

SUPPLIER:

This programme will be supplied by **THE UNIVERSITY OF LEEDS** incorporated and registered in England and Wales with company number RC000658 whose principal place of business is at Leeds, LS2 9JT (the "University")

ORGANISATION:

In paying for this programme, participating Organisations (and Participants as individuals of those organisations attending the programme) accept the following Terms and Conditions. Specifically, it is agreed:

1. DEFINITIONS AND INTERPRETATION

"Confidential Information" has the meaning set out in clause 14.1;

"Data Protection Laws" means the Data Protection Act 2018, together with legislation incorporating GDPR;

"Data" means personal data passed under these Terms and Conditions, being in particular personal data being passed at Part A of Schedule 3;

"GDPR" means the General Data Protection Regulation;

"Intellectual Property Rights or IPRs" shall mean any patents, utility models, rights to inventions, copyright and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), semiconductor topography rights, image rights, rights in personality and similar rights, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

"Organisation Representative" means lead applicant for each organisation or such other person as shall be appointed by the organisation from time to time;

"Material" means any methodology or process, documentation, data or other material in whatever form, including without limitation any reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions (including any modifications thereto);

"Participant" means a participant registered on the Programme;

"Party" means a party to these Terms and Conditions;

"Programme" means the Exceptional NED Training Programme being offered under the terms of these Terms and Conditions;

"Programme Fee" means the fee for the Programme to be paid by the Organisation or Participant to the University for the execution of the Programme in accordance with the terms of these Terms and Conditions;

"Programme Specification" means the specification for the Programme detailed under Schedule 1;

"The School" means the University of Leeds Business School (LUBS);

"University Material" means any Material:

- owned, licensed or used by the University or a third party licensor of the University;
- owned (or to be owned) by the University or its third party licensor pursuant to these Terms and Conditions; and/or
- licensed from, or made available or supplied by the University.

"University Representative" shall mean Sarah Underwood or such other person as shall be appointed by the Head of the School acting on behalf of the Dean of Leeds University Business School (LUBS).

2. COMMENCEMENT AND DURATION

2.1 These Terms and Conditions shall continue until the Programme has been delivered by LUBS to the Participants, when it shall terminate automatically unless terminated earlier under clause 12.

2.2 Each cohort of the Programme will follow a timetable agreed in writing by the University Representative.

3. SELECTION OF PARTICIPANTS

3.1 There is no minimum academic or other requirement for Participants entering onto the Programme. The appropriate match between a Participant's requirements and the Programme shall be discussed and agreed by the Representatives.

4. PROGRAMME SPECIFICATION

4.1 Each of the Parties agrees to meet its commitments stated under the Programme Specification for each cohort of Participants.

5. CAPACITY

5.1 For a cohort of Participants to run there must be a minimum of 8 participants.

5.2 The maximum recommended capacity for each cohort shall be 20 participants per cohort.

6. NON-ACCREDITATION

6.1 The Programme is not a programme that leads to any award. There is to be no assessment of Participant work. Participants that successfully attend the Programme will achieve a 'Programme Participation Certificate' in the name of the University of Leeds.

7. QUALITY

7.1 LUBS is committed to delivering a quality Programme. In particular this will mean that LUBS will ensure that all material they produce and staff they engage in delivering the Programme are of a high professional standard.

7.2 Feedback from Participants will be collected by LUBS at the end of the programme.

7.3 The Representatives will meet at pre-defined intervals to discuss the feedback and discuss appropriate measures that need to be taken to address any concerns.

8. PAYMENT

8.1 The Programme Fee shall be paid by each participating Organisation or Participant in accordance with the terms detailed under Schedule 2.

9. COMMUNICATION

9.1 Day to day communication relating to the Programme and delivery of other rights and commitments under these Terms and Conditions shall be between the Representatives.

10. PUBLICITY

10.1 Publicity (print or social media) relating to the Programme shall be agreed between the Representatives.

10.2 The decision to submit the Programme for any kind of awards in the learning and development space shall be at the discretion of LUBS.

