

GP Standard Terms and Conditions Schedule USGP

Agenda for Client Name

[Quotation reference]

Created by [Author]

Date

Version history

Version	Date	Author	Summary of version

Standard Terms and Conditions

Schedule

This Terms & Conditions Schedule (“**Agreement**”) is between GP Strategies Corporation (hereinafter referred to as “**GP STRATEGIES**”) and the entity identified in the Client Engagement Form (the “**Client**”) that wishes to use a training program from GP STRATEGIES, and describes the terms and conditions pursuant to which GP STRATEGIES will provide the services to the Client, which agrees to be bound by the terms and conditions of this Agreement.

1. Definitions

1.1. In this Agreement, the following expressions shall have the following meanings:

“**Authorised User**” means any employee of Client to whom access to a Product is provided in accordance with the terms of this Agreement.

“**Bespoke**” means any alteration to an existing GP STRATEGIES Product, or a brand new solution not previously catalogued.

“**Charges**” means the total fees payable for the Services (including any applicable license fees) as specified in the Client Engagement Form, or as otherwise may be agreed between the parties in writing.

“**Client Materials**” means any materials, as may be set out in the Client Engagement Form or otherwise agreed between the parties, that Client provides to GP STRATEGIES to be incorporated into the Deliverables, including but not limited to Client logos, trademarks, images, video content, corporate information, specific training or learning content and/or other information relating to Client’s business, as well as any third party materials which Client may provide to GP STRATEGIES for inclusion in the Deliverables.

“**Confidential Information**” means non-public information of GP STRATEGIES or Client to which the other party may have access, including, but not limited to, any information a reasonable person would consider confidential and/or which is marked “confidential” or “proprietary” by the Disclosing Party. “Confidential Information” does not include information which the Receiving Party can conclusively establish: (i) was publicly known prior to the time of disclosure by the Disclosing Party; (ii) becomes publicly known after disclosure by the Disclosing Party through no wrongful action or omission of the Receiving Party or any of its employees, contractors, or agents; (iii) was already rightfully in possession of the Receiving Party at the time of disclosure by the Disclosing Party; or (iv) is independently developed by the Receiving Party without access to the Disclosing Party’s Confidential Information.

“**Data Protection Laws**” means (a) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data, including but not limited to the UK Data Protection Act 2018; and (b) to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Provider is subject, which relates to the protection of personal data.

“**Deliverables**” means the items which are produced and/or delivered to the Client as outputs of the Services.

“Disclosing Party” means a party that discloses Confidential Information.

“EU GDPR” means the General Data Protection Regulation ((EU) 2016/679), as it has effect in EU law.

“Intellectual Property Rights” means patents, unpatented inventions, registered and unregistered designs and design rights, copyright (including, without limitation, rights in computer software), database rights, topography rights, domain names, trademarks, service marks, trade names, rights in trade secrets, know-how including applications and the right to apply for the foregoing and all other intellectual property rights of any nature whatsoever, and all rights of a similar nature or having similar effect, throughout the world whether registered or unregistered.

“Product” means learning solutions delivered by electronic means and listed within the Client Engagement Form, including but not limited to SCORM publications, audio and video files, PDF documents and related materials (including but not limited to software, administration and user reference materials, reports, and services) published by GP STRATEGIES.

“Receiving Party” means a party that receives Confidential Information from a Disclosing Party.

“Services” means the services to be provided by GP STRATEGIES to the Client under each respective Client Engagement Form and this Agreement.

“UK GDPR” has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018. **“UK GDPR”** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

- 1.2. Headings contained in this Agreement are for reference purposes only and shall not be deemed to be an indication of the meaning of the clause to which they relate.
- 1.3. Where the context so implies, words importing the singular number shall include the plural and vice versa and words importing the masculine shall include the feminine and vice versa.
- 1.4. Anything agreed in a Client Engagement Form takes priority over the terms and conditions set out in this Agreement. Except as set out in this Agreement, no other terms shall apply, even where specified in the Client’s purchase order or otherwise.

