

SOFTWARE AG (CANADA) INC. TRAINING AND EDUCATION SERVICES TERMS AND CONDITIONS

1. SCOPE

Software AG (Canada) Inc., hereinafter referred as (“Software AG”), will provide Customer with the education services (the “Training”) as set out in the Statement of Work (the “SOW”) to which these Terms and Conditions are attached.

2. LOCATION AND TIMING

- 2.1. The Training shall be provided at the location set out in the SOW (the “Location”). If no location is specified in the SOW, the Training will be provided at a Location to be determined and to be confirmed in writing with the Customer. For onsite, virtual and online training the Customer is responsible for making all necessary facilities available for training to enable Software AG to provide the training unless otherwise specified on the SOW.
- 2.2. The Customer delegates attending any public training should arrive at the Location or to the virtual classroom no later than 15 minutes prior to the commencement of the Training on the first training day unless otherwise advised. Where and when the length of a course is specified in a number of days, a “day” is not more than 7 hours of lectures with one hour break for lunch.
- 2.3. Times for onsite training will be agreed between the parties, but shall not include more than 7 hours of lectures in any single day. Times for virtual training will be at Customer’s discretion subject to the SOW and course availability.
- 2.4. The Training is only valid for the courses, dates and times, Locations, delivery mechanisms (i.e., onsite, virtual or other), number of students specified in the SOW (including the start and end date). Upon the expiration of the SOW, or as otherwise provided for in the SOW, Software AG will invoice for the outstanding plan value in accordance with Section 5 of these Terms and Conditions.
- 2.5. Course placements can be confirmed up to two weeks in advance of the course date. Course placements defined in a SOW and not confirmed prior to two weeks of the proposed course dates can be re-allocated to other courses within the same pricing band. All course placements and/or private courses confirmed will be subject to the cancellation policy as detailed herein.

3. COURSE AVAILABILITY AND CONTENT

- 3.1. Course content will be substantially in line with the relevant course description set out in the associated SOW.
- 3.2. Software AG reserves the right to withdraw or re-schedule courses at any time prior to the course start date without any liability to the Customer other than the refund of any relevant fees paid by the Customer in respect of such Training.

4. DELEGATES

- 4.1. The Customer may substitute delegates in writing on the Training at any time prior to the commencement of the Training.
- 4.2. Software AG reserves the right to exclude delegates from the Training who are, in its reasonable opinion, causing unreasonable disruption to such Training. In the event of such exclusion no refund of any associated fees will be made.

5. PAYMENT AND CANCELLATION CHARGES

- 5.1. Software AG Education Services will invoice the Customer upon completion/expiration of each confirmed course specified in the SOW or as otherwise specified in the SOW. Customer will pay to Software AG the fees due under the SOW not later than thirty (30) days from the date of Software AG’s invoice.
- 5.2. The Customer shall pay all value added tax and/or any similar or additional or replacement duty, levy or tax applicable to the fee(s) or any other payments due under this Agreement. Payment of any tax due shall be made together with the fee(s) to which the same relates or not later than 30 days from the date of Software AG’s invoice whichever is the later.
- 5.3. Payment will be made by the Customer to Software AG at the address listed on the invoice and in the currency specified in the SOW.
- 5.4. Cancellations of enrolled delegates must be given by notice in writing to Software AG. The following cancellation charges will apply to all confirmed training:
 - a) Cancellation notice received by Software AG more than four weeks before course start date - no charge, unless Software AG has incurred set up fees or travel or other expenses (“Fees and Expenses”), in which case Customer shall reimburse Software AG for such Fees and Expenses;
 - b) Cancellation notice received by Software AG between four and two weeks before course start date - 50% of relevant fee plus reimbursement of any Fees and Expenses;
 - c) Cancellation notice received by Software AG less than two weeks before course start date (or in the event of the non-attendance of a delegate) - full fee payable plus reimbursement of any Fees and Expenses.

6. OWNERSHIP AND PROPRIETARY RIGHTS

Ownership of all copyright and other intellectual property rights in any course material, or other documentation, data, technical information and know-how (together called “the Documentation”) provided to delegates or otherwise to the Customer remains vested in Software AG. Customer acknowledges that the Software AG Documentation is confidential and proprietary to and constitutes valuable trade secrets of Software AG and that Customer shall not obtain any intellectual property or other ownership rights whatsoever in any Software AG Documentation. All such

information shall be held in confidence and not disclosed or copied to third parties. Subject to the restrictions set out below, a delegate may use the Documentation to enable that delegate to carry out his duties for the Customer, but the Documentation may not be copied or used by any other person, including other employees or sub-contractors working for the Customer. The Documentation may not be used or copied to provide training for any other person, including other employees or sub-contractors working for the Customer.

