

# **THE UNIT●**

## **COMPANY**

# **TERMS & CONDITIONS**

V2.2 | 09-05-2019

## ARTICLE 1. GENERAL

1. Unless otherwise defined in these terms and conditions, all terms used shall have the following definitions;
  - The Unit: The Unit Company and /or The Unit Consultancy and/or The Unit Academy and/or The Unit Associates, TogafTraining.com, AchiMateTraining.com, user of these general terms and conditions.
  - Client: each natural person or legal entity, entering into an agreement with The Unit or receiving an offer which is governed by these general terms and conditions. "The Client" also includes all individuals operating in employment of the legal entity.
2. These general terms and conditions are applicable to all The Unit's agreements. The Client's acceptance of an agreement without any comments is presumed to be an acceptance of these general terms and conditions.
3. Any deviation of these terms and conditions should be made clear in writing in advance. The applicability of any conditions of the Client is expressly rejected. Application of any conditions of the Client is only possible if agreed in writing by parties.
4. Even though The Unit might not apply these general terms and conditions strictly to the agreement and the execution of the agreement, The Unit can still require strict compliance at every moment.
5. If one or more of the provisions of these general terms and conditions are invalid or set aside, the remaining provisions of these general terms and conditions shall remain applicable in full. The Unit and the Client will in that case enter into consultation to reach an agreement on the substitution of the invalid provisions with new ones that approach as closely as possible the purpose and the tenor of the original provisions.
6. If a situation occurs that is not described in these terms and conditions, this shall be judged in the spirit of these general terms and conditions.
7. The Unit may amend the present conditions. Amendments shall also apply to agreements already entered to. The Unit shall announce any such amendments well in advance. The Client may terminate the agreement as per the date on which the amended conditions will take effect, if the Client does not wish to accept such amended conditions.

## ARTICLE 2. OFFERS AND AGREEMENTS

1. All offers issued by The Unit shall be without engagement. All offers are open for acceptance within the period stated by The Unit in the offer or, when no period is stated, within 30 days from the date of the offer.
2. The Unit cannot be bound by the offer if the offer contains a mistake, which should reasonably be recognized as a mistake by the Client.
3. The agreement shall only come into force upon written confirmation of The Unit after receiving the Client's order (confirmation might be send by e-mail), or when The Unit makes a start with the execution of the agreement, in accordance with the Client. The Client's registration for a

training provided by The Unit is done by submitting the completed application form, or by sending an e-mail to The Unit containing all registration information.

4. If, at the request of or with prior consent from the client, The Unit has performed work or rendered other performance, which goes beyond the substance or scope of the agreed services, the client shall pay for that work or performance according to The Unit's usual rates. The Unit is not obliged to comply with a request for additional work. The Unit may require conclusion of a separate agreement for such additional work.
5. If there is an agreement The Unit will endeavor to fulfill the offers for which instruction is provided. The Client loses the right of fulfillment without refund if The Client is unable or unwilling to receive the fulfillment within 1 year of the agreement.

## ARTICLE 3. EXECUTION OF THE AGREEMENT

1. The Unit will render all services to the best of his knowledge and ability and in conformity with generally accepted professional standards. The Unit does not however guarantee that any intended result will be achieved.
2. The Unit will decide how and by whom the agreement is executed. If and in so far as required for the correct execution of the agreement, The Unit reserves the right to have the work carried out by third parties. If it appears to be necessary during the execution of the agreement, alteration of the agreement is possible.
3. During the execution of the agreement, The Unit will take account of the Client's wishes to the extent possible, but The Unit's independency shall at all times guaranteed.
4. The Client ensures that all data, of which The Unit indicates to be necessary in order to execute the agreement, or which the Client is reasonably to understand that it is necessary to execute the agreement, is provided to The Unit in time. When the data, necessary to execute the agreement, is not provided in time, The Unit is entitled to postpone the agreement and/or charge the Client with the additional costs coming from the delay. The completion deadline will not start before the data is handed over to The Unit. The Unit shall under no circumstance be liable for any forms of damage, as The Unit was faced with incorrect and/or incomplete data from the Client.
5. The Client is responsible for the accuracy, comprehensiveness and reliability of all information provided by the Client, as well as for the correctness of all information about the participants of a training and the Client's billing address.
6. A time period agreed during the term of the agreement for the completion of the work shall not under any circumstances be deemed to be a firm deadline.
7. Each party shall hold the other party's confidential information in confidence and shall not disclose such confidential information to third parties nor use the other party's confidential information for any other purpose other than necessary to perform under this agreement.

