

## GENERAL TERMS AND CONDITIONS

### INTRODUCTION

These are the standard terms and conditions of ILX for the delivery of e-learning software and/or training and consultancy events and services. These terms and conditions are incorporated into and apply to all our contracts made with you for the provision of our products and services, unless otherwise agreed in writing.

“ILX” shall mean either ILX Group plc (a company incorporated in England) or one of its trading subsidiaries, namely ILX Group Pty Ltd (Australia), ILX Group Inc (New York), ILX Group Ltd (New Zealand), or ILX Group ApS (Denmark), as notified separately on your invoice, booking form, or sales agreement.

For the purposes of these terms and conditions, “Contract” shall mean the contract between you and ILX comprising these terms and conditions together with the Sales Agreement, Course Booking Form, or Invoice related to your purchase. Defined terms shall have the meaning given to them in the Sales Agreement or Course Booking Form unless otherwise expressly defined in these terms and conditions.

All rights not expressly granted by the Contract are reserved by ILX.

### INTELLECTUAL PROPERTY AND COPYRIGHT

The Product(s) and Course Materials are proprietary to ILX and its licensors and title in and to the Product(s) shall remain exclusively with us at all times. The Product(s) (and any future release or new version of the Product(s)) embody and are protected by intellectual property rights, including without limitation copyright, design rights, database rights, patents, patentable inventions and know-how, arising throughout the world (“IPR”). You acknowledge that all IPR in and to the Product(s) belongs exclusively to ILX and our licensors and that you shall have no rights in or to the Product(s) other than the right to use them as expressly set out in the Contract.

You will not do anything nor permit anything to be done which may harm any of our IPR (or other proprietary rights), existing at any time in and to the Product(s).

### PAYMENT TERMS

All fees and charges are stated exclusive of sales tax (VAT, GST or other sales tax as applicable) which will be added where applicable unless otherwise stated in the Sales Agreement. Sales tax shall be paid by you at the rate and in the manner prescribed by law when payment is due.

You are liable to us for payment of the Licence Fees or Course Fees which will be invoiced to you on confirmation of your order or on the Renewal Date for any renewal. These must be paid to us on or before the Payment Date. Unless otherwise set out in the Contract, the Payment Date is 30 days from the date of receipt of invoice or 14 days prior to the start of delivery of the Service, whichever is the earlier.

Instructions for payment will be contained on your invoice. We will not treat any amount as paid until we are in receipt of the full amount due to us in cleared funds.

In the event of late payment you will be liable to payment of interest accruing daily at the rate being three (3) percentage points above the UK base rate percentage for the time being of HSBC Bank plc from the date when payment first became due until the date of actual payment both before and after any judgement. All interest is payable to us on demand.

Any additional products or services you request following the Contract Date shall be charged to you in accordance with our price list and payment terms applying at that time or as otherwise notified to you.

### NON SOLICITATION

During the term of any contract, and for a period of 12 months thereafter, the you will not directly nor indirectly employ or solicit for employment any individuals of ILX’s currently employed by ILX.

In respect of any breach of this Clause, ILX, in addition to any other remedies available at law, shall be entitled to recover from you liquidated damages of 35% of the gross annual salary of the individual solicited for employment.

### PRODUCT RECALLS, UPDATES AND UPGRADES

We reserve the right to improve the specification and format of our Courses and Product(s) without notice and may recall the Product(s) and to replace them with another version or to update them at any time during the Contract.

## WARRANTIES AND INDEMNITIES

We warrant that we have all necessary rights to deliver the Product(s) and Services under this Contract. We warrant that the Product(s) and Services will conform in all material respects to specifications published by us and provided to you, that they shall be of satisfactory quality and fit for the specified purposes for which we are supplying them to you.

