

HULT / EF

CORPORATE EDUCATION

Last updated: July 2023

GENERAL TERMS AND CONDITIONS: OPEN PROGRAM

1 General

- 1.1 These General Terms and Conditions ("T&Cs") is made and entered into between: (i) Ashridge Executive & Organisation Development Limited, incorporated and registered in England and Wales with company number 01784086 whose registered office is at Ashridge House, Berkhamsted, Hertfordshire, England, HP4 1NS ("Supplier"); and (ii) the purchasing entity indicated on the Purchase Order (the "Customer") which sets forth the terms by which the Supplier makes its Open Executive Education Programs ("Open Program") available for the Customer. These EF T&Cs together with the Purchase Order form a binding agreement between the Supplier and the Customer.
- 1.2 The Supplier and the Customer are hereinafter also referred to individually as a "Party" and collectively as "Parties".
- 1.3 Application of any other general terms and conditions of the Customer by virtue of reference contained on the Customer's acknowledgment, confirmation or any other documents or form whatsoever is explicitly excluded.

2 Definitions

- 2.1 **Affiliate:** in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party from time to time.
- 2.2 **Applicable Laws:** all applicable laws, statutes, regulation from time to time in force.
- 2.3 **Business Day:** a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
- 2.4 **Business Hours:** the period from 9.00 a.m. (London time) to 5.00 p.m. (London time) on any Business Day.
- 2.5 **Charges:** the sums payable for the Works as set out in a Purchase Order.
- 2.6 **Control:** the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and controls, controlled and the expression change of control shall be construed accordingly.
- 2.7 **Deliverables:** any output of the Works to be provided by the Supplier to the Customer as specified in a Purchase Order and any other documents, products and materials provided by the Supplier to the Customer in relation to the Works.
- 2.8 **Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- 2.9 **Purchase Order confirmation Form:** the Supplier's acceptance of the Purchase Order.
- 2.10 **Purchase Order:** the Customer's order for Open Program (including details as to: (i) the Program Name; (ii) Start Date; (iii) Charges; and (iv) Payment Schedule (if applicable)), as set out in the Customer's purchase order form.
- 2.11 **VAT:** value added tax or any equivalent tax chargeable in the UK or elsewhere.
- 2.12 **Works:** the relevant Open Program provided by the Supplier under a Purchase Order, including services which are incidental or ancillary to the Works.

3 Ordering

- 3.1 The Customer shall place orders for access to an Open Program by e-mailing the Supplier with its Purchase Order.
- 3.2 Each Purchase Order shall be deemed accepted by the Supplier once the Supplier has issued either a Purchase Order Confirmation Form or a corresponding invoice to the Customer ("Acceptance").
- 3.3 On Acceptance, the Supplier shall provide the Works from the date specified in the relevant Purchase Order.

4 Supplier's responsibilities

- 4.1 The Supplier shall use reasonable endeavours to provide the Works to the Customer.

5 Customer's obligations

- 5.1 The Customer shall:
- 5.1.1 co-operate with the Supplier in all matters relating to the Works; and
- 5.1.2 provide to the Supplier in a timely manner all documents, information, items and materials in any form (whether owned by the Customer or a third party) reasonably required by the Supplier in connection with the Works and ensure that they are accurate and complete in all material respects.
- 5.2 If the Supplier's performance of its obligations under these T&Cs is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees then, without prejudice to any other right or remedy it may have, the Supplier shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer.

6 Charges and payment

- 6.1 In consideration of the provision of the Works by the Supplier, the Customer shall pay the Charges.
- 6.2 Unless otherwise stated in the Purchase Order, the Charges exclude:
- 6.2.1 the cost to the Supplier of any materials or services procured by the Supplier from third parties for the provision of the Works as such items and their cost are set out in the Purchase Order, which shall be payable by the Customer, following submission of an appropriate invoice; and
- 6.2.2 accommodation at Ashridge House.
- 6.3 The Supplier shall invoice the Customer for the Charges on the date specified in the Purchase Order. If such date is not specified, the Supplier shall be entitled to invoice the Customer once it has Accepted the relevant Purchase Order.
- 6.4 The Customer shall pay each invoice submitted to it by the Supplier at least 45 days before the 'start date' (as set out in the relevant Purchase Order) or if such start date is less than 45 days, then within 10 days of the date of the invoice, to a bank account nominated in writing by the Supplier from time to time.
- 6.5 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier any sum due under these T&Cs on the due date:



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- 6.5.1 the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this paragraph will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%; and
- 6.5.2 the Supplier may suspend part or all of the Works until payment has been made in full.
- 6.6 All sums payable to the Supplier under these T&Cs:
- 6.6.1 are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and
- 6.6.2 shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7 Cancellation of a Purchase Order

- 7.1 In the event that a Purchase Order is cancelled in its entirety, by the Customer, the Supplier will be entitled to invoice: (i) up until the date on which cancellation is notified for all out of pocket expenses; and (ii) a cancellation fee calculated in accordance with paragraph 7.2.
- 7.2 Cancellation Calculation:

<i>Number of day's notice of cancellation</i>	<i>% of charges for cancelled units, components or days which may be invoiced to the Customer</i>
<i>0 - 21 working days before the start date</i>	<i>100%</i>
<i>22 - 89 working days before the start date</i>	<i>75%</i>
<i>90 days or more before the start date</i>	<i>0%</i>

- 7.3 In the event that a training event or component (including assessment) is postponed by the Customer with less than 21 working days' notice, the Supplier may invoice 100% of the charge unless, and at the Supplier's discretion, the Customer: (i) reschedules the event to an alternative Open Program within the same academic year (October through to September); and (ii) a specific, named program must be selected within 10 days of notification of the postponement.
- 7.4 In the event where a named individual is no longer able to attend an event, but where that individual can be substituted for another, no charges shall be incurred by the Customer where the substitution is made up to two working days prior to the commencement of the course charge. Where an individual cannot be substituted the cancellation terms outlined in 7.1 shall be invoked.

