

TERMS & CONDITIONS STANDARD TERMS AND CONDITIONS FOR SUPPLY OF SERVICES FOR MACLEOD MCCULLOCH LTD

This page (together with the documents referred to on it) informs you of the Terms and Conditions on which we supply any of the Courses (as defined below) and Services (as defined below) and as listed on our website www.macleodmcculloch.co.uk (“the Website”) to you. Please read these Terms and Conditions carefully before ordering any Courses or Services from us. You should understand that by ordering any of our Courses or Services, you agree to be bound by these Terms and Conditions.

You should print a copy of these Terms and Conditions for future reference.

These Terms and Conditions are incorporated into the Contract between us for the provision of Courses or Services. Please understand that if you refuse to accept these Terms and Conditions, you will not be able to order any Courses, including Course Materials or Services from us.

Definitions

In this document the following words shall have the following meanings:

“Consumer” means a natural person who is acting for purposes which are outside their business;

“Contract” means these Terms and Conditions together with the terms of any applicable Service Specification;

“Courses” means any training, intervention or consultancy work supplied by the Supplier, together with relevant Course Materials (where applicable).;

“Course Materials” means the supporting materials and documentation supplied with the Courses (where applicable);

“Customer” means the organisation or person who purchases services from the Supplier;

“Intellectual Property Rights” means patents, rights to Inventions, copyright and related rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world;

“Services” mean the services to be provided by the Supplier to the Customer in connection with the Courses, as more particularly described on the Macleod McCulloch website (the Website).;

“Service Specification” means a statement of work or order confirmation or other similar document describing the Services to be provided by the Supplier; **“Supplier”** means MacLeod McCulloch Ltd, a company registered in England and Wales under company number 07120704 of 1 Harestone Drive, Caterham, Surrey, CR3 6HX

2. INFORMATION ABOUT US

2.1 The Supplier operates the Website www.macleodmcculloch.co.uk. The Supplier is MacLeod McCulloch Ltd, a company registered in England and Wales under company number 07120704; of 1 Harestone Drive, Caterham, Surrey, CR3 6HX. The Supplier’s VAT number is 985666845.

3. GENERAL

3.1 These Terms and Conditions shall apply to all contracts for the supply of Courses and/or Services by the Supplier to the Customer.



3.2 Before the commencement of the Courses/Services, the Supplier shall submit to the Customer a Service Specification and/or a general description of the Courses (as appropriate) which shall outline the Courses, Course Materials (where applicable) and/or Services to be performed or supplied and the fees payable. The Customer shall notify the Supplier immediately if the Customer does not agree with the contents of the Service Specification or description of the Courses. All Service Specifications or Course descriptions are subject to these Terms and Conditions.

3.3 Subject to clause 8, the Supplier shall use all reasonable endeavours to complete the Services or deliver the Courses within estimated time frames, but time shall not be of the essence in the performance of any Services and/or delivery of the Courses.

3.4 The Supplier may, in addition to its own employees, engage sub-contractor Associate Trainers to provide all or part of the Courses/Services being provided to the Customer and such engagement shall not relieve the Supplier of its obligations under the Contract.

3.5 The Supplier does not accept responsibility for the action of Associate Trainers or any other third party.

4. YOUR STATUS

4.1 By placing an order with the Supplier by any means (including by email, telephone, letter, fax, via the Supplier's Website or conversation), the Customer warrants that they are legally capable of entering into binding contracts;

5. HOW THE CONTRACT IS FORMED

5.1 After placing an order with the Supplier by returning the suppliers acceptance form, the Customer will receive an Booking Form and invoice from the Supplier acknowledging that the Supplier has received the Customer's order. The Contract between the Supplier and the Customer ("the Contract") will only be formed when the Supplier sends the Customer the Booking Form. If the Customer does not agree with the contents of the Booking Form, they shall notify the Supplier immediately (and in any event within two (2) days of the date of receipt of the Booking Form) by email to info@macleodmcculloch.co.uk. The Supplier will correct any errors in the Booking Form and will email the amended Booking Form to the Customer to confirm agreement with its contents.

6. CONSUMER RIGHTS

6.1 The Customer will receive a partial / full refund of the price paid for the Services and or Courses in accordance with the Supplier's cancellation policy (set out in clause 11). However, if the performance of the Services or provision of the Courses is completed within the seven (7) working days after the day that the Supplier confirms the contents of the Acceptance Form by means of the Booking Form, then the Customer's right to cancel will end on the day of completion of the Services and/or Courses.