We shall indemnify you against any actions, proceedings, losses or damages suffered directly by you as a result of a claim that use of the Product(s) or Services infringes third-party intellectual property rights provided that: (i) we are given prompt notice of any such claim; (ii) you provide reasonable co-operation to us in the defence and settlement of such claim, at our expense; and (iii) we are given sole authority to defend or settle the claim. In the defence or settlement of any claim we may procure the right for you to continue using the Product(s) or Services, replace or modify the Product(s) or Services so that they become non-infringing or, if such remedies are not reasonably available, terminate the licence of the relevant Product(s) on written notice to you without any additional liability or obligation to pay liquidated damages or other additional costs to you. We shall have no liability under the foregoing indemnity to the extent that the alleged infringement is based on: (i) a modification to the Product(s) or Services by anyone other than us; (ii) your use of the Product(s) or Services in a manner contrary to the terms of the Contract and/or instructions given to you by us; or (iii) your use of the Product(s) or Services after notice of the alleged or actual infringement from us or any appropriate authority.

While reasonable care is taken to ensure that all content is accurate and complete we do not warrant or represent that the Product(s) or Services are free from errors or omissions.

It is your sole responsibility to satisfy yourself prior to entering into a contract with us that the Product(s) or Services will meet your requirements and that the Product(s) will be compatible with any equipment on which you intend to run them, and that you, or the Permitted Users or Course Delegates, have the necessary level of prior knowledge and competence to achieve the objectives of the Product(s) or Services.

You warrant that you have not been induced to enter into the Contract by any statement, representation or warranty however made by us before the Contract Date and not contained in the Contract and you will not make any allegation, claim or bring any action against us arising from any such statement, representation or warranty, but you are not prevented by this clause from making any allegation, claim or bringing any action against us that we made a representation to you fraudulently and you entered into the Contract in reliance on it.

All other conditions, warranties or other terms which might have effect between you and us or be implied or incorporated into this Contract, whether by statute, common law or otherwise, are hereby excluded to the fullest extent permissible by law, including without limitation any implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

### LIABILITY

You use the Product(s) or Services at your own risk and in no event will we be liable to you under this Contract for any loss or damage of any kind (including any indirect or consequential losses, such as loss of data, profits, revenue, turnover, sales, production, anticipated savings, goodwill, business opportunities, contracts or any other economic loss) arising from your use of or your inability to use the Product(s) or Services or from faults or defects in either, whether caused by negligence or otherwise, save that our liability is not excluded by this clause where personal injury or death is shown to have been caused by our own negligence or that of our employees or sub-contractors.

The terms set out in the Contract supersede and replace all undertakings, terms and obligations which may be implied by statute, common law, trade usage, course of dealing or otherwise, all of which are excluded to the fullest extent permitted by law.

Save in respect of personal injury or death which is shown to have been caused by our own negligence or that of our employees or sub-contractors, save in respect of intellectual property infringement indemnification, and save in respect of any liability which we may have to you arising from any pre-contractual representation which we are shown to have made to you fraudulently and on which you relied to enter into the Contract, our total liability to you is limited to the amount paid by you for the Product(s) or Services under the Contract.

Where the Contract allows use of the Product(s) or Services by others, you are responsible for all such use and you will protect and hold us harmless against and fully indemnify us in respect of all and any loss, costs, claims, demands, expenses and liabilities arising out of such use.

Neither you nor we will be liable to the other of us where you or we are delayed from performing any of our duties, responsibilities or obligations under the Contract by reason of any circumstances beyond our reasonable control, including (without limitation) flood, fire, adverse weather conditions, war or threat of war, industrial action, commotion, terrorism, computer malfunction, delays and disruption to the internet, unforeseeable technical problems, transport problems, closure of ports, closure of airports, airspace or territorial borders and any delay caused by any act or omission of the other party. If the delay continues for more than 30 days then either of us may terminate the contract immediately on notice to the other without further liability, save for liability already accrued prior to the date of termination, including in particular for any monies then due which have not yet been paid.

Nothing in this Contract shall exclude or limit any liability for any matter which it would be illegal or unlawful for us, under legislation applicable to the Contract, to exclude or attempt to exclude our liability. Advice about your rights is available from your local Citizens Advice Bureau or Trading Standards office.