7. WARRANTIES

- 7.1. Software AG warrants that the instructors/consultants who present the Training will be suitably qualified or experienced. Software AG does not warrant that the Training will meet the Customer's business requirements. Software AG cannot guarantee that every delegate will obtain the full benefit of the Training; the Customer must ensure that delegates have the necessary pre-requisite experience and show a full commitment to the learning process to enable its delegates to take advantage of the Training.
- 7.2. SOFTWARE AG SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS, STATUTORY, AND IMPLIED, IN CONNECTION WITH THE SOW, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF ACCURACY, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

8. FORCE MAJEURE

Software AG shall not be liable to the Customer for delays or failures in performance arising out of any act of God, or any cause beyond Software AG's reasonable control.

9. LIMITATION OF LIABILITY/DAMAGES

- 9.1 Neither party excludes liability to the other for death or personal injury arising from the negligence of its employees, agents or subcontractors.
- 9.2 EXCEPT AS PROVIDED IN SECTION 9.1 ABOVE, IN NO EVENT SHALL CLIENT BE ENTITLED TO ANY MONETARY DAMAGES AGAINST SOFTWARE AG, REGARDLESS OF THE FORM OF ACTION ALLEGED, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, IN EXCESS OF THE FEES ACTUALLY PAID TO SOFTWARE AG BY CLIENT UNDER THIS SOW. IN NO EVENT SHALL SOFTWARE AG BE LIABLE TO CLIENT FOR ANY LOSS OF PROFIT, LOSS OF DATA, OR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH ANY CLAIM THAT ARISES FROM OR RELATES IN ANY WAY TO THIS SOW, REGARDLESS OF THE FORM OF ACTION ALLEGED, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, EVEN IF SOFTWARE AG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED OR EXCLUSIVE REMEDY OF ANY KIND.
- 9.3 Software AG will only provide onsite training on a test systems environment and the Customer is responsible for the provision of such an environment for onsite training. The Customer should advise Software AG if it wishes training to be provided on a production system. Software AG will only agree to this in very exceptional circumstances. Where Software AG does agree to provide onsite training on a production system the Customer

acknowledges that this will inevitably involve a risk to the production system and any data it contains. Software AG will only agree to provide onsite training on a non-test systems environment on the basis that Software AG accepts no liability to the Customer in any circumstances whatsoever for any loss, expense or damage suffered or incurred by the Customer (including special, indirect, economic or consequential loss, loss of data, revenue, anticipated savings, goodwill or contracts, or any processing errors) as a result of the onsite training taking place on that system. Software AG strongly recommends that, where its has been agreed that onsite training will take place on a production system, the Customer takes a full back up copy of the current systems and data prior to any onsite training taking place.

10. MISCELLANEOUS

- 10.1 The SOW and these Terms and Conditions constitute the complete agreement (the "Agreement") between the parties in relation to the services described and the Agreement supersedes all previous communications, non-fraudulent representations or agreements (written or oral) between the parties with respect to the subject matter hereof. In entering into this Agreement neither party has placed reliance on any representation made by the other which is not expressly included in the terms of this Agreement. Software AG will only provide the Training on the terms and conditions set out in this Agreement and any other terms and conditions presented by the Customer (whether on any purchase order or otherwise) are hereby expressly rejected in favor of the terms and conditions of this Agreement.
- 10.2 No variation of, omission from, or addition to any of the terms and conditions of this Agreement, whether written or oral, shall be binding upon a party unless it is agreed in writing and signed on behalf of both parties by a duly authorized representative.
- 10.3 If any provision (or part of any provision) of this Agreement shall be held or rendered illegal, void, unenforceable or in conflict with any law governing this Agreement, the remaining provisions (and the remainder of the relevant provision) shall remain in full force and effect.
- 10.4 Any notices under this Agreement shall be in writing, given or sent to the parties at their registered office addresses, or such other addresses as may be notified to the other party from time to time.
- 10.5 This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, without giving effect to its conflicts-of-laws provisions. Customer consents to the exclusive jurisdiction and procedures of the courts in the Province of Ontario.