6.2 To cancel a Contract, the Customer must inform the Supplier in writing. The Customer must also return any Course Materials to the Supplier within 7 days and at the Customer's own cost. The Customer has a legal obligation to take reasonable care of any Course Materials while in their possession. If the Customer fails to comply with this obligation, the Supplier may have a right of action against them for compensation.

6.3 Clause 6 does not affect your other statutory rights as a consumer.

7. AVAILABILITY AND DELIVERY

7.1 The Customer's order will be fulfilled by the Supplier only after payment has been received.

8. FEES AND PAYMENT

8.1 The fees for the performance of the Services and/or Courses are as set out in the Proposal Booking Form and Invoice. Subject to clause 6, once the Customer has confirmed their agreement



with the Acceptance Form in accordance with clause 5.1 The Customer will be liable for the whole fee unless the Supplier receives written notification of cancellation in accordance with clause 6.

8.2 Invoiced amounts shall be due 14 days after the date of issue of invoice, unless otherwise agreed. The Supplier shall be entitled to charge interest on overdue invoices from the date when payment becomes due from day to day until the date of payment this will be at a rate of 5% per annum above the base rate of the Bank of England. In the event that the Customer's procedures require that an invoice be submitted against a purchase order to payment, the Customer shall be responsible for issuing such purchase order and completing the relevant section of the Acceptance Form before the Services are performed by the Supplier and/or Courses provided and/or Course Materials delivered.

8.3 Subject to clause 6, should the Contract be cancelled prior to the Services commencing in line with the table below.

Notice Given Prior to Each Booking	% Refund
28 Days +	100%
15 -28 Days	75%
3-14 Days	50%
2 Days or less	0%
Non-attendance without notice	0%

8.4 Unless training will commence prior to this in which case the invoice must be paid in full before the first training date commences.

9. CUSTOMER'S OBLIGATIONS

9.1 To enable the Supplier to perform its obligations under the Contract, the Customer shall:

9.1.1 Co-operate with the Supplier;

9.1.2 Provide the Supplier with any information reasonably required by the Supplier;

9.1.3 Obtain all necessary permissions and consents which may be required before the commencement of the Services and/or provision of the Courses; and

9.1.4 Comply with such requirements as may be set out in the Acceptance Form, Booking Form or otherwise agreed between the parties.

9.2 The Customer shall be liable to compensate the Supplier for any expenses incurred by the Supplier as a result of the Customer's failure to comply with Clause 9.1.

9.3 Subject to clause 6 and to clause 16, should the Customer unlawfully terminate or cancel the Services as set out in the Booking Form, the Customer shall be required to reimburse the Supplier for all third party costs incurred by the Supplier in anticipation of performance of the Services and/or Courses under the Contract.

9.4 For the avoidance of doubt, the Customer's failure to comply with any obligations under Clause 9.1 shall be deemed to be a cancellation of the Services as set out in the Service Specification and/or Course description and subject to the payments as set out in this clause.

9.5 In the event that the Customer or any third party, not being a sub-contractor of the Supplier, shall omit or commit anything which prevents or delays the Supplier from undertaking or complying with any of its obligations under these Terms and Conditions, then the Supplier shall notify the Customer as soon as possible and:

9.5.1 The Supplier shall have no liability in respect of any delay to the completion of any Services;

9.5.2 If applicable, the timetable for the Services will be modified accordingly;



9.5.3 The Supplier shall notify the Customer at the same time if it intends to charge the Customer additional costs.

9.6 The Customer must provide suitable and sufficient training facilities, unless otherwise agreed by the Supplier large enough to accommodate all candidates, and the Course being undertaken; provide adequate comfortable seating and provision for written work, along with a projector and table for the trainer; provide suitable parking provision where possible for the trainer allowing for unloading of equipment. The Supplier reserves the right to cancel training for the Courses if the training facilities are found to be inadequate.

10. REFUND/RETURN POLICY

10.1 The Supplier aims to provide a straightforward service to Customers. If the Customer considers that the performance of the Supplier's Services and/or Courses has been unsatisfactory or if any difficulty has arisen in the Supplier/Customer business relationship, the Customer should contact the Supplier immediately.

