EOPH Terms and Conditions for Courses

Updated October 2024
Version Number: 2024/2

These terms and conditions are the terms on which EOPH Limited (registered office and main trading address: Acorn Business Park, 13 Northarbour Road, Portsmouth PO6 3TH. (EOPH or we) will provide EOPH training courses to customers. The Customer is the person (whether individual or entity) which is ordering the courses via EOPH's website or by agreement with EOPH.

To contact EOPH, please email us at admin@eoph.co.uk or telephone us at 0118 207 6198. Our VAT number is 245 5641 02.

The provision of courses by EOPH is done on a B2B basis and as such, it is not anticipated or intended that any agreement in relation to courses will be entered into between EOPH and an individual acting as a consumer.

Your attention is particularly drawn to the provisions of clause 8 (relating to Limitation of Liability).

1. INTRODUCTION

1.1 These terms and conditions apply to all courses (and/or ancillary services and facilities) provided by EOPH to the Customer including EOPH's standard courses or bespoke courses, whether face-to-face or online courses provided via EOPH's online portal.

1.2 Any quote issued by EOPH in relation to any training or related services or work, including in relation to bespoke courses, shall be valid for a period of 60 days from the date of the quote unless expressly stated otherwise by EOPH.

1.3 The Customer warrants and undertakes to EOPH that the person making the booking on behalf of the Customer is authorised to make the booking and commit the Customer to an agreement incorporating these terms and conditions.

2. THE COURSES

2.1 In these terms:

(a) face to face courses or training means training where delegates are required to attend a location or attend via digital platform such as Zoom where an instructor delivers the training;

(b) E-learning (online courses or training) means training where the Customer can purchase a training activity for online access and completion by its delegated users. Each course is booked for the individual user making the booking or, where the booking is a group booking, for the number of users authorised by EOPH;

(c) References to "courses" shall include any ancillary printed materials and/or online materials and documentation offered by EOPH from time to time as part of such course.

2.2 Courses may be used by the Customer (and its users) for non-commercial, internal educational or educational related purposes of the Customer only.

2.3 Other than as specifically permitted by these terms and conditions, the Customer may not make any use of the courses, including for any commercial purposes whatsoever. Without

limiting the foregoing, the Customer shall not sell, adapt, copy, create a derivative work or otherwise reproduce, modify or distribute the courses in any form or manner.

2.4 The courses and all related content shall be provided on an "as is" basis, and EOPH shall use its commercially reasonable endeavours to try to ensure that the course(s) and/or content is up to date, accurate and not misleading.

2.5 All courses that are booked by the Customer and all development work undertaken by EOPH are subject to these terms and conditions.

2.6 Provisional requests for courses and/or other services, including for bespoke training and development services, will require acceptance by the Customer of the quote generated by EOPH (for example on Xero). Acceptance of the quote shall be confirmation of acceptance of these terms and conditions. EOPH Ltd reserves the right to refuse attendance to any course in the event that the quote has not been accepted prior to commencement of the relevant course.

2.7 Other than for bespoke courses, the course details, including the cost, will be described on our website. EOPH reserves the right to vary the specification, format and costs of its courses as described on our website without notice.

2.8 For our e-learning courses:

(a) the access to each booked course shall start on EOPH's receipt of the Customer's full payment;

(b) access shall continue for the period specified by EOPH prior to or at the time of booking, or for one (1) year from the date on which the relevant course is first accessed if not otherwise specified by EOPH at the time of booking);

(c) for the avoidance of doubt, any right by a Customer to cancel e-learning courses shall end once the course has been first accessed online by any user.

2.9 For face-to-face courses:

(a) Unless clause 3 applies, the course will be given at a venue nominated by EOPH to the Customer at or after the time of the booking. EOPH reserves the right to vary a venue and provide a reasonably suitable alternative, and will advise the Customer of this change promptly;

(b) EOPH reserves the right to cancel or reschedule any course if the number of attendees is insufficient to justify the running of the course, or if EOPH is prevented from doing so by events beyond its reasonable control, including but not limited to illness of training staff;

(c) In the event that EOPH cancels or reschedules any course, EOPH will notify the Customer as soon as reasonably practicable. In the event of cancellation or rescheduling by EOPH, EOPH will apply the monies paid by the Customer to a rescheduled or alternative course. If there is no reasonably suitable alternative, or the date(s) of the rescheduled course are not reasonably convenient to the Customer, EOPH will refund all monies paid by the Customer for the relevant course, or at the Customer's option apply the monies to a rescheduled or alternative course. EOPH accepts no liability for travel, accommodation or incidental costs incurred by the Customer (or any delegate) in the event that any course is cancelled or rescheduled.

