



Terms of Business

Date 01/05/2009

ClickClass™ is a wholly owned brand of LightMedia Communications Limited

1. Interpretation

1.1. Unless the context otherwise admits words used in these Terms importing one gender shall include all other genders and words importing the singular shall include the plural and vice versa.

1.2. Where the context requires references to a person in these Terms shall include bodies corporate, unincorporated associations and partnerships.

1.3 Reference to any statutory provisions in these Terms shall include any statutory provisions, which amends or replaces it.

2. ClickClass™ Online E-Learning Hosting Terms

2.1 The Client hereby authorises LightMedia Communications Limited ("LightMedia") to provide ClickClass™ e-learning e-Learning Services ("E-Learning Services") to the client and agrees to pay the Fees for the same.

2.2 LightMedia shall use all reasonable endeavours to provide the E-Learning Services to the Client in accordance with these terms.

2.3 LightMedia reserves the right to make operational changes to the E-Learning Services and URLs and to control, direct and establish technical procedures for the use of the E-Learning Services and the Client agrees to follow the reasonable instructions and procedures of LightMedia with respect to the use of the E-Learning Services.

2.4 LightMedia shall use reasonable endeavours to maintain a 24-hour Internet presence for the Client's ClickClass™ e-learning site but cannot guarantee continuous, uninterrupted use. In the event of network downtime, LightMedia shall only be liable for up to one month's Hosting fees for the ClickClass™ site affected but shall not otherwise be liable for failing to provide the E-Learning Services.

2.5 The Client shall be responsible for obtaining and maintaining their own compatible computer system required by the Client to access the Client's ClickClass™ site. LightMedia has no responsibility for or liability with respect to any equipment belonging to the Client.

3 Payment

3.1 The Client will pay the Fees as set out on the Confirmation Form and in accordance with the provisions of this Agreement. LightMedia will invoice the Client and the Client will pay the invoice, including Value Added Tax, (VAT) at the prevailing rate according to the terms of payment detailed on the invoice.

4 Acceptable Use Policy

4.1 The Client agrees to follow and comply with our Service Usage Policy as set out on our website at www.clickclass.co.uk and that in entering into this Agreement the Client has read the current version of the Acceptable Use Policy, particularly as it relates to content. LightMedia may amend the Acceptable Use Policy at 10 days notice.

4.2 The benefit of the Service Levels will not apply where the Customer is in breach of any of the terms of this Agreement, including, but not limited to, the payment terms, or if the Client fails to follow the Acceptable Use Policy

5. Hosting Technology

5.1 The parties hereby agree that this Agreement shall not transfer any proprietary technology utilised in the ClickClass™ E-Learning Services to the Client and all such rights, title and interest in and to such technology will remain solely with LightMedia, its partners or its server providers. The Client agrees and acknowledges that it will not at any time directly or indirectly reverse engineer, decompile, disassemble or otherwise attempt to derive source code or other trade secrets from LightMedia, its partners or its server providers.

5.2 The Parties hereby agree that LightMedia does not monitor or exercise control over the content of the information transmitted over its facilities. Use of the E-Learning Services or any information that may be obtained from the E-Learning Services is specifically at the Client's own risk. LightMedia reserves the right but does not assume the obligation to monitor, intercept and delete any content belonging to the Client or user's of the Client's e-learning website for the purposes of ensuring that the E-Learning Hosting Service's are at all times used for lawful purposes.

5.3 The Parties hereby further agree that LightMedia, its partners and its server providers do not and cannot control the flow of information to or from LightMedia's or its partners server network and other portions of the Internet. Such flow depends on the performance of Internet services provided or controlled by third parties

outside the control of LightMedia whose actions or failures may impair or disrupt the Client's connections to the Internet or parts thereof.

5.4 The Client agrees that the disclaimers in clauses 5.2 and 5.3 are fair and reasonable and accepts to be bound by the same.

6. Content and Use of the E-Learning Services

6.1. The Client acknowledges that in the course of providing the Services, LightMedia and its server providers will be required to electronically reproduce the Client's Content.

6.2. The E-Learning E-Learning Services are provided subject to the condition that the site does not:

6.2.1. breach any applicable laws, codes or regulations (including without limitation infringement of copyright and other intellectual property rights)

6.2.2. cause defamation;

6.2.3. involve theft, fraud, drug-trafficking, money-laundering and/or terrorism;

6.2.4. incite violence, sadism, cruelty or racial hatred;

6.2.5. facilitate prostitution or paedophilia;

6.2.6. contain pornographic, obscene, indecent, abusive, offensive or menacing Content; and

6.2.7. create or introduce intentionally or knowingly into the Service any virus, worm, trojan horse, cancelbolt or other destructive or contaminating program or advise any other party how to do so.