2. Services

GP STRATEGIES shall perform the Services as specified in the Client Engagement Form or as may be otherwise agreed. This Agreement shall come into effect upon the execution of the Client Engagement Form, which may be executed digitally. Where there is any discrepancy between a Client Engagement Form and the remainder of this Agreement, the Client Engagement Form shall take precedence. GP STRATEGIES shall use its reasonable endeavours to complete the Services in accordance with any timetable specified in the Client Engagement Form; however, time is not of the essence and any time stated for completion or delivery shall not be a term of this Agreement but shall be an estimate only. Client shall provide GP STRATEGIES with feedback promptly on delivery of Deliverables, and the Deliverables shall be accepted by the Client upon the first occurrence of: (a) written acknowledgement (email included) by the Client that the Deliverables are accepted; or (b) the passage of five (5) days from delivery by GP STRATEGIES without written notice from Client that the Deliverables do not meet the specifications that were agreed in the relevant Client Engagement Form (“Acceptance Criteria”), and clearly stating the non-conformities. The Client may only reject Deliverables if they do not comply with the Acceptance Criteria. Where the Client does not accept the Deliverables in accordance with this section, it shall provide GP STRATEGIES written notice of this within five (5) business days from delivery and stating and demonstrating the non-conformities, and GP STRATEGIES shall correct the non-conformities and resubmit the Deliverables to the Client for its acceptance as soon as practicable.

3. Warranty

GP STRATEGIES warrants that the Services shall be performed using reasonable skill and care and shall be of a quality conforming to generally accepted industry standards and practices. For digital solutions, GP STRATEGIES does not warrant that the operation of the output of the Services shall be uninterrupted or error-free. Notwithstanding the foregoing, GP STRATEGIES shall at its own expense correct any material defect in any Deliverables, (i) provided the defect has not arisen as a consequence of technical changes to the post-Acceptance delivery environment or implementation/changes to the Deliverables which have been carried out by parties other than GP STRATEGIES or any party under its control, or (ii) use of the Deliverables not in accordance with the terms of the Agreement and the applicable Client Engagement Form. The Client warrants to GP STRATEGIES that it has obtained all necessary licenses, rights, and consents to allow GP Strategies’ use of any materials it provides to GP STRATEGIES as part of the Services. Client shall indemnify and keep indemnified GP STRATEGIES against any third-party claims arising from such use of the materials by GP STRATEGIES. EXCEPT AS EXPRESSLY SET FORTH HEREIN, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. NO STATEMENT OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM GP STRATEGIES IN ANY MEANS OR FASHION SHALL CREATE ANY WARRANTY NOT EXPRESSLY AND EXPLICITLY SET FORTH IN THIS AGREEMENT.

4. Client's Obligations

- 4.1. To enable GP STRATEGIES to perform its obligations under this Agreement, the Client shall: (a) cooperate with and provide GP STRATEGIES in a timely manner with any reasonable information required by PDT; (b) not delay or carry out any actions or inactions which may lead to a delay in the delivery timescales and to comply with such other requirements as may be set out in the Client Engagement Form or as otherwise agreed in writing between the parties; and (c) appoint a suitably competent project manager with the appropriate level of authority to liaise directly with GP STRATEGIES in relation to all Deliverables. In the event of a significant Client delay to a delivery schedule, GP STRATEGIES shall not be liable for such a delay and shall be entitled to an extension of time necessary for performing its obligations as a consequence of the delay together with reimbursement by the Client of any additional costs incurred by GP STRATEGIES and payment of any additional charges as a result of the delay.
- 4.2. Client shall ensure that the courses that are booked are suitable for the ability and knowledge of their delegate(s) and any local or in-country regulations that may apply now or in the future in advance of delivery. The Deliverables are intended to be used for educational purposes only, and do not act as a substitute for the primary legislation or regulatory or other publications. The training explicitly does not constitute, nor displace the need for, legal advice. It is therefore the Client's responsibility to check that the training meets its particular requirements and seek appropriate professional advice as deemed needed.
- 4.3. For digital solutions, it is the Client's responsibility to ensure compatibility of software, and full settlement of the Charges will be due in the event of failed access due to incompatible software and/or devices.

