

# General Terms and Conditions

## About

Thank you for registering for "Partners-in-Learning Ltd T/A Head for Change" (referred to hereafter as "Head for Change") online courses and for use of its website.

## Company details

These terms are between the legal entity ("**Subscriber**") identified in "Head for Change's course registration and order forms (the "course **Registration/order forms** ") and "Partners-in-Learning Ltd T/A Head for Change" (Company Registration No 7032159) of 10 Pine Avenue, St. helens WA106TY ("Head for Change") for supply of services ("**Services**"), content ("**Content**") and use of the hardware ("**Hardware**") available via the "Head for Change") website ("**Website**") or for use with the Website as specified by Subscriber in the Registration/Order Form.

This Agreement consists of these General Terms, the applicable Appendice(s) and the Course Registration/ Order Form ("**Agreement**").

## Access and use the Website

Subject to the terms of this Agreement, "Head for Change" grants Subscriber a limited, revocable, non-exclusive and non-transferable access and use the Website and such parts of the Content as are specified in the Course registration/Order Form for educational purposes only, and for the period of the subscription stated in the Course registration/ Order Form (the "**Subscription Period**"), subject to earlier termination of this Agreement in accordance with its terms. The access and usage rights provided under this Agreement are granted to the Subscriber only, and shall not be considered granted to any subsidiary or holding company of the Subscriber.

Certain Content and functionality of the Website requires Subscriber to create an account ("**Account**"). Subscriber shall not access or attempt to access an Account that it is not authorised to access. Access to Subscriber's Account is controlled with a unique username and password. Subscriber is responsible for keeping the Account password confidential and secure against unauthorised use, and for all activity that occurs using that Account. Subscriber must provide true, accurate, current and complete information about itself as requested by "Head for Change"

## Content

The Content comprises (i) information or content (including without limitation any comments) uploaded, or otherwise provided by subscribers to, and/or users of, the Website including without limitation Subscriber and its Users ("**User Content**").

Subscriber shall, and shall ensure that its Users shall, use the Content only in accordance with the terms of this Agreement. Use other than in compliance with this Agreement is strictly prohibited, and may subject Subscriber and Users to civil and criminal sanctions.

## Users

Subscriber shall be responsible for all users accessing the Website through Subscriber's account ("**Users**") and Subscriber shall ensure that Users comply with the terms of use of the Website accepted by Users on their registration to use the Website, as varied from time to time in accordance with such terms of use ("**Online Terms of Use**"), accessible at:

Subscriber shall be liable for the acts or omissions of Users' access to and use of the Website, the Services, the Hardware and/or the Licensed Content as though they were the acts or omissions of Subscriber.

Access to and use of Website, the Services and the Licensed Content shall be limited to individual Users who have accepted the Online Terms of Use and who continue to comply with such terms. In the event that a User is in breach of the Online Terms of Use, then without prejudice to "Head for Change's" other rights and remedies, "Head for Change" reserves the right to immediately suspend access to the Website, the Services and/or the Licensed Content to any or all Users.

Subscriber will ensure that Users are only permitted to access Content that is appropriate for such Users to access including, without limitation, appropriate regarding the age of such Users. Subscriber shall be responsible for setting and maintaining access rights and authorisations of Users using the administrative settings on the Website, including by limiting those Users who may make purchases, deleting content uploaded by Users, applying age ratings to User Content and by setting storage limits for individual Users.

Subscriber shall procure that Users shall:

- use their own secure password for their use of the Website, and that each User keeps their password confidential and secure against unauthorised use;
- not store on, or distribute or transmit via the Website any virus or any material that is unlawful, harmful threatening, defamatory, obscene, harassing or racially or ethnically offensive; facilitates illegal activities; depicts sexually explicit images; promotes unlawful violence; or is in breach of a third party's Intellectual Property Rights;
- not transfer, temporarily or permanently, any rights under this Agreement; and
- not attempt to obtain, or assist third parties in obtaining unauthorised access to the Website, Hardware or any Content.

Subscriber shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Website, the Services Hardware and/or the Licensed Content and shall notify "Head for Change" promptly of any such unauthorised access or use.

## **Support and Maintenance**

"Head for Change" agrees to provide certain Support and Maintenance services to Subscriber, as described in Appendix 5.

