

## Terms of Business 2023

### 1 Introduction

- 1.1 The following terms of business (the “Terms”) relate to the purchases of Psysoft Ltd’s products, materials, training and consultancy services, and assessments in which Psysoft act as a distributor (hereinafter referred to as “Services”) and constitute an agreement between the individual and/or organisation (the “Client”) and Psysoft. This includes, but is not limited to, any work undertaken by Psysoft’s employees (hereinafter referred to as “Consultants”) on behalf of the Client.
- 1.2 The headings in these Terms are for convenience only and shall not affect their interpretation.
- 1.3 These Terms override any earlier terms appearing in Psysoft’s catalogues or elsewhere or referred to by the client whether in the order or in any negotiations.
- 1.4 Psysoft reserve the right to amend these Terms at any time, without prior notice.
- 1.5 By placing an order and/or using, or continuing to use Psysoft’s services, you (the Client) are acknowledging that you have read, understood and agree to these Terms.

### 2 Services

- 2.1 Consultancy projects should be based on a clear specification or proposal.
- 2.2 In booking Psysoft’s Services, the Client authorises Psysoft to proceed with all relevant preparations for providing the Services, including but not limited to purchase of materials and booking venues (if required).
- 2.3 Psysoft shall provide the Services using reasonable skill and care.
- 2.4 In providing the Services, Psysoft shall give sound advice based on the information available, but the Client will remain wholly responsible for action related to that advice.
- 2.5 Where any Service requires work to be completed prior to attendance, Psysoft reserve the right to deny attendance at the scheduled course if the pre-work has not been completed. In such event, the Client will be offered transfer to an alternative course date.
- 2.6 Where a training course is designed to lead to the award of a certificate, registration, diploma or other qualification, the award of the same is dependent upon the successful completion of the course and/or the passing of a test. Whilst Psysoft will make every effort to ensure a high standard of training and impartiality in such awards, no guarantee is given that every delegate attending will receive one.
- 2.7 In respect of any Services, only fee-paying clients are allowed to participate in and/or observe any event or course, including workshops and associated activities, unless otherwise agreed in writing by the Client and Psysoft.
- 2.8 It is the Client’s responsibility to use any Services purchased from Psysoft in accordance with the relevant qualification and professional requirements. Psysoft reserves the right to refuse to supply of such Services if the Client fails to comply with these guidelines.
- 2.9 Purchases of certain Services, including but not limited to certain assessment reports and instruments, must be made by or on behalf of an identified individual who is qualified to use the Service and can provide evidence of this qualification, should it have been awarded from an organisation other than Psysoft.

2.10 Where the Client's business is based outside Europe, please note that qualification in the use of certain instruments does not automatically mean that Psysoft will be able to supply the Client with such instruments.

2.11 Where any element of the Service is to be delivered virtually, the following terms shall apply:

- The registration instructions and log-in details for any virtual Services are personal to each participant. They may not be used by anyone else, nor may they be transferred or supplied to any third party or organisation.
- If the Client or anyone else attempts to make multiple use of the registration and log-in details supplied by Psysoft, the Client will be liable for the number of people who subsequently attended the virtual Services using the registration details.
- The Client acknowledges that participation in virtual Services requires use of certain technologies. The Client will, at their own expense: (a) provide their own viewing venue, computer systems, internet service, and other technology, devices, and accommodations necessary to participate in the virtual session; (b) obtain any software necessary to participate in the virtual session, including, without limitation, Zoom (or other provider as specified Psysoft). Psysoft accepts no responsibility or liability for any failure in the above technology requirements.
- Psysoft shall not be liable for any interruption to service or availability of internet connection or video-conferencing facility caused by equipment or technologies supplied, used or made available by the Client nor for the Client's inability to access any virtual session or content or functionality that forms part of the Services, nor for any interruption to service or availability of internet connection or video-conferencing facility caused by factors not under the control of Psysoft.