5. Charges and Payment Terms

The Client shall pay the Charges as specified in each Client Engagement Form. All payments are due within thirty (30) days from the date of invoice and are non-cancellable and non-refundable except as provided in this Agreement or the applicable Client Engagement Form. If Customer requires a purchase order (P.O.), it shall be provided when the Order Form or SOW is signed. In no event shall Customer's failure or delay in providing a P.O. alter its payment obligations under the relevant Order Form or SOW. Digital solutions tailored to Client logo only will be invoiced at 100% on commission of sale. Digital solutions with Bespoke tailoring will be invoiced at 50% on commission of sale, and 50% on delivery. Unless otherwise stated in the applicable Client Engagement Form, all other services will be invoiced on or after delivery. If Client does not pay any amount (not disputed in good faith) when due, GP STRATEGIES may charge interest on the unpaid amount at the rate of 1.5% per month (or if less, the maximum rate allowed by law). All fees are exclusive of value added tax ("VAT") and / or any other sales taxes, which shall be paid by the Client at the then prevailing rate. Customer agrees to pay GP STRATEGIES' expenses, including reasonable attorneys and collection fees, incurred in collecting amounts not subject to a good faith dispute. If applicable, Post Workshop Inclusion Toolkit Deliverables are provided as complimentary in English language only. Additional language translations are available for a fee on request.

6. Disclosure of Confidential Information

Each of the parties agrees: (i) not to disclose any Confidential Information to any third parties, except as mandated by law; (ii) not to use any Confidential Information for any purposes except carrying out such party's rights and responsibilities under this Agreement; and (iii) to keep the Confidential Information confidential using the same degree of care such party uses to protect its own Confidential Information; provided, however, that such party shall use at least reasonable care. These obligations shall survive for three (3) years after termination of this Agreement or for so long as such Confidential Information is retained by a party. The Receiving Party may disclose Confidential Information to the extent that it is required to be disclosed pursuant to a statutory or regulatory provision or court order, provided that the Receiving Party provides prior notice of such disclosure to the Disclosing Party, unless such notice is prohibited by law, rule, regulation, or court order. Upon termination of this Agreement, all Confidential Information shall be returned to the respective Disclosing Party. If either party breaches any of its obligations with respect to confidentiality or the unauthorized use of Confidential Information hereunder, the other party shall be entitled to equitable relief to protect its interest therein, including but not limited to, injunctive relief.

7. Intellectual Property (IPR)

- 7.1. Unless otherwise agreed, the IPR in all Bespoke Deliverables created specifically and exclusively for the Client and applicable solely to the Client's requirements pursuant to this Agreement shall vest in the Client upon payment in full of all sums due to GP STRATEGIES. The IPR in all other Deliverables, whether developed or modified using pre-existing content, training material, information or software, or using content, information, software or other content developed not only for the Client but also for, or in contemplation of, other GP STRATEGIES clients, shall remain vested in GP STRATEGIES (or its licensors), who shall on payment of all sums due to GP STRATEGIES grant a perpetual licence to the Client to use the same free of further charge solely to the extent required to enjoy the Services and Deliverables, or such other type of license as may be specified in the relevant Client Engagement Form. Any existing proprietary code, assets, content, and training materials previously developed by GP STRATEGIES shall remain the absolute property of GP STRATEGIES and may not be copied (in full or in part), sold or hired without prior written permission from GP STRATEGIES.
- 7.2. For digital training solutions, GP STRATEGIES grants to the Client a perpetual licence that permits the use, download or storage of the Deliverables set out in the Client Engagement Form. This licence is limited, revocable, non-exclusive, non-sublicensable and non-transferable, and is subject to the Client's compliance with its obligations under this Agreement including payment of the Charges in full. This license is granted to the Client only and the licensed Products cannot be shared or exchanged with any other party. The Client may only use the licensed Products for internal purposes in the course of Client's own business, unless otherwise agreed in writing with GP STRATEGIES. The Client shall not forward (and shall procure that no Authorised User shall forward) via any means, any content provided by GP STRATEGIES to anyone other than the Client's Authorised Users. Client may not: (i) sell, sub-licence, distribute, copy, disassemble, decompile, reverse engineer, translate, transfer, or otherwise make available any licensed Product and/or its content to any other person; (ii) use any licensed Product or its content to create any derivative works or products that could be considered competitive products; or (iii) allow any