### THIRD PARTIES

The Contract is personal to you. You are not permitted to assign, sub-license, sub-contract or otherwise transfer the contract made between us or any part of it or any of the rights granted to you by it or the performance of any of your obligations under it whether in whole or in part to any other person without our prior consent in writing.

The Contracts (Rights of Third Parties) Act 1999 does not apply to the Contract. This means that, although other persons may derive benefit from it, no person other than you (being the person who is named as the Customer in the Sales Agreement or Booking Form) or us may bring any action under it or enforce any of its terms.

### GENERAL

This Contract supersedes all prior agreements, arrangements and understandings between us and constitute the entire agreement between us relating to the subject matter of the Contract. Any drawings, descriptive matter or advertising produced by us and any descriptions or illustrations contained in catalogues or brochures, or made verbally by any of the agents or employees of ILX, are produced for the sole purpose of giving an approximate idea of the Product(s) or Services described in them. They shall not form part of the Contract save that we do not seek by this clause to exclude any liability for any fraudulent pre-contractual misrepresentation upon which the other of us can be shown to have relied.

If any of the terms (or part thereof) of the Contract shall become or is declared by a court of competent jurisdiction to be illegal, invalid or unenforceable then such terms (or relevant part(s) thereof) shall be severable and deemed to be deleted and the remaining terms shall remain in full force and effect.

Failure by either you or us to exercise any right or remedy which is available will not constitute a waiver of that right of remedy and will not preclude you or us exercising that right or remedy in the future whether in relation to the same or any other cause of action.

All provisions of this agreement which by their nature are intended to survive termination, including without limitation clauses in relation to Intellectual Property, will survive the termination of the Contract for whatever reason.

### GOVERNING LAW

The Contract, these terms and conditions and the further terms and conditions set out in the Sales Agreement shall be governed by and construed in accordance with English Law and any dispute which cannot be amicably resolved between us relating to any of them will normally be determined by the English Courts, without reference to conflict of law principles.

### E-LEARNING SOFTWARE

#### GRANT OF LICENCE

We grant to you, with effect from the Contract Date, a limited non-exclusive, non-transferable licence to use the Product(s) set out in the Sales Agreement and any associated written materials provided with them ("Documentation") subject to these terms and conditions.

We grant to you, with effect from the Contract Date, a limited non-exclusive, non-transferable licence to use the Product(s) set out in the Sales Agreement and any associated written materials provided with them ("Documentation") subject to these terms and conditions.

You shall only be entitled to make use of the Product(s) in accordance with the Licence Type and Options and for the Licence Period, both as detailed in the Sales Agreement. No use may be made of the Product(s) other than as expressly provided for in the Sales Agreement and these terms and conditions.

If a Location or Territory is specified in the Sales Agreement, you agree to keep the Product(s) at the Location or Territory and not use the Product(s) or make them available outside the Location or Territory.

If use of the Product(s) is restricted to a number and/or category of Permitted Users, you agree to only make the Product(s) available to such number and category of Permitted Users who are entitled to use the Product(s) under the Contract, and ensure that all such Permitted Users using the Product(s) under the Contract are aware of and comply with the terms and conditions of use relating to the use of the Product(s). You shall be solely responsible for the acts and/or omissions of such Permitted Users or other persons with respect to their use of the Product(s) and their compliance with the terms of use under the Contract.

The method or medium by which we will provide the licensed Product(s) to you is set out in the Sales Agreement. Regardless of the method or medium, your use of the Product(s) will be subject to these terms and conditions and any other terms set out in the Sales Agreement.

### DELIVERY, INSTALLATION AND SUPPORT

Where the Product(s) are distributed to you on a CD or other media or you download the Product(s), then you may install and use the Product(s) either:

(i) on a single computer or mobile device under your control if the Product(s) are licensed for single-user use only; or

(ii) where the Product(s) are licensed on a multi-user basis, on a number of computers or mobile devices, or on a computer network, or via a Learning Management System, provided that the maximum number of Permitted Users is not exceeded.