11. LIABILITY

11.1 Nothing excludes or limits either party's liability in respect of:

- 11.1.1 death or personal injury caused by that party's negligence;
 - 11.1.2 fraudulent misrepresentation; or
 - 11.1.3 liability which may not otherwise be limited or excluded under applicable law.
- 11.2 Except as provided in clause 11.1 above, in no event is either party liable for:
- 11.2.1 loss of profits, business, contracts or anticipated savings; or
 - 11.2.2 any indirect or consequential loss;
 - 11.2.3 whether arising from tort (including negligence), breach of contract or otherwise.
- 11.3 Subject to clauses 11.1 and 11.2 the University's aggregate liability to the Organisations and Participants in respect of all claims arising out of or in connection with these Terms and Conditions will be limited to a sum equal to the Programme Fee payable by the Organisation or Participant to the University under these Terms and Conditions.
- 11.4 For the avoidance of doubt each Party shall remain responsible for the employment of its own staff and engagement of its own contractors. There are to be no joint employment or contracting arrangements. Each party shall be liable for the actions of its own staff, agents and contractors.
- 11.5 These Terms and Conditions shall not constitute a legal partnership. There shall be no joint and several liability.

12. TERMINATION

- 12.1 A Party may terminate these Terms and Conditions if any of the following occurs:
- 12.1.1 the other Party is in material breach of a commitment under these Terms and Conditions and fails to remedy the same within 28 days of receiving written notice specifying such breach and requiring its remedy;
 - 12.1.2 the appointment of an administrator or of, the making of an administration order in relation to the other Party or the appointment of a receiver or administrative receiver of, or an encumbrance taking possession of or selling, the whole or part of the other Party's undertaking, assets, rights or revenue or any similar event occurs under the law of any other jurisdiction;
 - 12.1.3 the other Party is unable to pay its debts or is capable of being deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or any similar event occurs under the law of any other jurisdiction; and
 - 12.1.4 the other Party enters into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them or takes steps to obtain a moratorium or makes an application to a court of competent jurisdiction for protection from its creditors.

13. INTELLECTUAL PROPERTY

- 13.1 The University shall retain ownership of, and the Organisations (or Participants) shall not acquire any right, title or interest in or to, any IPRs in any University Material.
- 13.2 The Organisations (or Participants) shall not do or omit to do (or authorise any third party to do or omit to do) anything calculated or likely to:
- 13.2.1 diminish the rights of the University in the University Material;
 - 13.2.2 impair any registration (or application for registration) of the University Material;
 - 13.2.3 bring the University Material and/or the University into disrepute or to damage the goodwill or reputation attaching to the University Material and/or the University; and/or
 - 13.2.4 prejudice the validity of any of the University Material.
- 13.3 Participants shall comply with the University's reasonable instructions from time to time in respect of the use of the University Material.

14. CONFIDENTIALITY

- 14.1 The Parties each undertake to keep confidential and not to disclose to any third party, or to use themselves other than for the purposes of or as permitted under or in accordance with these Terms and Conditions (including for the purpose of enjoying the benefit of the rights and licences granted under clause 13), any confidential or secret information in any form directly or indirectly belonging or relating to the other its' business or affairs, disclosed by the one and received by the other pursuant to or in the course of these Terms and Conditions and the existence and terms of these Terms and Conditions ("**Confidential Information**").
- 14.2 Each Party may disclose the other Party's Confidential Information:
- 14.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under these Terms and Conditions. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's Confidential Information comply with this clause 14; and
 - 14.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 14.3 The obligations contained in this clause 14 shall not apply to any Confidential Information which:
- 14.3.1 is publicly known at the time of disclosure to the receiving party; or
 - 14.3.2 becomes publicly known otherwise than through a breach of these Terms and Conditions by the receiving party, its officers, employees, agents or contractors; or
 - 14.3.3 can be proved by the receiving party to have reached it otherwise than by being communicated by the other party including:
 - being known to it prior to disclosure; or
 - having been developed by or for it wholly independently of the other party; or
 - having been obtained from a third party without any restriction on disclosure on such third party of which the recipient is aware, having made due enquiry; or
 - is required by law, regulation or order of a competent authority (including any regulatory or governmental body or securities exchange) to be disclosed by the receiving party, provided that, where practicable, the disclosing party is given reasonable advance notice of the intended disclosure.
- 14.4 No Party shall use any other Party's Confidential Information for any purpose other than to perform its obligations under these Terms and Conditions.