third party to access, benefit from or use any licensed Product or its content in any way. The Client shall maintain all security measures as may reasonably be required to prevent any unauthorised access to or use of any licensed Product. The Client's rights under this Agreement may be revoked if the Client fails to comply in any material respect with any of the terms of this Agreement, and upon notice of revocation the Client shall, and shall procure that its Authorised Users and anyone else to whom the Client has provided access to any licensed Product shall, immediately: (i) cease to use or access the licensed Product and its content; and (ii) destroy all copies of the licensed Product, its contents and any information or derivative works which have been created or acquired by the Client as a result of or in connection with this Agreement.

8. Indemnification

GP STRATEGIES shall indemnify, defend and hold Client harmless from and against all losses arising out of any third-party claim alleging that Client's authorised use of the Services infringes any Intellectual Property Right of such third party. Client shall: (i) give GP STRATEGIES prompt written notice of such claim, (ii) grant GP STRATEGIES sole control of the defence or settlement of such claim and (iii) reasonably cooperate with GP STRATEGIES, at GP STRATEGIES' expense, in its defence or settlement of the claim. To the extent that GP STRATEGIES is prejudiced by Client's failure to comply with the foregoing requirements, GP STRATEGIES shall not be liable hereunder. In the event of an indemnity claim, GP STRATEGIES may at its own discretion and expense, (i) procure the right, license, or permission for Client to continue to using the infringing Services/Deliverables; (ii) modify the Services or Deliverables so that they are not infringing, while remaining functionally equivalent to the current Services or Deliverables; or (iii) terminate the applicable Client Engagement Form and refund any unused pre-paid fees. THIS SECTION SETS FORTH GP STRATEGIES 'S ENTIRE OBLIGATION TO CLIENT WITH RESPECT TO ANY CLAIM SUBJECT TO INDEMNIFICATION UNDER THIS SECTION.

9. Limitation of Liability

9.1. Neither Party excludes or restricts liability for:

- (a) death or personal injury sustained by any employee, agent, or subcontractor of the other Party to the extent that its own negligence or that of its employees, agents or subcontractors causes such death or personal injury; or
- (b) fraud or fraudulent misrepresentation.

9.2 This Clause 9 shall apply to all liability of GP STRATEGIES in connection with or in relation to the subject matter of this Agreement howsoever arising and whether liability arises in contract, tort or otherwise and whether resulting from any breach of GP STRATEGIES 's obligations under this Agreement or from any act, omission, statement, advice or recommendation, whether negligent or not, of its employees, agents or subcontractors, and whether or not the loss or damage had been foreseeable.

9.3 Subject to Clause 9.1, the aggregate liability of GP STRATEGIES under this Agreement (including any liability for the acts or omissions of its employees, agents and sub-contractors and including under any indemnity obligation) will be limited to the higher of £100,000 and the aggregate of the

fees due under the applicable Client Engagement Form. In no event will GP STRATEGIES be liable to the Client for loss of profits or damages arising from loss of data or any special, indirect, or consequential damages suffered by the Client.

10. Termination and Cancellation

- 10.1. *Termination Rights.* A party may terminate any Client Engagement Form (i) for any material breach not cured within thirty (30) days following written notice of such breach, or (ii) immediately upon written notice if the other party files for bankruptcy, becomes the subject of any bankruptcy proceeding or becomes insolvent. Notwithstanding the foregoing, termination of this Agreement shall not affect the right of GP STRATEGIES to be paid for all and any Services and Deliverables provided by it prior to the date of termination.
- 10.2. *Cancellations.* Cancellations or postponements should be made in writing via email to the Client's assigned GP STRATEGIES Account Manager or Project Manager. Cancellation fees shall be as set forth in the Client Engagement Form.