10.2 The Supplier shall review the situation and endeavour to resolve it to the Customer's satisfaction. If the Supplier finds that the Services and/or Courses provided to the Customer have been unsatisfactory, the Supplier shall notify the Customer and shall refund all monies paid by the Customer to the Supplier within 30 days of that notification.

11. CANCELLATION POLICY

11.1. Subject to clause 6, the following cancellation provisions shall apply:

111.1.1 Short Courses (on site) - once the Supplier receives confirmation from the Customer that they wish to proceed with the order as per the Supplier's Booking Form and/or Course description, the Customer shall be liable for the whole fee unless the Customer provides the Supplier with written notification of cancellation. **Subject to Clause 8.3**

Cancellation or transfer must be made known to the Supplier before the date of the Course. If the Customer does not attend a Course without giving prior notice to the Supplier, the full Course fee remains payable.

11.1.4 All Courses – no refund will be made for non attendance on a Course. In the event of a cancellation of a Course by the Supplier, the Supplier will use reasonable endeavours to inform all Customers as soon as reasonably possible of the cancellation; where it is practicable to do so. All Course fees paid will be reimbursed in full, but the Supplier is not obliged to reimburse any other costs which have been incurred by the Customer (including, and not limited to, travel costs, accommodation, etc.)

12. ALTERATIONS TO THE BOOKING FORM

12.1 The parties may mutually agree to alter the scope of the Services as set out on the Booking Form. The alterations agreed between the parties shall be set out in the Booking Form.

12.2 The Customer may make a request to the Supplier to alter the scope of the Services as set out in the Booking Form by giving [21 days] written notice to the Supplier prior to the date that the Services are to be performed by the Supplier.. On receipt of the written request from the Customer, the Supplier shall, within 7 days or such other period as may be agreed between the parties, advise the Customer in writing of any changes to the amount of fees payable by the Customer as a result of the alterations.



12.3 The Supplier may propose alterations to the scope of the Services as set out in the Booking by giving 14 days written notice to the Customer prior to the date that the Services are to be performed by the Supplier. The Customer shall, within 5 working days of receipt of such notice, or such other period as may be agreed between the parties, advise the Supplier in writing as to whether or not they wish to proceed with the Contract on the basis of the alterations.

12.4 Should the Customer wish to proceed with the Contract on the basis of the alterations as set out in clause 12.2, The Supplier shall generate a new Booking Form to reflect the alterations as agreed by the Customer and send the new Booking Form to the Customer and the Supplier shall perform the Services in accordance with the new Booking Form.

13. WARRANTY

13.1 The Supplier warrants that the Services performed under the Contract shall be performed using reasonable skill and care.

13.2 Without prejudice to clause 13.1, and except as expressly stated in these Terms and Conditions, all warranties, whether express or implied by operation of law or otherwise, are hereby excluded in relation to the Services to be provided by the Supplier.

14. INDEMNIFICATION

14.1 The Customer shall indemnify the Supplier against all claims, costs and expenses that the Supplier may incur and which arise, directly or indirectly, from the Customer's breach of any of its obligations under the Contract, including any claims brought against the Supplier alleging that any Services provided by the Supplier in accordance with the Service Specification infringes any third party Intellectual Property Rights.

15. LIMITATION OF LIABILITY

15.1 Subject to clause 15.3, if the Supplier fails to comply with these Terms and Conditions, the Supplier shall only be liable to the Customer for the price of the Services and/or Courses paid by the Customer and, subject to clause 15.3, any losses that the Customer suffers as a result of the Supplier's failure to comply (whether arising in contract, tort (including negligence), breach of statutory duty or otherwise) which are a foreseeable consequence of such failure.

15.2 Subject to clause 15.3, the Supplier will not be liable for losses that result from a failure to comply with these Terms and Conditions that fall into the following categories:

- i. loss of income, revenue or applicable salaries;
- ii. loss of business;
- iii. loss of profits;
- iv. loss of anticipated savings;
- v. loss of data;
- vi. waste of management or office time; or
- vii. loss of a customer's out of pocket expenses.