15. DATA PROTECTION

- 15.1 The University is the data controller and is the data processor for the Data. The University agrees to process the Data only in accordance with Data Protection Laws and in particular on the following conditions:
- 15.1.1 the University shall only process the Data (i) on the written instructions from the Organisation (ii) only process the Data in order to provide the Programme and (iii) only process the Data in the UK with no transfer of the Data outside of the UK (Article 28, para 3(a) GDPR);
 - 15.1.2 ensure that all employees and other representatives accessing the Data are (i) aware of the terms of these Terms and Conditions and (ii) have received comprehensive training on Data Protection Laws and related good practice, and (iii) are bound by a commitment of confidentiality (Article 28, para 3(b) GDPR);
 - 15.1.3 the University agrees to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, complying with Article 32 of GDPR, details of those measures are set out under Part B of Schedule 3 to these Terms and Conditions (Article 28, para 3(c) GDPR);
 - 15.1.4 the University shall not involve any third party in the processing of the Data without the consent of the Organisations. Such consent may be withheld without reason. If consent is given a further processing agreement will be required (Article 28, para 3(d) GDPR);
 - 15.1.5 taking into account the nature of the processing, the University will use appropriate technical and organisational measures, in so far as this is possible, for the fulfilment of its obligation to respond to requests from individuals exercising their rights laid down in Chapter III of GDPR – rights to erasure, rectification, access, restriction, portability, object and right not to be subject to automated decision making etc. (Article 28, para 3(e) GDPR);

- 15.1.6 ensure compliance with the obligations pursuant to Articles 32 to 36 of GDPR – security, notification of data breaches, communication of data breaches to individuals, data protection impact assessments and when necessary consultation with the ICO etc., taking into account the nature of processing and the information available to the University (Article 28, para 3(f) GDPR);
- 15.1.7 where the University is to delete the Data, deletion shall include destruction of all existing copies unless otherwise a legal requirement to retain the Data. Upon request by the Organisation(s), the University shall provide certification of destruction of all Data (Article 28, para 3(g) GDPR);
- 15.1.8 make immediately available to the Organisation(s) all information necessary to demonstrate compliance with the obligations laid down under these Terms and Conditions and allow for and contribute to any audits, inspections or other verification exercises required by the Organisation(s) from time to time (Article 28, para 3(h) GDPR);
- 15.1.9 arrangements relating to the secure transfer of the Data from the Organisation(s) to the University and the safe keeping of the Data by the University are detailed under Part A of Schedule 3;
- 15.1.10 maintain the integrity of the Data, without alteration, ensuring that the Data can be separated from any other information created; and
- 15.1.11 immediately contact the Organisation(s) if there is any personal data breach or incident where the Data may have been compromised.

16. GENERAL

- 16.1 Neither Party shall be entitled to assign the rights or obligations under these Terms and Conditions at any time to any other party.
- 16.2 No variation of these Terms and Conditions shall be effective unless it is in writing and signed by the Representatives.
- 16.3 No failure or delay by a Party to exercise any right or remedy provided under these Terms and Conditions or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.4 The parties are independent and are not partners or principal and agent and these Terms and Conditions does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. Neither party shall have, nor shall represent that it has, any authority to make any commitments on the other party's behalf.
- 16.5 If any provision or part-provision of these Terms and Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these Terms and Conditions.
- 16.6 These Terms and Conditions constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 16.7 Provisions of these Terms and Conditions which are either expressed to survive its termination or, from their nature or context it is contemplated that they are to survive such termination, shall remain in full force and effect notwithstanding such termination.
- 16.8 In the event that any cause beyond the reasonable control of the Parties ("**Force Majeure Event**") prevents, hinders or delays a party in carrying out any of their obligations under these Terms and Conditions ("**Affected Party**"), the Affected Party shall not be in breach of these Terms and Conditions or otherwise liable for any such failure or delay in the performance of their obligations.
- 16.9 The Affected Party shall:
- 16.9.1 as soon as reasonably practicable following the start of a Force Majeure Event notify the other party in writing of the Force Majeure Event, including the date it started, likely duration and effect of the Force Majeure Event on its ability to carry out any of its obligations under these Terms and Conditions;
- 16.9.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations; and
- 16.9.3 as soon as reasonably possible following the end of the Force Majeure Event notify the other party that the Force Majeure Event has ended and resume its obligations under these Terms and Conditions.
- 16.10 If the Force Majeure Event exceeds one hundred and eighty (180) days, then either Party may upon giving written notice to the other require that these Terms and Conditions be terminated forthwith.
- 16.11 A person who is not a party to these Terms and Conditions shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms and Conditions.
- 16.12 These Terms and Conditions may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. No counterpart shall be effective until each Party has executed and delivered at least one counterpart.
- 16.13 These Terms and Conditions, and all negotiations and any legal agreements prepared in connection with the Arrangement, and any dispute or claim arising out of or in connection with them or their subject matter or formation, shall be governed by, and construed in accordance with, the law of England and Wales.
- 16.14 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this memorandum of understanding, the negotiations relating to the proposed Arrangement and any legal agreements prepared in connection with the Arrangement or their subject matter or formation.