2.10 Courses may be recorded and a copy of (or link to) the recording provided to all users booked to attend that course. EOPH shall be the owner of all intellectual property rights in and to

the recording. In so far as any personal data relating to users is processed by such recording, EOPH's privacy policy shall govern the use of such personal data.

3. COURSES AT CUSTOMER PREMISES

3.1 This clause 3 applies where EOPH agrees that it will provide specific training course(s) to the Customer for its users at the Customer's premises for the agreed charges.

3.2 The Customer shall be responsible for the provision of a suitable and secure training room at the Customer's premises for the duration of the course (the specification of which will be agreed with EOPH Ltd prior to the course being given), together with all heating, lighting and power supply at no cost to EOPH. The customer agrees not to change the room once it has been agreed with EOPH.

3.3 EOPH will provide a trainer, relevant course materials and appropriate audio and visual equipment reasonably required for the provision of the course. The customer will allow EOPH access to the training room in advance of the commencement of the course so that computer equipment can be set up and any required alterations to the room layout can be made.

3.4 The Customer will fully indemnify EOPH against any loss of or damage to equipment and/or injury to or death of its employees or agents arising out of its use of equipment under the provision of this clause, save only where the loss or damage arises solely and directly out of the negligence of EOPH.

4. BESPOKE COURSES

4.1 This clause 4 shall apply where the Customer requests EOPH (and EOPH agrees) to develop a new course or modify an existing course specifically to the Customer's requirement.

4.2 For any request for bespoke content:

(a) the Customer shall analyse and determine its requirements for the course;

(b) the Customer and EOPH will jointly prepare and agree the specification for the course, including but not limited to the content of the course, course notes, the depth to which the content is to be covered, the time to be allocated to each subject, the number of days over which the course is to be given and the type and experience of the Customer's personnel who will attend the course;

(c) the Customer will confirm the foregoing matters in writing to EOPH or by signing and returning the proposal to EOPH prior to any development work being carried out. If the Customer wants to modify a standard course, EOPH will supply details of the subjects covered within said course.

4.3 If EOPH is to present the bespoke course to the Customer's personnel, the date of such event(s) and EOPH's costs for such presentation shall be as agreed by the parties. Presentation shall not be included in the development costs quoted by and/or paid to EOPH unless expressly agreed to be so by the parties. Any subsequent presentation events shall similarly be subject to agreement as to EOPH's costs.

4.4 In consideration of EOPH's preparing bespoke courses and/or carrying out development or modification work on courses at the request of the Customer, the Customer agrees to pay EOPH its then current per diem charges for all work undertaken and time spent by EOPH. Any

estimate of the amount of time necessary to develop the course shall be given by EOPH in good faith and shall not be binding on EOPH.

4.5 All charges for bespoke work are due and payable to EOPH upon the completion by EOPH of the development work, whether or not the course is subsequently actually utilised by EOPH, the Customer or any third party.

4.6 The Customer may request EOPH to vary the agreed specification of work to be done by EOPH in relation to any bespoke course either during or after development. All such requests will be made in writing. EOPH shall not unreasonably refuse to carry out such variations. The Customer agrees to pay to EOPH all development charges for any variations carried out by EOPH on the same basis as set out above in this clause 4. No work shall be carried out until any changes to the specification as to the work to be undertaken by EOPH have been agreed in writing.

5. CUSTOMER'S RESPONSIBILITIES

5.1 The Customer is responsible for all of its users' activity and the Customer shall be liable for any failure by any such user to comply with these terms and conditions.

5.2 The Customer shall not make, and shall prevent any unlawful and/or unauthorised use of the courses and their content, including any use by persons who are not its authorised users.

5.3 The Customer shall notify EOPH promptly upon becoming aware of any unauthorised use of the courses or any of their content, or any known or suspected breach of security that might affect the courses. Further, the Customer shall report to EOPH promptly upon becoming aware of any infringement of EOPH's intellectual property rights and use reasonable efforts to stop immediately any such infringement and/or any copying or distribution of courses and/or content that is known or suspected by the Customer or its users.