You may make a copy of the Product(s) for back-up purposes only, such copy being kept at all times in your sole possession and control and clearly marked with our name and proprietary notices; and

In the event of any inherent defect in either such media or the Product(s) (in consequence of which they fail to conform in all material respects with the Product(s) specification) being notified to us by you, in writing, within 90 days of the Contract Date, we will replace the Product(s) free of charge. Our entire liability in such circumstances is to provide you with a replacement copy. We are not liable to you after the expiry of this period nor are we liable to you where the defect in the Product(s), or the media containing them, has been caused by you. You shall provide all information that may be necessary to assist us in resolving the defect or fault, including a documented example of any defect or fault, or sufficient information to enable us to recreate the defect or fault.

Where you are provided with access to the Product(s) from a site hosted by us (or on our behalf) ("Hosted Access") we shall provide you with access to the Product(s) from a website notified to you from time to time. We warrant that service downtime, excluding scheduled maintenance, will be no more than 2% of the time in any given calendar month. Service downtime is measured from the time that you notify us of unavailability of the hosted service to restoration of service. Scheduled maintenance may be carried out as required between 07:00 and 10:00 GMT on Wednesday mornings, or otherwise with 24 hours advance notice to you. We retain the right to temporarily suspend the Hosted Access to make any modification, change, addition to, or replacement of any part of the Hosted Access service where this is required to conform with any applicable safety or any other statutory or legal requirements. This downtime is excluded from the service levels outlined above. We only have control over network availability onto the public Internet. Network connectivity between your site and our hosting partner network are beyond our reasonable control and cannot be guaranteed. Any failure of the Hosted Access due to Force Majeure is excluded from the service levels.

In the event that we do not meet the service levels set out above, you may request a copy of the Product(s) on another media which you may install and use, in accordance with your licence, in order to provide you with access to the Product(s).

We will provide technical support within a reasonable timeframe should you require assistance in installing and using the Product(s). Technical support will be provided only to you or to a single point of contact within your organisation. We aim to respond to all support requests within 2 working days.

#### **CUSTOMER RESPONSIBILITIES**

Where the Product(s) are made available to you on a multi-user basis, you shall maintain records of Permitted Users and provide these records to ILX within five (5) days of our written request. Where Permitted Users are making Hosted Access of the Product(s) you shall ensure that each Permitted User shall keep a secure password for his/her use of the Product(s) and that such password shall be changed regularly and shall be kept secure;

You will ensure, when making use of Hosted Access to the Product(s), that you shall not transmit viruses, worms, Trojan horses and other similar things or devices.

You will not use, reproduce, dispose of, deal with, rent, lease, sub-license, loan, modify, adapt, reverse engineer, decompile, disassemble or create derivative works based on the whole or any part of the Product(s), except as expressly permitted under the Contract or otherwise only to the extent that we must allow you to do so by law.

You will not incorporate the Product(s) into or allow them to be incorporated into any other product;

You will not change, remove or obscure any labels, plates, notices, insignia, lettering, statements or markings which are on or embodied in the Product(s) or the media on which they are held at the time of their delivery to you;

You will promptly inform us in the event that you become aware of any unauthorised use of the Product(s) and co-operate with us in taking any action which may be necessary to bring to an end any such use;

You will be solely responsible for procuring and maintaining your network connections and telecommunications links from your systems to the site from which Hosted Access is available and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your network connections or telecommunications links or caused by the internet.

#### **LICENCE TERM AND TERMINATION**

The Contract will continue in force for the Licence Period and for any automatic Renewal or Rolling period thereafter, unless it is terminated otherwise by ILX pursuant to this clause in writing. The Contract will terminate immediately on the expiry of the Licence Period and any automatic Renewal or Rolling Period, unless it is renewed by us in writing signed by our duly authorised representative.

We may terminate the Contract immediately if you are in breach of any of its terms, save that if the breach is capable of remedy you will be allowed a period of 30 days within which to remedy the breach and only if the breach is not remedied within this period will our termination be effective. A breach by you of any terms relating to the protection of our proprietary or intellectual property rights or those of our licensors will not be considered remediable.

