

The Institute of Practitioners in Advertising

(incorporated by Royal Charter, RC000884)

Professional Development Terms of Sale for Businesses

These Standard Terms of Business apply to the purchase of Courses developed and owned by the Institute of Practitioners in Advertising (“**IPA**”) by Customers on behalf of their Course Entrants. By ordering a Course the Customer agrees to be bound by these Standard Terms of Business. Please read these terms carefully before you submit your order to us.

1. Definitions and Interpretation

1.1. Definitions

“Agreement”	means collectively the information contained in the Customer’s booking and these Standard Terms of Business;
“Applicable Laws and Codes”	(i) all relevant laws, statutes, codes of conduct and directions and requirements of any government or regulatory authority that may from time to time be applicable to this Agreement and/or the purchase and use of Courses by the Customer; and (ii) all other codes and directions as may be reasonably specified or given in writing from time to time by the IPA;
“Business Day”	a day other than a Saturday, Sunday or public holiday in England when banks are open for business;
“Charges”	the sum payable by the Customer to the IPA for the Course(s) (including the costs for Study Materials and exams if applicable);
“Confidential Information”	the existence and terms of this Agreement and all information (irrespective of the form in which or media on which such information is recorded, transmitted or otherwise held and whether oral or written) which relates to the business, affairs, products, developments, trade secrets, know-how, operations, personnel, customers and suppliers of the party in question or any of its affiliates;
“Control”	the power of a person to secure either by means of the holding of shares or the possession of voting power in or in relation to the party concerned or by virtue of any powers conferred by the constitution or other document regulating, or arrangement in respect of, that party that its affairs are conducted in accordance with the wishes of that person;
“Course Content”	all content in and associated with the Courses, including the Course Information and Study Materials;
“Course(s)”	the IPA professional development course(s)/ qualification(s) booked by the Customer;
“Course Entrant”	an individual authorised by the Customer to participate in a

	Course;
“Course Information”	details relevant to participation in a Course, including IPA Course Policies;
“Course Policy”	the IPA policy providing specific details which apply to a Course on such matters as learner obligations, booking policies and deferrals;
“Customer”	the advertising agency or other entity that purchases Courses from the IPA on behalf of its Course Entrants;
“Effective Date”	the date of the IPA’s email confirming its acceptance of the Customer’s booking;
“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;
“IPA”	the Institute of Practitioners in Advertising, a trade body for advertising and marketing professionals which is based in the United Kingdom and incorporated by Royal Charter, no. RC000884;
“Study Materials”	the study materials made available to Course Entrants in order to participate in a Course;
“Term”	the period starting on the Effective Date and ending upon completion of all purchased Courses;
“Standard Terms of Business”	these terms and conditions;
“Website”	the IPA’s website located at www.ipa.co.uk through which Course Entrants will access the Courses and Course Content; and
“Website Terms of Use”	the IPA terms of use located on the Website that each Course Entrant will need to agree to prior to accessing the Course on the Website.

1.2. Interpretation

- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

- (b) Any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
 - (c) A reference to writing or written includes email.
 - (d) Any use of a singular term shall include the plural of that term and vice-versa.
- 1.3. In the case of any inconsistency or conflict between these Standard Terms of Business and any Course Information, these Standard Terms shall take priority.

2. Ordering a Course

- 2.1 The Customer may order a Course on behalf of its employees or other members of its organisation through the Website, by phone or by email. The Customer shall provide all of the information requested by the IPA (including the name and email address of each Course Entrant) for the purpose of completing the order and administering the Course. **Each Course Entrant must register their account with the IPA before they can be booked onto any Course.**
- 2.2 When the Customer places an order for a Course using any of the above methods, the Customer makes an offer to purchase the Course subject to these Standard Terms of Business. A legally binding agreement shall not come into existence until the IPA confirms by email that it has accepted the order.
- 2.3 After the IPA's confirmation of acceptance of the order, the IPA shall email Course information to each Course Entrant.

3. Charges and Payment

- 3.1 The Charges are quoted in British pound sterling, exclusive of VAT and exclusive of any additional charges.
- 3.2 Where the Customer pays the Charges at the time of booking, the IPA will provide a receipt of payment. Where the Customer requires an invoice prior to payment of the Charges, the IPA will issue an invoice and the Customer shall pay the Charges in full within 30 days of the date of the invoice.
- 3.3 The provision of each Course is subject to the IPA having received cleared funds for the Charges for the Course. If the Charges are not received by the due date in accordance with clause 3.2, the IPA reserves the right to refuse access to the relevant Course(s).

