

SOFTWARE AG TRAINING AND EDUCATION SERVICES TERMS AND CONDITIONS

1. SCOPE

Software AG (Hong Kong) Limited., hereinafter referred as ("SAG"), will provide to the Customer the Training as set out in the Training Offer attached to these Terms and Conditions.

2. LOCATION AND TIMING

- 2.1. The Training shall be provided at the Location set out in the Training Schedule. For onsite training the Customer is responsible for making all necessary facilities available for training to enable SAG to provide On-Site training unless otherwise specified on the Confirmation of Booking Form.
- 2.2. The delegates to the Public Training should arrive at the Location no later than 9.15am 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 On-Site training will be agreed between the parties, but shall not include more than 7 hours of lectures in any single day.
- 2.4. The Training plan is only valid for the Term specified in the Confirmation of Booking (including the start and end date). Upon the expiration of the Term, SAG will invoice for the outstanding plan value.
- 2.5. Course placements can be confirmed up to two weeks in advance of the course date. Course placements defined in a 'Training Plan' 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 Training Plan.
- 3.2. SAG 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. SAG 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. SAG Education Services will invoice the Customer upon completion/expiration of each confirmed course specified in the Training Plan.
- 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 within 30 days of invoice whichever is the later.
- 5.3. Payment will be made by the Customer in the currency specified in the Training Offer to SAG at the same specified Registered Office, addressed to Finance Department.
- 5.4. Cancellations of enrolled delegates must be given by notice in writing to SAG. The following cancellation charges will apply to all confirmed training:
 - a) Cancellation notice received by SAG more than four weeks before Course start date - no charge;
 - b) Cancellation notice received by SAG between four and two weeks before Course start date - 50% of relevant fee;
 - c) Cancellation notice received by SAG less than two weeks before Course start date (or in the event of the non-attendance of a delegate) - full fee payable.

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 SAG. 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. SAG warrants that the instructors/consultants who present the Training will be suitably qualified or experienced. SAG does not warrant that the Training

will meet the Customer's business requirements. SAG 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. The warranty set out in Clause 7.1 is the only warranty given by SAG and all other conditions, terms, undertakings and warranties express or implied, statutory or otherwise (including but not limited to those as to quality, performance, suitability and fitness for purpose) are hereby excluded. Nothing in this Agreement shall exclude liability for any fraudulent misrepresentations made by either party to the other.

8. FORCE MAJEURE

SAG shall not be liable to the Customer for delays or failures in performance arising out of any Act of God, or any cause beyond SAG'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 Subject to Clause 9.1 neither party shall be liable to the other in any event for any type of special, indirect, economic or consequential loss or damage (including loss of profits, revenue, goodwill, anticipated savings, data or contracts) suffered by the other party including claims brought by a third party, even if such loss was reasonably foreseeable or the defaulting party had been advised of the possibility of the other party incurring the same.
- 9.3 Subject to the provisions of Clauses 9.1 and 9.2, each party's aggregate liability to the other under or in connection with this Agreement (whether for breach of contract negligence or otherwise) shall be limited to the total amount of the fee(s) payable under this Agreement.
- 9.4 SAG will only provide On-Site training on a test systems environment and the Customer is responsible for the provision of such an environment for On-Site training. The Customer should advise SAG if it wishes training to be provided on a production system. SAG will only agree to this in very exceptional circumstances. Where SAG does agree to provide On-Site training on a production system the Customer acknowledges that this will inevitably involve a risk to the production system and any data it contains. SAG will only agree to provide On-Site training on a non-test systems environment on the basis that SAG 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 On-Site training taking place on that system. SAG strongly recommends that, where its has been agreed that On-Site 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 On-Site training taking place.

10. MISCELLANEOUS

- 10.1 This Agreement constitutes the complete agreement between the parties in relation to the services described and 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. SAG 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 favour of these terms and conditions.
- 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 authorised representative.
- 10.3 If any Clause (or part of any Clause) of this Agreement shall be held or rendered illegal, void, unenforceable or in conflict with any law governing this Agreement, the remaining Clauses (and the remainder of the relevant Clause) 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 jurisdiction in which these terms and conditions are executed.