15.3 Nothing in this Contract excludes or limits our liability for:

15.3.1 Death or personal injury caused by our negligence;

15.3.2 Fraud or fraudulent misrepresentation;

15.3.3 Any breach of the obligations implied by section 12 of the Sale of Goods and Services Act 1982.

15.3.4 Any other matter for which it would be illegal for us to exclude or attempt to exclude our liability.

16. TERMINATION



16.1 Either party may terminate the Contract forthwith by notice in writing to the other if:

16.1.1 The other party commits a material breach of the Contract and, in the case of a breach capable of being remedied, fails to remedy it within 30 calendar days of being given written notice from the other party to do so;

16.1.2 The other party commits a material breach of the Contract which cannot be remedied under any circumstances;

16.2 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the contract without liability to the other if:

16.2.1 An order is made or a resolution is passed for the winding up of the other party; an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, or becomes bankrupt; or

16.2.2 The other party ceases, or threatens to cease, to trade; or

16.2.3 The other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

17. INTELLECTUAL PROPERTY RIGHTS

17.1 Any Intellectual Property Rights produced from or arising as a result of the performance of the Contract/Services (including the Courses and Course Materials) shall, so far as not already vested, become the absolute property of the Supplier, and the Customer shall do all that is reasonable to ensure that such rights vest in the Supplier by the execution of appropriate instruments or the making of agreements with third parties.

17.2 The Customer shall have no rights in connection with these Services and/or Courses and/or Course Materials unless set out in these Terms and Conditions.

18. FORCE MAJEURE

18.1 Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to, severe weather, strikes, lock outs, accidents, war, fire, the act or omission of government, highway authorities or any telecommunications carrier, operator or administration or other competent authority, or the delay or failure in manufacture or supply by third parties of equipment or services, and the party shall be entitled to a reasonable extension of its obligations after notifying the other party of the nature and extent of such events. If the force majeure event continues for a period of longer than three (3) months, then either party shall be entitled to terminate the Contract without liability to the other.

19. NO PARTNERSHIP OR AGENCY

19.1 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.

20. ASSIGNMENT



20.1 The Customer shall not be entitled to assign its rights or obligations or delegate its duties under the Contract without the prior written consent of the Supplier.

20.2 The Supplier may transfer, assign, charge, sub-contract or otherwise dispose of a Contract, or any of our rights or obligations arising under it, at any time during the term of the Contract.

21. SEVERABILITY

21.1 If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if the Contract had been agreed with the invalid illegal unenforceable provision eliminated.

22. WAIVER

22.1 The failure by either party to enforce at any time or for any period any one or more of the Contract herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions of the Contract.

23. NOTICES

23.1 Any notice to be given by either party to the other may be served by email, or by post to the address of the other party given in the Acceptance Form or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

24. ENTIRE AGREEMENT

24.1 These Terms and Conditions and any document expressly referred to in them constitute the whole agreement between the parties relating to the subject matter and supersedes any previous discussions, correspondence, negotiations, agreements, previous arrangements, understanding or proposals, oral or written. Nothing in this Contract shall limit or exclude liability for fraud or fraudulent misrepresentation.

25. VARIATION

25.1 The Supplier has the right to revise and amend these Terms and Conditions from time to time to reflect changes in market conditions affecting the Supplier's business, changes in technology, changes in payment methods, changes in relevant laws and regulatory requirements and changes in our system's capabilities.

25.2 The Customer shall be subject to the policies and Terms and Conditions in force at the time that they order Services and/or Courses from the Supplier, unless any change to those policies or these Terms and Conditions is required to be made by law or governmental authority (in which case it will apply to orders previously placed by the Customer), or if the Supplier notifies the Customer of the change to those policies or these Terms and Conditions before the Supplier sends the Customer the Service Specification/Course description (in which case the Supplier has the right to assume that the Customer has accepted the change to the Terms and Conditions, unless the Customer notifies the Supplier to the contrary within seven (7) working days of receipt by the Customer of the Services Specification/Course description).

26. NO THIRD PARTIES

26.1 Nothing in these Terms & Conditions shall confer on any third party the right to enforce any provision of these Terms & Conditions.

27. GOVERNING LAW AND JURISDICTION



27.1 These Terms and Conditions shall be governed by and constructed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.

28. SUBSTITUTION

28.1 The supplier reserves the right to substitute locations, employees (and associated individuals), etc for any and all services offered to any external body including the customer or prospective customer.

29. NON SOLICITATION CLAUSE

29.1 If, for any reason, a permanent member of staff is employed directly or indirectly by a customer or prospective customer or any associated business to the customer an introduction fee equal to 35% of the permanent member of staffs first years taxable earnings. If the member of staff is found to be engaged in any capacity (not permanent employment) without written consent of the Director of MacLeod McCulloch Ltd a fixed fee of £17,500 + VAT will be payable immediately.