11. Data Protection

Each party shall comply at all times with its obligations under applicable Data Protection Laws. Unless otherwise agreed between the parties in any applicable Client Engagement Form, it is currently not envisaged that GP STRATEGIES shall process any personal data on behalf of the Client. Notwithstanding the foregoing, the Parties acknowledge that business contact information regarding a Party's personnel and/or third parties engaged by it may be shared as part of maintaining the business relationships. The Parties consent to processing such information for purposes related to the Agreement such as contract management, payments, and business development. The Parties may transfer such information to any country where their global organisation operates and hereby authorises such transfer per se and on behalf of such personnel and/or third parties. If required by applicable Data Protection Laws, the Parties agree to sign any additional document required to allow the transfer of such data outside its country of origin.

12. Force Majeure

Except for payment obligations hereunder, neither Party shall be liable for any delay or failure to perform any of its obligations under this Agreement if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, 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, production, or supply by third parties of equipment or services, and the relevant Party shall be entitled to a reasonable extension of its obligations under this Agreement after notifying the other Party of the nature and extent of such events. Notwithstanding the foregoing, PDT reserves the right to cancel a course without prior notice due to events beyond its control. In this case, an alternative course will be offered at the earliest mutually convenient date. PDT cannot accept responsibility for any costs or loss incurred by the Client in the event of such cancellation.

13. General

- 13.1. GP STRATEGIES and the Client are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties.
- 13.2. Neither party will assign this Agreement (or any benefits or interests arising under this Agreement) without the prior written consent of the other party (which will not be unreasonably withheld or delayed) except that assignments to associated companies of GP STRATEGIES will be permitted. Any attempted assignments not permitted hereunder shall be void and of no force and effect. GP STRATEGIES shall be entitled to subcontract any of its obligations under this Agreement, provided that it shall remain responsible for the acts and omissions of its subcontractors.
- 13.3. If any provision of this Agreement 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 this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.
- 13.4. The failure by either party to enforce at any time or for any period any one or more of the terms and conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.
- 13.5. Any notice to be given by either party to the other hereunder may be served by email, fax, personal service or by post to the addresses detailed above. If the notice is sent by email it shall, unless the contrary is proved, be deemed to be received on the day it was sent; if sent by fax, it shall be deemed to be served on receipt of an error free transmission report; if given by letter it 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.
- 13.6. Amendment; Entire Agreement. No modification or addition to this Agreement is valid or binding unless set forth in writing and executed by authorised representatives of GP STRATEGIES and Client. This Agreement, including all Order Forms, SOWs, and documents attached hereto or incorporated herein by reference, constitutes the complete and exclusive statement of the parties' agreement as to the subject matter hereof and supersedes all proposals, requirements documents, discussions, presentations, responses to questions, or prior agreements, commitments or promises, oral, electronic or written, between the parties or provided by one party to another, relating to the subject matter hereof. Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on and shall have no remedy or right of action with respect to any statement, undertaking, promise, assurance, warranty, understanding or any representation or misrepresentation (whether contractual or non-contractual and whether negligently or innocently made) relating to the subject matter of this agreement and other than as expressly set out in this agreement as a warranty, in writing or not and made by or to any person. Nothing in this clause shall, however, operate to limit or exclude any liability for fraud. GP STRATEGIES objects to and rejects any additional or different terms proposed by Client, including those contained in Client's purchase order, acceptance, vendor portal or website. Neither GP STRATEGIES's acceptance of Client's purchase order nor its

failure to object elsewhere to any provisions of any subsequent document, website, communication, or act of Client shall be deemed acceptance thereof or a waiver of any of the terms hereof.

- 13.7. A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.
- 13.8. Each party shall observe the highest standard of business ethics and all applicable laws and regulations, including without limitation the Bribery Act 2010, regarding the giving/receiving of bribes, gifts, and gratuities. Each party shall avoid any conflict of interest, or any appearance of a possible conflict of interest, or other improper dealings.
- 13.9. This Agreement shall be governed by and construed in accordance with the laws of England. Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes) arising out of or in connection with the Agreement or its subject matter or formation.



Contact Us

Name:

Phone:

Email:



Phone: 888 843 4784
Email: info@gpstrategies.com
Website: gpstrategies.com

©2023 GP Strategies Corporation. All rights reserved. GP Strategies and GP Strategies with logo design are registered trademarks of GP Strategies Corporation. All other trademarks are trademarks or registered trademarks of their respective owners.

Part of Learning Technologies Group plc *ltg*