## **Availability of the Website and the Licensed Content**

Subject to the remaining provisions of this Agreement, "Head for Change" shall use commercially reasonable endeavours to make the Website, the Services and any Licensed Content available 24 hours a day, seven days a week, except for:

- an event of Force Majeure; or
- planned maintenance and unscheduled maintenance provided that where it is possible to do so "Head for Change" has used reasonable endeavours to give Subscriber advance notice of such maintenance.

## **Copyright and other Intellectual Property Rights**

Subscriber acknowledges and agrees that:

- "Head for Change" and/or its applicable third party licensors own all patents, copyright, database right, trade names, trademarks (whether registered or unregistered), performer's rights and any other proprietary rights ("**Intellectual Property Rights**") in the Website, the Services, the Hardware and the Licensed Content and, save for the express rights granted in this Agreement, Subscriber acknowledges that all other rights to exploit the Intellectual Property Rights in the Website, the Services, the Hardware and licensed content, are reserved to "Head for Change" and such third party owners respectively;
- it will not, whether during the Subscription Period or at any time after termination of this Agreement, in any way question or dispute the legal and beneficial ownership by "Head for Change" or any applicable third party owner of the Intellectual Property Rights in the Website or the Licensed Content (or any part thereof).

All Intellectual Property Rights in and to the Content shall be owned by the applicable licensors. Subscriber and its Users shall have sole responsibility for the legality, reliability, accuracy, quality and suitability of the Licensed Content and "Head for Change" shall not be liable to Subscriber or its Users for any use made by them of the Website Content to the fullest extent permissible by law.

## **Acknowledgement of Ownership**

No portion of the Website or the Content may be reproduced in any form or by any means, except as expressly permitted hereunder. Subscriber agrees not to modify, rent, lease, loan, sell, distribute or create derivative works based on the Website or the Content, in any manner, and Subscriber shall not exploit the Website or the Content in any unauthorised way whatsoever.

"Head for Change", the "Head for Change" logo, and other "Head for Change" trademarks, marks, graphics, and logos used in connection with the Website are trademarks or registered trademarks of "Head for Change" Ltd. Other trademarks, graphics, and logos used in connection with the Website or the Content may be the trademarks of their respective owners. Save as expressly stated in this Agreement Subscriber is not granted any right or license with respect to any of the aforesaid trademarks graphics and logos.

Subscriber agrees that it will not reproduce, copy, duplicate, sell, resell, rent or trade access to the Website or the Licensed Content (or any part thereof) for any purpose.

## **Termination and Suspension**

Subscriber may suspend its use of the Website at any time during the Subscription Period or terminate this Agreement at any time during the Subscription Period by providing written notice to "Head for Change". In the event of termination or suspension under this clause and, without prejudice to its other rights and remedies, "Head for Change" shall not be required to refund any Subscription Fees paid by Subscriber up to the effective date of termination or to refund that part of the Subscription Fees corresponding to the period of such suspension.

In addition to its other rights under this Agreement, "Head for Change" reserves the right to suspend or terminate Subscriber's access to the Website at any time at "Head for Change" sole discretion without any liability to Subscriber, save for the refund of any part of the Subscription Fees attributable to the unused portion of the Subscription Period at the effective date of termination, calculated pro rata.

## **General Compliance with Laws**

Subscriber shall, and shall ensure its Users shall, comply with all applicable laws and regulations that apply to its use of the Website, the Services, the Content and, if applicable, the Hardware.

## **Enforcement of this Agreement**

"Head for Change" reserves the right to takes steps "Head for Change" believes are reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement (including but not limited to "Head for Change" right to cooperate with any legal process relating to Users' use of the Website, the Services the Content and/or (if applicable) the Hardware, and/or a third party claim that Users' use of the Website, the Services the Content and/or (if applicable) the Hardware, is unlawful and/or infringes the Intellectual Property Rights of a third party).

## **Data Protection**

Any and all personal data pertaining to Users and Subscribers shall be processed in accordance with "Head for Change" Privacy Policy.

## **Disclaimer of Warranties**

"Head for Change" warrants that it will provide the Website, Services and the Content with reasonable care and skill and in accordance with this Agreement.