6.3. At all times the Client shall use the E-Learning E-Learning Services in accordance with all applicable data protection and other laws, licences, international conventions, codes or regulations applicable to the Internet.

6.4. The Client shall use an up-to-date virus-scanning program on all material downloaded from the E-Learning E-Learning Services and LightMedia shall have no liability whatsoever to the Client for any loss or damage caused by the failure of the Client to maintain and apply up-to-date virus scanning software.

6.5. The Client shall not interfere with or breach the privacy of other users of the E-Learning E-Learning Services or the Internet in general, including sending unsolicited e-mails ("spamming") nor to collect or transfer personal data on individuals without their consent.

6.6. The client shall maintain the confidentiality of its login names, passwords and other confidential information relating to the Client's access to the Services (for the avoidance of doubt LightMedia shall not be responsible for maintaining such confidentiality).

6.7. The Client shall not tamper with routing and domain name services in order to "spoof" other computer networks and users.

7. Limitation of Liability for Hosting

7.1 LightMedia shall have no responsibility for and shall accept no liability in respect of the selection use and suitability of the E-Learning E-Learning Services by the Client which shall be at the Client's sole discretion.

7.2 LightMedia shall not be liable for any loss of data resulting from delays, corruption of data, non-deliveries, mis-deliveries or service interruptions. Neither LightMedia, its partners nor its network services supplier (as used by LightMedia from time to time) shall be liable for any unauthorised access to LightMedia's or the Client's transmission facilities or premise equipment or for any unauthorised access to or alteration theft or destruction of a Client's data files programmes procedures or information through accident fraudulent means or devices or any other method provided that such damage does not occur as a result of LightMedia's, its partners or its Network Service Suppliers' default or negligence.

7.3 LightMedia shall in no circumstances be liable in contract tort (including negligence or breach of statutory duty) or otherwise howsoever caused for:

7.3.1 any increased costs or expenses;

7.3.2 any loss of profit business contracts revenues or anticipated savings; or

7.3.3 any special indirect or consequential damage of any nature whatsoever;

arising directly or indirectly out of the provision by LightMedia of the E-Learning E-Learning Services or of any error or defect therein or of the performance non-performance or delayed performance by LightMedia of this Agreement;

7.4 LightMedia's total aggregate liability (under contract, by negligence or any other way) for any direct loss or damage arising out of, or in connection with, the E-Learning E-Learning Services will not exceed one month's Hosting Fees.

7.5 Nothing in this Agreement excludes or limits the liability of LightMedia for death or personal injury caused by its negligence or fraudulent misrepresentation.

7.6 The Client agrees to indemnify and hold harmless LightMedia and all individuals or entities controlling controlled by or under common control with LightMedia and their respective officers directors professional advisers agents and employees against any losses costs expenses claims damages liabilities penalties actions proceedings or judgments which they may become subject to relating to or arising from:

7.6.1 the infringement or misappropriation or alleged infringement or misappropriation of any intellectual property right including without limitation copyrights trade secrets patents trademarks or other proprietary rights related to any hardware or software utilised by the Client or otherwise in connection with any of the E-Learning E-Learning Services;

7.6.2 any breach or violation of or failure to comply with this Agreement or the LightMedia Acceptable Use Policy or any other policies of LightMedia of which the Customer has been given notice;

7.6.3 any violation of any applicable law rule or regulation; and

7.6.4 any third party claims related to any content provided by the Client or customers or clients of the Client.

8. Technical Support

8.1. The Client shall have the benefit of, via the systems utilised by LightMedia for the provision of the E-Learning Services the following technical support during the course of this Agreement:

8.1.1. 24x7 monitoring of availability and performance of the system utilised for the provision of the e-learning Services;

8.1.2. file back-up

8.1.3. applicable software upgrades of the website design software

8.1.4. appropriate hardware and bandwidth to ensure acceptable page regeneration times

9. Consultancy & Third Party Services

9.1. LightMedia reserves the right to utilise other third party services in addition to or in substitution of those set out in the Agreed Specification. Where the use of other such alternative services would be of a significant effect to the LightMedia Services being provided to the Client, LightMedia shall advise the Client in writing before such alternative services are utilised.

10. Term and Termination

10.1 Services will commence on the Effective Date indicated in the account activation order form ("Order Form") and continue for the duration of one month ("Initial Term").

10.1.2 Thereafter, the Agreement will automatically renew for successive terms of equal length as the Initial Term (monthly), unless the Agreement is terminated by either party.