SCHEDULE 1

Programme Specification

Programme Structure

<https://business.leeds.ac.uk/dir-record/short-courses/1512/exceptional-ned-training-programme>

SCHEDULE 2

Programme Fee

1. Payment terms: Payment to be made in full prior to the start of the programme
2. The indicated prices are for programme design and delivery.
3. All payments will be made via the University of Leeds online shop.
4. Fees are to be paid prior to the commencement of the Programme.

SCHEDULE 3

Data Protection

Part A – Details of Personal Data

During the course of the Programme, the Organisation or Participant will share details, specifically:

- Full names of Participants (for use on the participation certificate)
- Designations (for customisation of the Programme)

- Email Addresses (for the University to communicate with regarding the Programme)

Part B

Compliance with Article 32, para 1 of GDPR

1. Consideration of anonymisation, pseudonymisation and encryption.
The Data will be encrypted and saved in a password protected folder on the University’s secure server. Access within the University’s organisation will be limited to members of the Centre for Executive and Professional Education within the Business School. No Data will be held on laptops or other external storage devices. Anonymization and pseudonymisation of the Data has been considered but is not practical given the need to update Data against identified individuals.
2. The ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and related services.
Ongoing confidentiality and integrity of data is assured by account access controls and restricted permissions. Data availability is assured through asynchronous replication of data to an off-site location. Processing systems are protected through firewalls, intrusion prevention systems and machine room environmental controls, such as UPS, and water and fire detection / suppression.
3. The ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident.
The Data will be hosted on the University’s file share which is regarded as a crucial system for the University’s operations. As such recovery of this would be a high priority in the event of a physical or technical incident. In the worst case scenario the last 4 hours of Data would be lost as the asynchronous replication process to off-site systems takes place every 4 hours.
4. A process for regularly testing, assessing and evaluating the effectiveness of the technical and organisational measures for ensuring the security of the processing.
The University has deployed a Security Incident Event Management (SIEM) system to monitor critical systems and carries out regular vulnerability assessments along with internal and external penetration testing as and when required.

Compliance with Article 32, para 2 of GDPR

5. In assessing the appropriate level of security account shall be taken in particular of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to data transmitted, stored or otherwise processed.
- | | |
|---------------------------------------|--|
| The Purpose | For effective running of the Programme |
| Data | Full names, Designations, Email Addresses |
| Method of data sharing | Externally: Through email; Internally: Through accessing the secure folder |
| Format of Data | Microsoft Excel Workbook |
| Third parties with access to the Data | None |
| Data retention period | Data will be retained until 23 January 2021 |
| Data storage | See Part A. |

Compliance with Article 32, para 3 of GDPR

6. Adherence to an approved code of conduct referred to in Article 40 (GDPR) or an approved certification mechanism as referred to in Article 42 (GDPR) may be used as an element by which to demonstrate compliance with the requirements set out in para 1 of GDPR – see above.

Compliance with Article 32, para 4 of GDPR

7. The Processor to ensure that anyone acting on their behalf does not process any of the Data unless following instructions from Leeds unless they are required to do so under English law.