Upon the termination of the Contract you will cease to use and to access and, if you are authorised to allow access to Permitted Users, procure that all Permitted Users cease to use and to access the Product(s) and (where the Product(s) have been supplied to you on CD-Rom or similar durable media) surrender up or (at our request) return to us the Product(s) and all media on which they are held and you will delete all copies of the whole or any part of them in your possession or control and you will permit us, our employees and agents to enter your premises for the purposes of repossessing the same and/or verifying that the same has been done.

All notices must be given in writing by the person who wishes to terminate the contract sent by pre-paid first class post (or if you are resident outside of the United Kingdom by air mail equivalent) or by fax or email to the address of the person to whom the notice is to be sent which is set out in the Sales Agreement or to such other address which has been notified in advance to the person who wishes to terminate the Contract by the person to whom the notice is to be sent. Where post is used, notice will be deemed to have been given 2 days after posting if you are resident in the same country as ILX and 7 days after posting if you are resident in a different country to ILX. Where fax or email is used, notice will be deemed to have been given on the first working day (excluding public holidays) after the day on which the fax or email has been sent.

Any termination will be without prejudice to any claim which we may have against you for any monies unpaid (including any Licence Fee(s)), interest or for damages.

#### **TRAINING AND CONSULTANCY EVENTS AND SERVICES**

##### **BOOKING PROCEDURES AND JOINING INSTRUCTIONS**

When you make a confirmed booking, ILX will check the course status (for public events) and acknowledge acceptance by email. On acceptance via email by ILX, the booking will be treated as a Contract and we will issue paperwork appropriate to the chosen payment option.

When you make a provisional booking, ILX will check the course status (for public events) and acknowledge availability by telephone or email.

To retain your place on the course or to confirm the booking, you should provide written confirmation. This can be performed on-line (if booked via the website) or by email, fax, or letter. On subsequent acceptance via email by ILX, the booking will be treated as a Contract and we will issue paperwork appropriate to the chosen payment option.

Joining instructions, if applicable, will be sent to you approximately 3 weeks prior to the course.

##### **EVENT CHANGES (PUBLIC COURSES)**

The location and date of the course will be as advised to the customer at the time of booking. ILX reserves the right to change the location of the course and will advise the customer as soon as this change is known.

ILX reserves the right to cancel or reschedule any course and will advise the customer as soon as this change is known. ILX will use all reasonable endeavours to avoid changes of this nature. When this is unavoidable ILX will refund, in full, all monies paid by the customer, or at the customer's option apply all monies to a rescheduled or alternative course.

##### **OTHER CHARGES FOR CUSTOMER SPECIFIC SERVICES**

Where the Contract is for delivery of Services specific to you, such as Consultancy or a Closed Course, subsistence and any other expenses necessarily incurred in the performance of this Contract, whether at the client's premises or elsewhere are charged in addition. Travel is charged at the relevant mileage rates generally accepted in the country of delivery, or standard-class air or rail fares as appropriate. Where a single journey is expected to last longer than six hours, Business or Club class may be used.

Where necessary, a courier will be used to despatch course material/pre-course work to the venue. This will be charged back at cost.

If during the course of our work, a need is identified for additional services not specified in the Contract, agreement to their use will be obtained before any expenditure is incurred.

##### **CANCELLATIONS AND TRANSFERS**

Cancellations and transfers will only be accepted if made in writing and received at least four weeks before the start of the event. Where the notice given is less than four weeks but more than two weeks, cancellations or transfers will incur a charge equivalent to 50% of the course fee. Where cancellations or transfers are made two weeks or less prior to the start of the course / exam event, a charge equivalent to 100% of the course fee will be payable.

In respect of Blended Packages containing an e-learning and workshop or exam element, you must attend the workshop or exam element within one calendar year of the original date of purchase. Transfers beyond this point can be arranged but will be chargeable.