8 Intellectual property rights

- 8.1 In relation to the Works:
- 8.1.1 the Supplier and its licensors shall retain ownership of all IPRs in the Deliverables (if any);
- 8.1.2 the Supplier grants the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free licence to use the Deliverables for the purpose of receiving and using the Works and the Deliverables in its business.

9 Data protection

- 9.1 The Data Processing Addendum (Open Programs) made available at <https://www.hultef.com/en/legal/> shall govern to the extent applicable with respect to the protection of personal data processed in connection with these T&Cs.

10 Limitation of liability

- 10.1 THE SOLE REMEDY FOR ANY DELAY OR DEFICIENCY IN PERFORMANCE OF ANY SERVICE OR DELIVERY OBLIGATION SHALL BE TERMINATION OF THE PURCHASE ORDER.
- 10.2 EACH PARTY'S TOTAL LIABILITY FOR A SINGLE EVENT OR STRING OF RELATED EVENTS GIVING RISE TO LIABILITY IS AT ALL TIMES LIMITED TO THE TOTAL AMOUNT PAID BY THE CUSTOMER DURING THE 12 MONTHS WHICH PRECEDED THE EVENT GIVING RISE TO SUCH LIABILITY.
- 10.3 NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES, ARISING OUT OF OR RELATED TO THESE EF T&CS AND/OR THE PURCHASE ORDER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION AND THE LIKE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY DOES NOT APPLY TO EITHER PARTY'S ABILITY TO OBTAIN INJUNCTIVE OR EQUITABLE RELIEF.
- 10.4 THE LIABILITY OF EACH PARTY UNDER THESE EF T&CS AND/OR THE PURCHASE ORDER SHALL EXPIRE 12 MONTHS AFTER THE OCCURRENCE OF THE EVENT WHICH HAS GIVEN RISE TO SUCH LIABILITY.

11 Termination

- 11.1 Without affecting any other right or remedy available to it, either party may terminate a Purchase Order to which these T&Cs apply with immediate effect by giving written notice to the other party if:
- 11.1.1 the other party commits a material breach of any term of these T&Cs and (if such breach is remediable) fails to remedy that breach within a period of 10 days after being notified in writing to do so;
- 11.1.2 the other party repeatedly breaches any of the terms of these T&Cs in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of these T&Cs;
- 11.1.3 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 or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;
- 11.1.4 the other party applies to court for, or obtains, a moratorium under Part A1 of the IA 1986;



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- 11.1.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 11.1.6 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the other party (being a company, partnership or limited liability partnership);
- 11.1.7 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- 11.1.8 Without affecting any other right or remedy available to it, the Supplier may terminate these T&Cs with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under these T&Cs on the due date for payment and remains in default not less than 20 days after being notified in writing to make such payment; or
- 12 General**
- 12.1 **Notice:** Any notice, request or consent required or permitted to be given or made pursuant to these T&Cs and/or the Purchase Order shall be in writing and addressed to: cs.centralfinance@ef.com (for the attention of the CFO) with a copy to cs.contracts@hultef.com. Any such message shall be deemed to have been given or made (i) when delivered by courier during normal business hours or (ii) when delivered via email, upon confirmation of receipt of such email, to the relevant contact person and at the address or email address as specified by the other Party from time to time.
- 12.2 **Right to Internal Transfers:** Neither Party shall assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under these T&Cs without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may transfer, assign and/or subcontract any and all rights and obligations hereunder to an Affiliate, without the consent of the other Party.
- 12.3 **Severability:** If any provision or part-provision of these T&Cs is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these T&Cs.
- 12.4 **Force Majeure:** Neither Party shall be in breach of these T&Cs and/or Purchase Order nor liable for delay in performing, or failure to perform, any of its obligations under these T&Cs and/or Purchase Order if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected Party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 3 months, the Party not affected may terminate these T&Cs by giving 3 days' written notice to the affected Party.
- 12.5 **Entire Agreement:** These T&Cs, together with the Purchase Order, constitutes the final and entire agreement between the Parties and supersedes all other prior and contemporaneous agreements or communications with respect to the subject matter hereof. To the extent that there is any conflict between the terms of these T&Cs and the Purchase Order, the terms contained in the Purchase Order shall take precedence. No amendment or variation of these T&Cs in any form or manner whatsoever shall be recognised by or be binding upon the Parties, unless such amendment or variation has been embodied in a written agreement duly executed by authorised signatories of the Parties.
- 12.6 If these T&Cs are posted on Hult EF Corporate Education's web site, Hult EF Corporate Education may revise the terms of these T&Cs from time to time at its discretion by placing revised terms on the same web site or by providing notice to Customer. The revised T&Cs will become effective and replace previous versions only upon the Acceptance of the Customer's next Purchase Order.
- 12.7 **Governing Law and Arbitration:** These T&Cs and the Purchase Order shall be governed by and construed in accordance with the laws of England and Wales without regard to any conflict of laws principles therein contained. All disputes arising out of or in connection with these T&Cs and/or the Purchase Order shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The seat of arbitration shall be London, United Kingdom. The language to be used in the arbitral proceedings shall be English.