The express terms of this Agreement are in lieu of all "Head for Change" warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, including any condition of satisfactory quality or fitness for a particular purpose whether or not any purpose has been notified to the Subscriber or User, all of which are hereby excluded to the fullest extent permitted by law. Without limitation to the foregoing:

- "Head for Change" does not guarantee, represent, or warrant that use of the Website will be uninterrupted or error-free; and
- "Head for Change" does not represent or guarantee that the Website will be free from loss, corruption, attack, viruses, interference, hacking, or other security intrusion, and "Head for Change" disclaims any liability relating thereto to the fullest extent permissible by law. Subscriber acknowledges that it and its Users shall be responsible for backing up the Content,

subject to the terms of this Agreement, and for safeguarding its data and other files during installation, when upgrading, or when installing an update.

## **Limitation of Liability**

Neither party shall be liable under or in connection with this Agreement, however that liability arises, for consequential, special, incidental or indirect losses or for loss of profits, loss of business, loss of anticipated savings and/or loss of goodwill, even if such damage or loss could reasonably be supposed to have been in the contemplation of both parties when entering into this Agreement.

Subject to the remaining provisions of this clause, and except for the Subscriber's or its Users' unauthorised or unlawful use of the Website, the Services, the Content and/or (if applicable) the Hardware (for which the Subscriber's liability will not be capped), each party's maximum aggregate liability under or in connection with this Agreement, however that liability arises, shall in no circumstances exceed the total value of the Subscription Fees paid or payable to "Head for Change" for the duration of the Subscription Period.

Nothing in this Agreement shall exclude or in any way limit either party's liability for fraud, or for death or personal liability caused by its negligence or any other liability to the extent the same may not be excluded or limited as a matter of law.

For the purposes of this clause, 'however that liability arises' means howsoever arising, whether in contract, tort (including negligence and strict liability), breach of statutory duty, indemnity or otherwise.

The parties agree that the limitations and exclusions of liability contained in this Agreement are reasonable in view of the nature and extent of the obligations accepted by each party under this Agreement and the level of the Subscription Fees.

## **Subscriber Indemnity**

Subscriber shall indemnify "Head for Change" against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and legal fees) arising out of or in connection with:

- Subscriber's or its Users' unauthorised or unlawful use of the Website, the Services, the Content and/or (if applicable) the Hardware, breach of this Agreement or breach of the Online Terms of Use;
- as a consequence of any infringement by Subscriber or its Users of any Intellectual Property Rights in the Website, the Services, the Content and/or (if applicable) the Hardware.

## **Force Majeure**

Neither party shall be liable for any delay in performing or failure to perform its obligations hereunder to the extent that and for so long as the delay or failure results from any act, event, non-happening, omission or accident beyond its reasonable control (a "**Force Majeure Event**"). Force Majeure Events shall include but not be limited to the unavailability of third party telecommunications or services; strikes, lock-outs or other industrial action (other than strikes, lock-outs or other industrial action of any contractors of the party seeking to rely on the Force Majeure Event); impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport; act of public enemy or terrorism; or compliance with any law or governmental order, rule, regulation or direction.

If any Force Majeure Event occurs, the date(s) for performance of the affected obligation(s) shall be postponed for so long as is made necessary by the Force Majeure Event, provided that if any Force Majeure Event continues for a period of or exceeding 1 month, the non-affected party shall have the right to terminate the Agreement forthwith on written notice to the affected party. Each party shall use its reasonable endeavours to minimise the effects of any Force Majeure Event.

## **Notices**

"Head for Change" may send notices with respect to this Agreement by sending an email message to the email address listed in Subscriber's Account contact information; by sending a letter via postal mail to the contact address listed in Subscriber's "Head for Change" Account contact information. Email notices shall become effective immediately and postal notice shall become effective 2 working days after the date of posting.

## **Entire Agreement and Third Party Rights**

This Agreement supersedes all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement between the parties relating to the subject matter hereof.

Subscriber warrants to "Head for Change" that it has not been induced to enter into this Agreement by any prior representations whether oral or in writing, except as specifically contained in this Agreement. Subscriber shall not have any remedy in respect of any untrue statement made by "Head for Change" on which Subscriber relied in entering into this Agreement including any negligent misstatement (unless such untrue statement was made fraudulently) and Subscriber's only remedies shall be for breach of contract as provided for in this Agreement.

The parties confirm that they do not intend to confer any rights on third parties by virtue of this Agreement and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply.