4. Cancelling an order

- 4.1 The Customer may cancel its purchase of an uncompleted Course either in respect of all Course Entrants or an individual Course Entrant ("**Cancelling Course Entrants**") within 14 calendar days from the Effective Date ("**Cancellation Period**") by providing written notice to the IPA.
- 4.2 If the Customer exercises its right to cancel a Course pursuant to clause 4.1, and:
- (a) no Cancelling Course Entrant has accessed or viewed any part of the Course or any Study Materials, the Customer shall be entitled to a full refund of the relevant Charges in respect of all Cancelling Course Entrants; or
 - (b) a Cancelling Course Entrant has accessed or viewed a part of the Course or Study Materials, the Customer shall be entitled to a refund equivalent to 50% (fifty percent) of the relevant Charges in respect of each such Cancelling Course Entrant (and a full refund, in

accordance with sub-clause (a) above, in respect of any other Cancelling Course Entrant(s) who has not accessed or viewed any part of the Course or Study Materials),

in each case subject to clauses 4.3 and 4.4.

- 4.3 The IPA shall issue the refund using the same method of payment for the purchase and shall do so within 14 Business Days of receipt of the notice to cancel.
- 4.4 Refunds for cancellation other than as set out in this clause 4 shall be subject to the discretion of the IPA, who may charge a reasonable fee to cover administrative costs associated with processing the cancellation.
- 4.5 The Customer acknowledges that the IPA may withdraw or cancel a Course at any time before or after the commencement of such Course. In these circumstances, the IPA shall notify the Customer and shall offer a free deferral or issue a full refund of the Charges paid for any uncompleted Courses at the Customer's discretion.

5. Course Administration

- 5.1 The description of each Course is provided within the Course Information. The Customer acknowledges that the IPA may modify the Course Information from time to time and, in these circumstances, the IPA shall provide notice to the Customer.
- 5.2 The Customer acknowledges and shall notify each Course Entrant that each Course Entrant will be required to, prior to accessing and viewing the Course and any Study Materials on the Website: (i) review and agree to the Website Terms of Use and any applicable Course Policy; and (ii) register for an online account via the Website.
- 5.3 The Customer shall procure that each Course Entrant shall comply with the Website Terms of Use and any applicable Course Policy.
- 5.4 The IPA may at its reasonable discretion and without any liability or any obligation to refund Charges, refuse to supply any Course to any Course Entrant whose participation in any Course would, in the IPA's reasonable opinion, be undesirable or whose behaviour it considers is or may be inappropriate.
- 5.5 The Customer accepts that periods of downtime in respect of online access to the Course may be necessary (including for any necessary maintenance) and that access to the Course and technical support may not be available during such periods. The IPA cannot guarantee uninterrupted or error free availability of the Course or that any defects reported will be corrected.
- 5.6 The IPA shall not be responsible for any delay or disruptions to any Course Entrant's access to a Course or any Study Materials in connection with the operation of the internet (including but not limited to viruses), any firewall restrictions, any failures of telecommunications links and equipment or browser incompatibility or other technological issues.
- 5.7 The Customer shall, or shall procure that the Course Entrants shall, regularly save and back up all data that it uses in connection to the Course.
- 5.8 If a Course Entrant is unable to take the Course for any reason, the Course Entrant may be entitled to defer taking the relevant Course, or find a substitute, if permitted by the relevant Course Policy.

6. Limitation of Liability

- 6.1 All representations, warranties and/or terms and/or commitments not expressly set out in these Standard Terms of Business (whether implied by law, conduct, and statute or otherwise) are hereby excluded to the maximum extent permissible by law.
- 6.2 Nothing in this Agreement shall exclude or limit either party's liability:

- (a) for death or personal injury caused by negligence;
 - (b) for fraud or fraudulent misrepresentation;
 - (c) for breach of obligations of confidentiality (including any breach of clause 8);
 - (d) in the case of the Customer, for breach of clause 7 (Intellectual Property); or
 - (e) for any other liability which cannot be excluded or limited by law.
- 6.3 Subject to clauses 6.2 and 6.4, the IPA's total aggregate liability under this Agreement whether in contract, tort (including negligence), breach of statutory duty, or otherwise shall not exceed the level of the Charges received from the Customer in respect of the Courses booked under this Agreement in the 12 months prior to the event giving rise to the liability.
- 6.4 Subject to clause 6.2, the following types of loss are wholly excluded:
- (a) loss of profits;
 - (b) loss of sales or business;
 - (c) loss of agreements or contracts;
 - (d) loss of anticipated savings;
 - (e) loss of use or corruption of software, data or information; and
 - (f) loss of or damage to goodwill,
in each case howsoever arising and whether direct or indirect, and
 - (g) indirect or consequential loss.
- 6.5 Nothing in this clause 6 shall limit the Customer's obligation to pay the Charges due under this Agreement.
- 6.6 This clause 6 shall survive termination or expiration of this Agreement.
- 7. Intellectual Property**
- 7.1 The IPA (and/or its licensors as the case may be) is and shall remain the owner of all Intellectual Property Rights in the Course Content. No Course Content nor any part thereof may be reproduced, stored or transmitted in any form or by any means without the prior written permission of the IPA, save as otherwise set out in this clause 7.
- 7.2 Subject to clause 7.3, and effective from the date of receipt by the IPA of the Charges for the relevant Course, the IPA hereby grants the Customer and each Course Entrant a non-exclusive, non-transferable (save where the IPA has allowed a transfer pursuant to clause 5.8) sub-licence to use the Course Content for the sole purpose of each Course Entrant's professional development.
- 7.3 Save as expressly set out in these Standard Terms of Business, the Customer shall not, and shall procure that each Course Entrant shall not, modify, copy, reproduce, re-publish, sub-licence, sell, upload, broadcast, post, transmit, make available, disseminate or distribute in any way any of the Course Content. The Customer shall not, and shall procure that each Course Entrant shall not, modify, adapt, merge, translate, disassemble, decompile, recompile or reverse engineer any software forming part of the Course Content or create derivative works of the same.