## ARTICLE 4. PRICES AND PAYMENT

1. Prices set by or agreed to with The Unit are exclusive of taxes, charges by any governmental body or authority, and additional costs (such as travel costs and costs of shipment) unless otherwise is stated.
2. The Unit is authorized to require the Client to pay in advance. All payment is due within 30 days of the invoice date by transferring or depositing the payable amount to the bank or bank giro account stipulated by The Unit, unless otherwise is agreed in writing. Complaints do not suspend the payment obligation.
3. If the Client fails to remit payment within the agreed period, the Client shall be held in default by operation of law without formal notice. The client shall in that case be liable for the payment of interest equal to the statutory commercial interest rate at that time. The Unit is entitled to suspend all obligations until full payment has been received by The Unit. All in court and out court costs will be claimed with the Client.
4. In the event of the Client being liquidated, declared bankrupt or granted suspension of payment, the claims of The Unit on the Client shall become immediately due and payable. The Unit may suspend its performance and is, without judicial intervention, entitled to terminate the agreement.
5. The Unit shall be entitled to increase all fees annually per January 1<sup>st</sup>. Price increases shall be announced in writing or by e-mail in advance. The Unit is entitled to charge The Client with the increased fee unless Parties agreed upon a fixed price for the work.

## ARTICLE 5. FORCE MAJEURE

1. The Unit is not required to comply with any obligation if prevented from doing so as a result of force majeure. In such case, parties shall consult each other to find an alternative way for fulfilment of the agreement.
2. If the period of force majeure lasts for longer than two months, either party shall be entitled to dissolve the contract without being obliged to pay any compensation for damages to the other party. In this case, The Unit will remain entitled to demand payment for the services it supplied with respect to the performance of the contract before the circumstances that caused the force majeure became apparent. The Client is obliged to pay this invoice as if it were a separate agreement.

## ARTICLE 6. CANCELLATION, SUSPENSION AND TERMINATION

1. Agreements may only be cancelled with The Unit's written consent and in accordance with the contents of this article. Conditions for cancellation of a training might differ from conditions for cancellation of other kinds of agreements.

2. The Client may cancel his participation in a training. Cancellation should take place in writing. The cancellation date shall be the date on which The Unit receives the written notice of cancellation. Upon cancellation, the following fee is payable by the Client:
  - Up to 20 working days prior: 0%
  - 20 to 10 working days prior: 40%
  - 10 to 5 working days prior: 80%
  - less than 5 working days prior: 100%
3. Postponement of a training is considered to be cancellation of a training, followed by a new reservation. This means the provisions of article 6.2 are applicable for cancellation.
4. The Client is entitled to replace the registered person for another person (free of charge). Such replacement is possible until two working days prior to the start of the training.
5. If the Client dissolves the agreement in whole or in part – other than a training - , The Unit shall charge the Client for all the activities carried out as well for all reasonable costs that arise from obligations already commenced by The Unit.
6. In the event that the Client cancels the agreement in terms of this article, the Client shall indemnify The Unit against any claim brought by third parties resulting from the Client's cancellation.
7. Cancellation fees are due and payable similarly as other invoices sent by The Unit.
8. If The Unit announces the termination of the agreement, the Client is entitled to require The Unit's co-operation in transferring the performance of the services to third parties, unless the facts and circumstances leading up to the termination can be attributed to the Client in full. The Client will be required to compensate any costs which The Unit is compelled to incur for the transfer of the services. Trainings may be cancelled by The Unit without cause and without transfer. Any amounts already paid will be returned to the Client.
9. The Unit is entitled to terminate the agreement with immediate effect by sending a written notice to the Client in case of:
  - (request for) bankruptcy of the Client,
  - (application for) suspension of payment of the Client,
  - seizure of all or part of the Client's assets, or
  - (impending) liquidation or cessation of the Client's business.
 Upon termination by The Unit, the claims of The Unit on the Client shall become immediately due and payable. In such event, The Unit can never be liable to the Client.
10. The Client being a natural persons, a consumer having an agreement with The Unit Academy have a 14 day recall right resulting in a termination of this agreement. A recall right must be made explicit by written notice before the start date of the training. A started training is not eligible for recall right.
11. In all cases described above, claims of The Unit are due immediately, without prejudice to the other rights of The Unit.

## ARTICLE 7. COMPLAINTS

1. Any right of the Client to complain pertaining to defects in The Unit's services and activities will lapse if:

- the defects are not lodged to The Unit within 6 (six) months after the Client discovering the defects or within 6 (six) months after the Client reasonably could have noticed the defects;
  - the Client does not cooperate during the examination of the validity of the complaints.
2. Any complaints shall be reported motivated and in writing. The Unit shall always be given the opportunity to recover any defect.
  3. If it is no longer possible or useful to perform the work agreed upon, The Unit shall only be liable within the limits of article 8 of these general terms and conditions.
  4. Complaints will be on boarded within 4 weeks upon receive. A time window will be provided for expected claim resolution. The Client will provide full cooperation to enable complaint resolution.
  5. Complaint resolution should not take longer then four months unless explicitly mentioned.
  6. Complaints are treated as confidential information as described in article 3.7
  7. The Client being a natural persons, a consumer having an agreement with The Unit Academy not satisfied with the outcome of complaint resolution can appeal towards a third party, appointed to Mr. T. Rijnen, for ruling. That ruling will be final.
  8. Complaints are registered and hold for two years.
  9. Complaints do not suspend the payment obligation.

