the Course (except as permitted by Term 3.2) due to the unavailability of the Trainer (except for reasons of force majeure under Term 14) without at least 48 hours notice being given to the Third Party but limited overall to the total amount of £1000.
- 7.4 The Third Party shall indemnify EFH and keep EFH indemnified against breach of the warranties in this Term 7 and any damage, losses, costs etc. incurred by the Third Party in connection with its provision of the Venue.
- 7.5 Nothing in the Agreement shall limit the liability of either party for death or personal injury caused by negligence or for fraudulent misrepresentation.
- 7.6 Except in respect of death or personal injury caused by negligence or fraudulent misrepresentation, neither party shall be liable to the other party for any loss of business, contracts, profits or revenue or for any other kind of consequential, indirect or special loss arising out of or in connection with any act or omission or breach of the Agreement by that party.

8. **PAYMENTS**

- 8.1 The Third Party shall pay to EFH the Payments set out in the Schedule on the following basis:
- 8.1.1 the Payments shall be made in full at least six (6) weeks before the date of commencement of the Course;

8.1.2 in the event that the date of Agreement is less than six (6) weeks before the date of commencement of the Course, payment in full shall be made on the date of the Agreement.

8.2 The Third Party is at liberty to charge any fees to Students it has arranged.

8.3 In the event that the Third Party cancels the Course there will be a fee payable. This fee will be dependant on the date EFH are notified in writing of the cancellation and are detailed on the attached Cancellation Fee Schedule.

8.4 In the event that the Third Party changes any dates included on the Schedule this will be treated as a cancellation and a new Agreement will be entered into.

8.5 Refunds will not be issued by EFH on account of any failure on the part of any Student to attend any Course (or part thereof) for any reason.

8.6 If EFH allocate the Third Party free or part-funded places under any sponsorship scheme and the number of students who attend the Course subsequently falls below the contracted number shown in the Schedule, further charges for the free or part funded element in respect of any absent students may be charged to the Third Party and be repaid by EFH to the relevant sponsorship scheme.

9. **INTELLECTUAL PROPERTY**

9.1 EFH reserves its rights to all Intellectual Property Rights in or connected with the Course, and no license is granted under the foregoing to the Provider save to the extent necessary and reasonably required for the purposes of the grant of rights under Term 2.

9.2 The Third Party shall promptly and fully notify EFH of any actual, threatened or suspected infringement of any of EFH's Intellectual Property Rights which comes to the Third Party's notice and the Third Party shall at the request and expense of EFH do all things as may be reasonably required to assist EFH in taking or participating in any proceedings in relation to any such infringement or claim.

10. **CONFIDENTIALITY**

10.1 Each party shall at all times during the continuance of this Agreement and after its termination:

10.1.1 use its best endeavours to keep all Confidential Information of the Third Party and Students confidential; and

10.1.2 not use any such Confidential Information for any purpose other than performance of the obligations under this Agreement.

10.2 Any received Confidential Information may be disclosed by the receiving party to:

10.2.1 any employees or Trainer's of the receiving party; or

10.2.2 any governmental or other authority or regulatory body,

to such extent only as is necessary for the purposes contemplated by this Agreement or as is required by law and subject in each case to the receiving party using its best endeavours to ensure that the person in question

keeps the same confidential and does not use the same except for the purposes for which the disclosure is made.

10.3 Any Confidential Information may be used by the receiving party for any purpose, or disclosed to any third party only to the extent that:

10.3.1 it is at the date of this Agreement, or becomes, public knowledge through no fault of the receiving party;
or

10.3.2 it can be shown by the receiving party to the reasonable satisfaction of the other party, to have been known to it prior to its disclosure.

10.4 Each party shall comply with its respective obligations (as they may be) under the provisions and principles of the Data Protection Act 1998.

11. **SEVERANCE**

If any provision of the Agreement, or any of these Terms, shall be found by any court of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement, or any other Terms, which shall remain in full force and effect.

12. **THIRD PARTY RIGHTS**

A person who is not a party to the Agreement shall not have the right (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise) to enforce any provision of the Agreement or any Term without the express written agreement of both parties.

13. **NO PARTNERSHIP**

Nothing in the Agreement or these Terms shall be construed as to constitute either party to be the agent or legal representative of the other party or to create any partnership or joint venture between the parties.

14. **FORCE MAJEURE**

Neither party hereto shall be liable for any breach of its obligation hereunder resulting from causes beyond its reasonable control, including but not limited to fires, strikes, insurrection, flood, earthquake, windstorm or other natural disaster or other Acts of God.

15. **JURISDICTION**

These Terms and the Agreement shall be governed by and construed in accordance with English law and each party hereby submits to the exclusive jurisdiction of the English courts.

CANCELLATION FEE SCHEDULE

In the event the Third Party cancels a workshop or module after receipt of a signed Third Party Agreement the fee payable will be dependent on the time frame between the cancellation date and the workshop or module start date. These time frames and charges are as follows:

Greater than 6 weeks	25% of Third party Agreement Value
Less than 6 weeks	100% of Third party Agreement Value

In the event of severe weather the following charges apply for rescheduling:

Workshop	£500
Module Assessment Day (Compulsory)	£500
Module Non Assessment Day	£500