### 3 Client Cooperation

3.1 The Client acknowledges and agrees that, in order to derive benefits from the Services, the Client will be required to make such commitment as is appropriate to the Services being provided.

3.2 The Client agrees to cooperate with our reasonable instructions relating to performance of Services. Psysoft shall not be in breach of these Terms for any failure or delay in performance of any of our obligations in respect of the Services arising from or attributable to the Client's unreasonable delay or failure to cooperate with Psysoft's reasonable instructions.

3.3 If the Client fails to cooperate in a timely manner with Psysoft's reasonable instructions regarding performance of the Services, Psysoft may take reasonable actions to remediate or mitigate the effects of the Client's non-cooperation or delay, including (without limitation) rescheduling a course date, cancelling an event or engagement, or restricting or denying eligibility to participate in a course, event or engagement.

3.4 The Consultant will not be required to provide the services detailed in the specification or proposal if prevented from doing so by the acts or omissions of the Client or the Client's personnel. In this circumstance, the Client will not be entitled to a refund.

3.5 If the Client changes address, or employment, the Client must inform Psysoft of their new contact details as soon as practically possible to ensure records of their qualification are up to date.

3.6 In the event that the Client is not also qualified, they shall ensure that only a qualified individual uses the assessments in which they are qualified, that they remain at all times in the possession and under the control of the qualified individual and that the qualified individual complies with the guidelines for use.

## 4 Fees

4.1 A Consultant Day is a maximum of 9.00 a.m. to 5.30 p.m. (excluding travelling time) unless otherwise agreed in writing between the parties. If evening, weekend or public holiday work is involved and/or if the project involves work outside the British Isles, higher rates may apply (unless agreed in writing).

4.2 Fees specified on a proposal will be held for three months from the date of the proposal. Proposals accepted after that time may be subject to increased prices if a price rise has been applied since the date of the proposal.

4.3 The fees specified in the proposal are based on Psysoft's understanding of the Client's requirements. Psysoft reserves the right to make additional charges for:

- Expenses incurred in the course of undertaking the project, such as travel or hotel are charged extra to the fees. Travel, subsistence and courier charges are billed at cost: car travel will be charged at the prevailing rate per mile (available on request).
- Consultant time spent in excess of those estimated in the agreed proposal as a result of any delays caused in delivery of the Services due to any act or omission of the Client;
- Any client requests for any variation to the project. If this results in extra time being taken then this will be charged at the then prevailing rate per Consultant Day. Psysoft will seek to meet the request.

4.4 Price changes for Services, including but not limited to report prices and training courses, are subject to change without notice. Psysoft will make reasonable efforts to inform the Client of upcoming price changes for the Services they use regularly.

4.5 Any discounts or offers for Services will only be valid before the date of expiry stated in writing.

4.5 Unless otherwise agreed in writing between the parties, Services will be invoiced in advance of the Service delivery and must be paid in advance. Terms of trade are 30 days.

4.6 Fees are payable three weeks before the starting date of a training course, or thirty days after the date of the invoice, whichever is earlier. Fees for Services not involving training delivery are payable thirty days after the date of the invoice.

4.7 Psysoft reserves the right to request pre-payment for all Services.

4.8 If payment is not received by its due date, where possible, Psysoft may repossess any Services that have not been paid for.

4.9 Psysoft reserves the right to charge interest and costs of recovery in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (as amended).

4.10 If prices on an order or invoice are incorrect, Psysoft will contact the Client to correct the order.

4.11 Fees for in-house training courses include training materials unless these have to be purchased or hired from a third party (in which case they shall be supplied at a price to be agreed between the parties).

## 5 Cancellations, Refunds and Returns

5.1 Charges for cancellations (including postponement) before the commencement of a consultancy assignment or training course are as follows:-

- Within one week : the full fee;
- Within two weeks : 50% of the fee;
- Within three weeks : 25% of the fee.

Psysoft will discuss whether substitute work (to replace the work that has been cancelled) can be carried out on the days arranged for the original work. Fees for bespoke content design and the Consultant's time will still be applicable, even when the course or event itself has been cancelled.