## **Waiver**

No waiver of any term of this Agreement is valid unless it is in writing and signed by an authorised person of the party charged with the waiver. A waiver is valid for the specific situation for which it was sought. All remedies provided for in this Agreement are cumulative and in addition to and not in lieu of any other remedies available to either party in equity.

## **Variation**

"Head for Change" reserves the right to make changes to this Agreement at any time. Changes to this Agreement will be announced by sending a notice to the Subscriber. Subscriber's and Users' continued use of the Website will be deemed acceptance of any such changes.

## **Law and Jurisdiction**

This Agreement is governed by the law of England and Wales and the parties submit to the exclusive jurisdiction of the English courts to resolve any dispute between them arising under or in connection with this Agreement.

## **User Content**

The views expressed in User Content are the opinions of the relevant Subscriber or User and do not represent the views, opinions, beliefs or values of "Head for Change". "Head for Change" will not be responsible for the content or accuracy of any User Content.

Subscriber shall not and shall ensure Users shall not submit User Content protected by copyright, trademark, patent, trade secret, moral right, or other intellectual property or proprietary right without the express permission of the owner of the respective right. Subscriber represents and warrants for itself and on behalf of its Users that User Content:

- does not contain or condone sexually explicit material or violence, or condone discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
- is not threatening, abusive or intimidating, or provided with an intent to harass, upset, alarm or embarrass any other person or cause needless anxiety;
- does not infringe anyone else's rights, including any intellectual property rights or right of confidentiality or privacy; in particular, Subscriber should not submit content which includes music (unless Subscriber or User has written the music itself or has a licence from the person who wrote and recorded the music), or identifiable brands or logos;
- complies with all applicable laws;
- does not contain any material which is defamatory, invades the privacy of any person, is obscene, offensive, hateful or inflammatory;
- does not breach any legal duty owed to a third party, such as a contractual duty or a duty of confidence;
- does not misrepresent Subscriber's or User's identity or affiliation with any person, or falsely gives the impression that such content comes from someone else;
- does not contain any unsolicited or unauthorised advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes or other forms of solicitation or advertisement commercial or otherwise;
- does not advocate, promote or assist any unlawful act (e.g. criminal acts, copyright infringement, computer misuse, etc.); and

- does not feature any individual who has not expressly consented to their image and/or voice being featured on the Website, nor any individual under the age of 16 without the consent of that individual's parent or guardian;

and Subscriber agrees that it be responsible for any loss or damage "Head for Change" may suffer as a result of and breach of the warranties set out in this Agreement.

## **Take Down Procedure**

"Head for Change" may monitor, edit or remove any User Content for violation of the letter or spirit of this Agreement, or for any other lawful reason.

"Head for Change" reserves the right to remove any User Content at any time for any reason, at its sole discretion.

"Head for Change" reserves the right to modify and update all or a portion of the Software or its functions without prior notice and without the need to notify Subscriber and Users in advance.

## **Appendix 1: Support and Maintenance**

"Head for Change" offers remote support in relation to configuration and operation of the Website.

### **Response times**

Cases can be logged by phone, email or through our website. "Head for Change" policy is to respond to all customer cases within 24 hours. Please note that cases logged after 4pm or during the weekend may not receive a response until 8.30am the following business day. Our offices are open from 8.30am until 5.30pm Monday to Friday GMT.

### **Maintenance**

Subscriber agrees and acknowledges that:

- maintenance of the hosting equipment, facility, or other aspects of "Head for Change" systems that may require interruption of the Website ("**Maintenance Events**") shall not normally be performed during the hours of 8.30am – 5.30pm GMT during business days;
- "Head for Change" may interrupt access to the Website at any time to perform emergency maintenance; and
- "Head for Change" may interrupt access to the Website for unscheduled maintenance, provided that it has given Subscriber at least 3 days' advance notice.

"Head for Change" reserves the right to close down access to the Website to Subscriber and/or any Users should there be a real or perceived security risk that the Website or any of the servers that it runs on could be infected by a virus or spyware of any kind. Head for Change shall use its reasonable endeavours to restore access to the Website as soon as is reasonably practicable following any restriction of access in accordance with this paragraph.

"Head for Change" shall maintain and update the Website as it deems necessary from time to time.