5.4 The Customer shall use all reasonable measures, including by the use of up to date commercially available anti-malware software, to prevent any computer virus (meaning any software code or file which may adversely impair or affect the operation of any of EOPH's systems) from entering or accessing any IT system used by EOPH in relation to the courses.

5.5 The Customer warrants that all the attendees on the course are properly authorised by the customer to attend and that they are suitably qualified to attend. The Customer acknowledges EOPH's right to refuse admission or require the removal of any attendee where there are doubts about identity, qualifications or if the attendee's behaviour is in EOPH's reasonable opinion unacceptable.

6. PAYMENT

6.1 Save as expressly agreed to the contrary by EOPH, full payment for all courses is required at the time of booking. The applicable cost shall be that set out by EOPH on its website in relation to bookings made online, or, in relation to block bookings shall be as specified in EOPH's quote, proposal or invoice (as applicable).

6.2 All costs are quoted exclusive of VAT. Where VAT is payable in respect of any courses or other services, you must pay us such additional amounts in respect of VAT at the applicable rate at the same time as you pay the costs.

6.3 In relation to bookings for multiple courses, any agreement by EOPH for a payment plan for such block booking shall be set out in writing and must be signed by both parties to be effective and binding. The maximum number of instalments that EOPH will agree is four, unless there are exceptional circumstances. Time shall be of the essence in relation to payments of instalments and, as a consequence,

if any payment is not made on the due date, EOPH shall be entitled to terminate the payment plan and require full and immediate payment by the Customer of any balance then owing.

6.4 For a bespoke course, development work will be invoiced on completion of the work, or as otherwise specified in EOPH's proposal.

6.5 All invoices shall be paid by the Customer within 14 days of the date of the invoice, save where a shorter period for payment is specified by EOPH in its quote or payment plan in which case such shorter period for payment shall apply.

6.6 If the Customer fails to make any payment on the due date EOPH reserves the right to charge interest on all sums outstanding at 4% over the Bank of England's base lending rate. Interest shall be calculated from the due date to the date that cleared funds are received by EOPH in settlement of such overdue sums.

7. CANCELLATION

7.1 Face to face courses:

If a Customer wishes to cancel or change their booking for face-to-face courses, the following charges will be incurred in respect of the cancelled or changed courses:

(a) Notification of cancellation given to EOPH more than 30 days before the course date - no charge for the cancelled course;

(b) Notification of cancellation given to EOPH between 7 and 30 days before the course date – 50% of total course cost payable by the Customer;

(c) Notification of cancellation given to EOPH less than 7 days before the course date – 100% of total course cost payable by the Customer;

(d) Request to change booking to an alternative date - £20 adjustment fee.

7.2 Bespoke courses:

If the Customer cancels the development of a bespoke course, then all development work undertaken or committed to by EOPH up to that point will be invoiced by EOPH and become immediately due for payment.

If the Customer wishes to cancel for any reason the date on which any bespoke course is to be presented to its personnel:

(a) If such cancellation is notified to EOPH 30 days or more prior to the scheduled date, then no presentation charges shall be payable by the Customer in relation to that cancelled presentation date.

(b) If such cancellation is notified to EOPH between 7 and 30 days prior to the scheduled date, then 50% of the presentation charges shall be payable by the Customer in relation to that cancelled presentation date.

(c) If such cancellation is notified to EOPH less than 7 days prior to the scheduled date, then 100% of the presentation charges shall be payable by the Customer in relation to that cancelled presentation date.

7.3 E-learning (online) courses:

No e-learning (online) course may be cancelled once the course has been first accessed online by any user.

For any purchase of our courses online, if the Customer has a statutory right to cancel a booking, such right will not apply if the Customer (or any user) has accessed the purchased courses.

7.4 Any refunds to be paid by EOPH in relation to any cancellation shall be paid less any charges that EOPH has incurred directly in relation to the booking and/or refund of the payment.

7.5 If the Customer is not satisfied with the course that EOPH has provided, EOPH should be notified of the reasons for dissatisfaction within 7 days. EOPH will investigate the complaint and use reasonable efforts to attempt to work with the Customer to put it right.

8. WARRANTY AND LIMITATION OF LIABILITY

8.1 The courses are selected by the Customer. The Customer accepts that it is responsible for verifying prior to making a booking that the courses are suitable for their requirements.