5.2 All claims should be made in writing to Psysoft, quoting the invoice and customer account numbers:

- As soon as possible when the cancellation is requested
- Not later than 21 days after the scheduled training course or consultancy project

5.3 In the event of the Client cancelling a training course booking or a consultancy project after having already paid, subject to the time frames given in section 5.1 (above), a refund will be made to the Client. In the unlikely event of Psysoft cancelling a course or project after the Client has already paid, a full refund will be given or the Client may elect to transfer the project or course to an alternative date without a refund.

5.4 For all Services, including but not limited to token orders (online credits to generate assessment reports) and assessments, the Client may cancel their order and request a refund within 14 days of submitting the original order (with exceptions outlined in 5.6, 5.7, 5.8 & 5.9). No refund is applicable should the Client subsequently decide to not use the Services after the 14-day cooling off period.

5.6 All Services involving digital content are non-refundable once the digital content has been downloaded. In line with the Consumer Rights Act, the Client waives their cancellation rights by downloading the content.

5.7 The Client is not eligible for a refund for Services where a report has already been ordered and/or generated by Psysoft on behalf of the Client (even if the Client has not yet received it). The Client will be liable for any costs already incurred by Psysoft before cancellation of the order.

5.8 The Client is not entitled to a refund should the delivery of the Service, such as a training course or workshop, take place within the 14-day cooling off period.

5.9 The Client is not entitled to a refund for any tokens (online credits to generate assessment reports), where they have already been used to generate a report.

5.10 Where a refund is due to the Client and such is caused at the fault of the Client, Psysoft reserves the right to deduct any administrative bank/ credit card charges from such refund. Where the refund is necessitated at the fault of Psysoft, no such deductions shall be made.

5.11 Tokens (online credits to generate assessment reports) will expire where there has been no account usage over a period of 3 years.

## 6 Sub-contractors

- 6.1 Psysoft shall be entitled, in its absolute discretion, to appoint sub-contractors to provide all or part of the Services.
- 6.2 If the Client nominates sub-contractors to work with Psysoft in the provision of the Services, the Client shall be responsible for such nominated sub-contractors. Psysoft reserves the right to withdraw co-operation from any nominated sub-contractors if the performance or actions of such persons or organisations prevents Psysoft fulfilling its obligations in relation to the Services.

## 7 Access

- 7.1 The Client will give the Consultant such access to their offices and to client information as the Consultant may require in the performance of the assignments. The Client will also ensure that the Consultant has sufficient working space and facilities and will secure and keep safe all of the Consultant's and Psysoft's property.

## 8 Intellectual Property Rights

- 8.1 The copyright in the content of any work produced during or as a result of project work undertaken is the absolute property of Psysoft. The Client shall not be entitled to reproduce the copyright work or do or authorise any other act that may infringe or devalue Psysoft's copyright or other intellectual property rights unless licensed by Psysoft.
- 8.2 The Client agrees to not modify, copy, amend, share, distribute or resell the electronic or printed version of Psysoft's Services, including but not limited to development videos, workshop materials and course notes, with any other party, unless otherwise agreed in writing by Psysoft. The Client's permission to use Psysoft's Services may not be transferred nor sublicensed to any third party.
- 8.3 Where the Service involves a license, the Client agrees to stop the use of the Service should they choose not to renew the license once expired.
- 8.4 Any notice on the Services, in respect of intellectual property rights (including copyright and trademark notices) shall not be removed from such materials or obscured or otherwise altered.
- 8.5 If the Client requires Psysoft to incorporate any material into the Services and supplies Psysoft with such material, the Client warrants that:
- the proposed use or incorporation of such material will not infringe any third party's intellectual property rights;
  - where the Client is not the owner of all copyright or other intellectual property rights in such material, the Client has received all necessary consents and licences for the proposed use by Psysoft of such material; and the Client will indemnify and keep Psysoft fully and effectively indemnified against all costs, claims, demands, expenses and liabilities of any nature arising out of or in connection with any breach of the warranty in this clause.