10.2 This Agreement may be terminated on written notice to the other in the event that:

10.2.1 either party commits a serious, grave or material breach or persistent breaches of this Agreement including non-performance, default or neglect of its duties, responsibilities and obligations under this Agreement and such breach remains un-remedied for a period of 30 days from written notice given by the other party specifying the breach and the remedy required;

10.2.2 either party is unable to pay or has no reasonable prospects of paying their debts the amount or aggregate amount of which equals or exceeds the bankruptcy level within the meaning of the Insolvency Act 1986;

10.2.3 either being a company becomes subject to an administration order or goes into liquidation, (other than for the purpose of amalgamation or reconstruction), or has a receiver appointed to administer any of its property or assets, or ceases or threatens to cease to carry on business, or makes any voluntary agreement or enters into a compromise for the benefit of its creditors;

10.2.4 in LightMedia's sole opinion, the Client is using the E-Learning Services in a way likely to damage or bring LightMedia into disrepute and the Client does not immediately cease such use upon LightMedia giving written notice to this effect.

10.3 On the termination of this agreement in accordance with the terms of this Agreement the Client shall only be entitled to retain the benefit of any E-Learning Services already paid for.

10.4 Any termination of this Agreement shall be without prejudice to any rights accrued in favour of either party in respect of any breach committed prior to the date of (or giving rise to) such termination and to those provisions of this Agreement which are by their construction intended to survive such termination.

10.5 LightMedia may terminate this Agreement, (i) if the Services are prohibited by applicable law, (ii) if the Services become impractical or unfeasible for any technical, legal, or regulatory reason, (iii) as part of Corrective Action, (iv) for any reason or no reason.

11. Confidentiality

11.1 Both parties shall keep confidential the specific terms of this Agreement and the E-learning Services and not disclose them save to such employees or contractors as need to know the relevant information for the purposes of performing their duties in accordance with this Agreement. The parties agree that all information marked "Confidential", or where not marked it is reasonable to judge such information as confidential, shall not be disclosed at any time during the provision of the E-Learning Services or for a period of 12 months following their completion, except where such disclosure is required by law or by order of a court in the jurisdiction of England. The parties further agree that all information marked as a "Trade Secret" and reasonably judged to constitute a trade secret shall not be disclosed at any time during or after the expiry of this Agreement, except where such disclosure is required by law or by order of a court of competent jurisdiction. Confidential information and Trade Secrets shall consist of, but not necessarily be limited to: technical, commercial, financial, operational, marketing or promotional information or data.

12. Assignment

12.1 Neither party may assign or otherwise transfer this Agreement or any rights, duties and obligations hereunder without the prior consent in writing of the other party.

13. Force Majeure

13.1. Neither party shall be liable for delay or failure to perform any obligation under this Agreement if the delay or failure is caused by any circumstances beyond its reasonable control, including but not limited to acts of god, war, civil disorder or industrial dispute. If such delay or failure continues for a period of at least fourteen days, the party not subject to the force majeure shall be entitled to terminate this Agreement by notice in writing to the

other.

14. Non-Solicitation

14.1. The Client undertakes that for the duration that LightMedia is providing E-Learning Services to the Client and for a period of six months thereafter that they shall not directly or indirectly solicit or induce any of LightMedia's employees to leave the employment of the company whether to work on a freelance or consultancy basis or to be directly employed by the Client.

15. Notices

15.1. Any notice given by either of the parties under this Agreement shall be served on the other party and addressed to that party's signatory by email, personal delivery, pre-paid recorded delivery, first-class post, or facsimile transmission to the receiving party as set out on the Order Form

15.2. Any such notice shall be deemed to be effectively served as follows:

15.2.1. in the case of service by pre-paid recorded delivery or first-class post 48 hours after posting.

15.2.2. in the case of service by email, or facsimile transmission on the next working day.

16. General

16.1. Failure by either party to enforce any accrued rights under this Agreement is not to be taken as or deemed to be a waiver of those rights unless the waiving party acknowledges the waiver in writing.

16.2. This Agreement and these Conditions shall be read and construed independently of each other. Should any part of this Agreement or these Terms or their paragraphs, sub-paragraphs or clauses be found invalid it shall not affect the remaining paragraphs, sub-paragraphs and Terms.

16.3. No addition to or modification of any of these Terms or any other part of this Agreement shall be binding on the parties unless made by a written instrument and signed by the signatories to this Agreement or their duly authorised representatives.

16.4. This Agreement sets out the entire agreement and understanding of the parties and is in substitution of any previous written or oral agreements between the parties.

17. Jurisdiction

17.1. This Agreement shall be interpreted, construed and enforced in accordance with English law. Any dispute arising shall be referred to a single arbitrator for determination in accordance with the Arbitration Act 1996.

Issued 01/05/2009