## ARTICLE 8. LIABILITY AND INDEMNIFICATION

1. In the event of The Unit being held liable, that liability shall be limited to the provisions of this article. The limitations in this article on the liability are not applicable when the damage is caused by intent or serious misconduct by The Unit or any of its managerial subordinates.
2. The Unit is only obliged to refund direct damage sustained by the Client as a result of fault(s). Direct damage shall only concern the reasonable costs possibly incurred to have The Unit's faulty performance meet the conditions of the agreement unless the agreement is terminated by the Client, the reasonable costs made to determine the cause and size of the damage, given that this determination affects damage as described in this condition and costs made to limit the damage, given that the Client proves that these costs have lead to a limitation of direct damage as described in these general terms and conditions.
3. The Unit can not be held liable for any damage caused by participation in a training. The Unit is not liable for damages consisting of or caused by faults relating to information and data provided by the Client.
4. The Unit is not liable to the Client for any incidental, indirect, special or consequential damages arising out of or in connection with the contract. The Unit can not be liable for damages arising out of or in connection with force majeure.
5. The Unit's liability for losses or damage suffered by the Client as a result of the contract is limited by the invoice value of the agreement, at least the part of the agreement to which the liability relates. The Unit has no liability whatsoever beyond a maximum sum of € 10.000,00. If the contract is, in essence, a continuing performance contract, the liability of The Unit will not exceed the amount paid by the Client during the past 3 months preceding the damage event.

6. The client indemnifies The Unit against claims filed by third parties, relating to or resulting from (directly or indirectly) the legal relationship between The Unit and the Client.

## ARTICLE 9. INTELLECTUAL PROPERTY

1. All intellectual or industrial property rights, including copyright and trademarks, to any materials developed or provided under the agreement, shall solely be held by The Unit or its licensors. This expressly includes the intellectual and industrial property rights to training materials, documentations, analyses, reports, software, apps, presentations, videos, e-learning materials and offers.
2. The Unit only grants to The Client the right of use of the documents and other materials for the purpose for which they were supplied to The Client. The Client is not entitled to use the documents and other materials (in full or partly) in the Client's organisation without the permission of The Unit, unless such use is deemed necessary and is consistent with the purpose of the agreement.
3. The client is not allowed to alter or remove any notice of copyrights, brands, trademarks or other rights of intellectual or industrial property, including statements of confidentiality.
4. Evaluations and assessment results from The Client toward The Unit are the property of The Unit.
5. In case of infringement of the provisions in this article, The Client shall be obliged to immediately pay The Unit the sum of € 10.000,00 for each infringement, plus the sum of € 2.500,00 for each day the infringement continues after notification by The Unit. .

## ARTICLE 10. PRIVACY

1. The Client's personal data will be collected and registered by The Unit. The Unit might use this information to keep the Client up to date on The Unit's services and activities. If the Client does not want to receive any updates (anymore), the Client can send a written notice or an e-mail to The Unit.
2. Evaluations and assessment results from The Client toward The Unit are registered by The Unit and will be used for promotional purpose. Details of The Client will be partly anonymised. The Client can send a written notice or an e-mail to The Unit if The Client wishes full anonymity.
3. The Unit will respect The Client's privacy at all times. All personal data will be protected. Unless The Unit is bound to do so to comply with law or legal request or when The Unit becomes involved in a business merger, The Unit does not give, rent, sell or share any personal information with other people/parties.
4. We would like to refer you to our Privacy Statement, which describes how The Unit Company handles your personal data, and what is done to guarantee your privacy.

## ARTICLE 11. OTHER AND DISPUTES

1. During the term of this agreement and for a period of one year after its completion, the Client is not allowed to hire The Unit's employees (or persons otherwise employed by The Unit) directly or through third parties. In case of infringement of the provisions in this article, the Client shall be obliged to immediately pay The Unit the sum of € 10.000,00 for each infringement, plus the sum of € 2.500,00 for each day the infringement continues after notification by The Unit.
2. All legal relationships between The Unit and the Client to which these terms and conditions apply shall be governed by the laws of the Netherlands.
3. In the absence of mandatory rules of law to the contrary, the competent court in The Unit's place of business has exclusive jurisdiction.

These terms and conditions are available on request (free of charge). By entering into an agreement with The Unit or by registration for a training, the Client accepts and agrees to be bound by these terms and conditions.