## 9 Confidentiality

- 9.1 Each party shall keep confidential all information obtained from the other pursuant to the contract of which these Terms are part and shall not divulge information to any third party without the other's prior written consent. Each party should ensure that its servants, agents, employees and sub-contractors are bound by the provisions of this clause.

## 10 Data Protection

- 10.1 The Client shall comply with all the provisions of the Data Protection Act 1998 and General Data Protection Regulation (GDPR) in relation to its use of the Materials.
- 10.2 The Client consents to Psysoft processing personal/candidate data relating to the Client for the purposes of facilitating the Client's use of the Materials in accordance with Psysoft's Privacy policy and General Data Protection Regulation (GDPR).

## 11 Liability

- 11.1 Materials and training courses are supplied on the basis that Psysoft does not have any liability of any kind (including negligence) to the Client or any other party arising out of the use by the Client or any other person of any information or opinions expressed during the course or any materials supplied to them or out of the interpretation of any information derived from them.
- 11.2 Psysoft will try to ensure that any description of the design or content of Services is as informative as possible, but it is for the Client to take responsibility for deciding whether or not a Service is suitable for their needs.
- 11.3 In the event of illness or other unusual circumstances, Psysoft cannot guarantee that a particular consultant will carry out the project.
- 11.4 Psysoft's liability arising under or as a result of the provision of the Services whether in contract, tort, breach of statutory duty or otherwise is limited to the fees actually paid by the Client to Psysoft for such Services.
- 11.5 Psysoft will not be liable for any indirect or consequential loss, loss of business, profit, revenue, data or goodwill, nor for lost or wasted management time or employee time of the Client arising from the Client's use of the Services.
- 11.6 Psysoft shall not be liable for any default resulting from causes beyond its reasonable control. This shall include (but not be limited to) events that are unpredictable, unforeseeable, or irresistible, such as any severe weather, earthquake, fire, epidemic, pandemic, acts of terrorism, biological warfare, outbreak of military or civil hostilities, explosions, strikes, sabotage, governmental interference or decree, interruption of service due to telecom carriers, internet service provider issues, power supply issues, or other technology issues. Psysoft will exercise reasonable efforts to provide the Client with information of any Event of Force Majeure as soon as it becomes aware of the same (including its best estimate of the likely extent and duration of the interference with its activities) and will use commercially reasonable efforts to overcome the difficulties created thereby and to resume performance of its obligations as soon as practicable.

## 12 Indemnity

- 12.1 The Client will indemnify Psysoft for any loss, claim, damage or expenses incurred by Psysoft as a result of any breach of the contract of which these Terms are part by the Client without Psysoft's consent.

## 13 Termination

- 13.1 Psysoft reserves the right to terminate the provision of Services if:
- The Client breaches these Terms
  - The Client fails to cooperate with Psysoft's reasonable instructions.

- The Client exhibits any violent or threatening behaviour towards the Consultants, including (but not limited to) harassment, abuse, bullying and discrimination.

13.2 On termination, Psysoft will be entitled to be paid all fees and expenses incurred or accrued and payable by the Client as at the date of termination or cancellation of the Services.

13.3 Clauses 4, 5, 8, 9, 10 and 11 shall survive expiry or termination of these Terms howsoever caused and shall remain thereafter in full force and effect after termination.

## **14 General**

14.1 No waiver by Psysoft of any breach of the contract of which these Terms are part shall be considered as a waiver of any subsequent breach of the same or any other provision.

14.2 If any provision of the contract of which these Terms are part is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the contract and the remainder of the provision in question shall not be affected thereby.

14.3 The contract of which these Terms are part shall be subject to and be construed in accordance with the laws of England and Wales and subject to the exclusive jurisdiction of the courts of England and Wales.

**Last updated: 21 December 2023**