8.2 EOPH will use all reasonable skill and care in the preparation and presentation of its courses and courses supplied. All other conditions, warranties, guarantees and representations whether express or implied, statutory or otherwise, are excluded to the fullest extent permitted by applicable law. Without limitation, EOPH does not warrant that the Customer's use of the online courses will be uninterrupted or error-free.

8.3 Nothing in the agreement shall limit either party's liability for death or personal injury caused by a party's negligence or liability for fraud or any other liability which cannot legally be limited.

8.4 Subject to clause 8.3, in no event shall EOPH be liable for any:

(a) loss of revenue;

(b) loss of actual or anticipated profits;

(c) loss of contracts;

(d) loss of anticipated savings;

(e) loss of business;

(f) loss of opportunity;

(g) loss of goodwill;

(h) loss of reputation;

(i) loss of use or corruption of software, data or information; or

(j) any indirect or consequential loss

In each case howsoever arising, whether such loss or damage was foreseeable or in the contemplation of the parties and whether arising in or caused by breach of contract, tort (including negligence and negligent misstatement), breach of statutory duty or otherwise.

8.5 Subject to clause 8.3 EOPH's total liability to the Customer arising under or in connection with the agreement incorporating these terms and conditions, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, will be limited to 125% of the total sums paid by the Customer in relation to the relevant course in relation to which the claim arises.

8.6 The provisions of these terms and conditions allocate the risks between the Customer and EOPH. EOPH's pricing reflects this allocation of risk and the limitations of liability set out in this clause 8.

8.7 The parties agree that each of them shall be obliged to mitigate any loss which it may suffer or incur as a result of any matter that may give rise to a claim under these terms and conditions, including any indemnity.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 The copyright and all other intellectual property rights in all courses, including those developed as bespoke courses under clause 4, shall remain the sole and exclusive property of EOPH. The Customer undertakes that it will not copy or permit the copying of the course or any element of it, any course materials, nor disclose or permit disclosure or sell or hire the same to third parties. In particular but without limitation, the Customer shall not use any EOPH courses or materials or intellectual property for or in running the customer's own courses, unless the express written permission of EOPH is given.

9.2 The customer shall notify EOPH immediately if it becomes aware of any breach of the obligations in this clause 9. At the request of EOPH, the Customer will take all such steps as are necessary to stop or prevent further breaches.

10. GENERAL

10.1 EOPH may suspend performance or terminate this agreement in relation to any course(s) if the Customer:

(a) is in material breach of any of these terms and conditions and (if such a breach is remediable) fails to remedy that breach within 14 days of being notified in writing do so. For these purposes, any payment not made on the due date shall be a "material breach";

(a) has an order made or a resolution passed for its winding up;

(b) becomes insolvent or unable to pay its debts as they fall due; or

(c) ceases or threatens to cease to carry on business.

Any termination shall be without prejudice to any accrued rights or outstanding obligations of either party at date of termination.

10.2 These terms and conditions constitute the entire agreement between the parties in relation to its subject matter and supersede any and all prior agreements, discussions, understandings, representations or promises.

10.3 Each party warrants to the other that it has not relied upon any representation not recorded in these terms and conditions which has induced it to enter into the agreement.

10.4 No delay by either party in enforcing its respective rights will prejudice or restrict the rights of that party. No waiver of any rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or any later breach.

10.5 Neither party will assign or transfer all or any part of this contract without the prior written consent of the other party, except that EOPH may assign or transfer to any of its associated companies, and/or subcontract any of its obligations.

10.6 If any of the provisions of these terms and conditions is judged illegal or unenforceable, the remaining paragraphs shall continue in full force and effect.

10.7 Neither party will be liable to the other for any delay in or failure to perform its obligations under the agreement (other than a payment of money) where such delay or failure results from an event of force majeure, act of God, fire, explosion, accident, industrial dispute or any other cause beyond that party's reasonable control.

10.8 Any provisions of these terms and conditions that expressly or by implication is intended to come into or continue in force on or after termination will remain in full force and effect.

10.9 Any notice given under this contract by either part to the other must be in writing and may be delivered personally, by recorded delivery or registered post or by email. In case of post a notice will be deemed to have been received on the third working day after the date of posting, and in case of email, on the next working day after transmission.

10.10 This contract is governed by English Law and the parties submit to the exclusive jurisdiction of the English Courts.

11. RIGHT TO VARY THESE TERMS AND CONDITIONS

EOPH has the right to revise and amend these terms and conditions from time to time. Please check for any updates of these terms and conditions prior to making any booking.