8. Confidentiality

- 8.1 During the Term and after expiry or termination of this Agreement for any reason, the parties shall:
- (a) keep the other party's Confidential Information confidential;
 - (b) not disclose the other party's Confidential Information to any other person other than with the other party's prior written consent, or in accordance with clause (c); and
 - (c) not use the other party's Confidential Information for any purpose other than the performance of its obligations under this Agreement.
- 8.2 During the continuation of this Agreement, each of the parties may disclose the other party's Confidential Information to its employees and professional advisers (each a "**Recipient**") to the extent that it is necessary for the purposes of carrying out its obligations under this Agreement.
- 8.3 The parties shall procure that each Recipient is made aware of and complies with all of its obligations of confidentiality under this Agreement as if the Recipient was a party to this Agreement.
- 8.4 The obligations contained in this clause 8 will not apply to any Confidential Information which:
- (a) at the Effective Date is in or at any time after the Effective Date comes into the public domain other than through breach of this Agreement by the receiving party or any Recipient;
 - (b) can be shown by the receiving party to the reasonable satisfaction of the other party to have been known to the receiving party prior to it being disclosed by the other party to the receiving party; or
 - (c) subsequently comes lawfully into the receiving party's possession from a third party.
- 8.5 The parties may disclose the terms and conditions of this Agreement in any legal proceedings, whether arbitration or judicial proceedings, as required for the proper conduct of such proceedings, provided that in such circumstances, the receiving party shall, to the extent it is lawfully able to do so, give prior notice to the other party of the requirement to disclose and shall provide all reasonable assistance to the other party to minimise the extent of such disclosure.

9. Data Protection

- 9.1 Each party shall comply with all applicable requirements of legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications.
- 9.2 The Customer shall notify all Course Entrants that it will share their names and email addresses with the IPA in order for the IPA to issue registration details and carry out other administrative tasks related to the Course.

10. General

- 10.1 **Force majeure.** Neither party shall be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of its obligations under the Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. However, if the delay in performance is more than three (3) months, the other party may terminate this Agreement with immediate effect by giving written notice.

- 10.2 **Assignment and other dealings.** Neither party shall be entitled to assign, novate or otherwise transfer any of its rights, benefits or obligations under the Agreement without the prior written consent of the other party.
- 10.3 **Entire agreement.**
- (a) The Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
 - (b) Each party acknowledges that in entering into the Agreement it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement.
 - (c) Nothing in this clause 10.3 shall limit or exclude any liability for fraud.
- 10.4 **Variation.** No variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 10.5 **Waiver.** A waiver of any right or remedy under the Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 10.6 **Severance.** If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Agreement.
- 10.7 **Notices.**
- (a) Any notice or other communication given to a party under or in connection with the Agreement shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address specified in the Agreement.
 - (b) Any notice or communication shall be deemed to have been received:
 - (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
 - (iii) if sent by email, at the time of transmission, or, if this time falls outside business hours, when business hours resume. In this clause 10.7(b)(iii), business hours means 9.00am to 5.00pm on a Business Day.

- (c) Notice may not be given by email for service of any proceedings or other documents in any legal action.
- (d) Any written notice sent by a party that is actually received by the intended other party shall be deemed to have been properly given and received irrespective of whether or not the delivery requirements of clause 10.7 have been complied with.

10.8 **Third party rights.**

- (a) Unless it expressly states otherwise, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.
- (a) The rights of the parties to rescind or vary this Agreement are not subject to the consent of any other person.

10.9 **Relationship of the parties.** The relationship between the parties to this Agreement is contractual in nature. Nothing in this Agreement, and no action taken by the parties pursuant to this Agreement, shall constitute or imply any partnership, joint venture, agency or fiduciary relationship of any kind between the parties. Neither party has, nor shall represent that it has, any authority to make any commitments on the other party's behalf (except as may be expressly authorised in writing by such other party from time to time).

10.10 **Counterparts.** The Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

10.11 **Governing law.** The Agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the laws of England.

10.12 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Agreement or its subject matter or formation.