

General Terms and Condition

1. Definitions and Interpretation

1.1 In these Conditions, unless the context does not so permit the following expressions have the following respective meanings:

1.1.1 “Affiliates” means in relation to either party to these Conditions, a person which, directly or indirectly, (i) is controlled by that party; or (ii) controls that party; or (iii) is controlled by a person referred to in (ii) above, and for this purpose “Control” means the power of a person to secure (whether by the holding of shares, possession of voting rights or by virtue of any powers conferred by articles of association, constitution, partnership agreement or other document regulating such person) that the affairs of another are conducted in accordance with its wishes and “controlled” shall be construed accordingly;

1.1.2 “Babington” means Babington Business College Limited or any other company within the Babington Group of companies and its Affiliates;

1.1.3 “Babington Premises” means any premises used by Babington from time to time for the delivery of the Course;

1.1.4 “Classroom Learning Course” means a Course provided by or on behalf of Babington through the delivery of teaching and instruction to the Learner at Babington Premises and requiring the attendance of the Learner at a Babington Premises for that purpose;

1.1.5 “Conditions” means these Terms and Conditions;

1.1.6 “Contract” means these Conditions and the individual agreement between the Learner and Babington or the Employer and Babington comprised within the Enrolment Form, invoice and credit agreement for the provision by Babington of a Course entered into in accordance with clause 3 including payment terms in accordance with Clause 4;

1.1.7 “Contract Start Date” has the same meaning as the Commencement Date

1.1.8 “Course” means the programme of education or training provided by Babington;

1.1.9 “Course Fees” means the fees payable by the Learner or the Employer in consideration of the enrolment of a Learner on the Course;

1.1.10 “Course Materials” means educational materials, of whatever kind and in whatever form, provided by Babington to the Learner for the purposes of delivering the Course;

1.1.11 “Distance Learning Course” means a Course provided by Babington to the Learner either through the sending of Course Materials by electronic mail or post, or the granting to the Learner of access to Course Materials via an online learning portal, or some combination of the two. Some Distance Learning Courses may also require the Learner to attend an awarding-body approved examination centre for examinations;

1.1.12 “Employer” means the person, firm or corporation by whom the Learner is employed or engaged;

1.1.13 “Enrolment Form” means the on-line form completed by the Learner or the Employer in their application for entry of the Learner upon the Course;

1.1.14 “Commencement Date” means the working day after completion of the Enrolment Form and acceptance of these terms and conditions in accordance with Clause 2.4;

1.1.15 “Learner” means the individual person who has been enrolled, or makes application to enrol, on a specific Course;

1.1.16 “Website” means the website babington.co.uk, or any other website in the ownership and control of Babington that we may designate;

1.1.17 “Working Day” means any day from Monday to Friday inclusive and excludes a Saturday, Sunday or Bank Holiday in the UK.

1.2 Words in these Conditions denoting the singular include the plural and vice versa, and a reference to any gender includes a reference to all other genders and non-binary.

1.3 References in these Conditions to you, your, us, our and other such terms mean the relevant parties to this Contract.

1.4 References in these Conditions to “writing” include e-mail and the expression “written” shall be construed accordingly.

1.5 References in these Conditions to any statute, statutory instrument, regulation, order or licence are references to that statute, statutory instrument, regulation, order or licence as substituted, amended, updated, varied or re-enacted from time to time.

1.6 The headings in these Conditions are for convenience only and shall not affect the construction of these Conditions.

1.7 The words “include” and “including”, where used in these Conditions, shall be construed as if immediately followed by the words “without limitation”.

2. Status of these Conditions and the Contract

2.1 The provision of the Course by Babington to the Learner is made in accordance with and subject to these Conditions. If enrolment is applied for by the Learner under Condition 3.1 the parties to the Contract will be Babington and the Learner, and if enrolment is applied for by the Employer under Condition 3.1 the parties to the Contract will be Babington and the Employer.

2.2 If, under Condition 2.1, the parties to the Contract are Babington and the Employer, the Employer shall procure that the Learner fulfils all of the obligations and responsibilities of the Learner as set out in these Conditions and such obligations and responsibilities shall be read and construed accordingly.

2.3 The Contract will be deemed to be in force from the Commencement Date.

2.4 Subject to clauses 5 and 16 herein the Contract will commence on the Commencement Date and continue until the delivery of the Course has been completed by Babington.

2.5 By entering into this agreement you have informed Babington in relation to any disability (as defined by the Equality Act 2010) which may affect your ability to study or in the case of an Employer, the Learner’s ability to study.

3. Enrolment

3.1 In order to make a valid application for enrolment on the Course the Employer or Learner must in the first instance make application directly with Babington and complete an Enrolment Form.

3.2 By making an application for enrolment:-

3.2.1 The Learner or the Employer (depending on which is the party to the Contract) is deemed unconditionally to have accepted these Conditions; and

3.2.2 The Learner or the Employer (depending on which is the party to the Contract) declares that the information supplied on the Enrolment Form is complete and accurate. The provision of incorrect, incomplete or misleading information, even if done inadvertently, will be the sole responsibility of the Learner or Employer (as the case may be) and may lead to the termination of the Contract by Babington in accordance with clause 16.

3.3 Once enrolment of the Learner on the Course has been completed and the Course Fees paid, Babington shall not be liable to make any refund to the Learner or to the Employer if the Learner subsequently withdraws from the Course or fails to complete the Course.

3.4 Where the Contract is between Babington and a Learner, Course enrolment is non transferrable.

3.5 Any application made by an Employer to transfer a Course from one Learner to another will be subject to the sole discretion of Babington and in any event conditional upon all course materials being requisitioned from the original Learner and upon payment by the Employer of a £25 administration fee in addition to the Course Fees.

4. Course Fees, Invoicing and Payment

4.1 Subject to Condition 4.3, the Course Fee is the fee for the Course, as advertised by Babington on the Website and any other current literature published by it, or as notified by Babington to the Learner or the Employer, on the date on which the Learner or the Employer applies for enrolment on the Course.

4.2 Not used.

4.3 The Course Fee as determined pursuant to Condition 4.1 is, unless expressly stated otherwise, inclusive of VAT (if applicable).

4.4 The Course Fee covers the provision of the Course, including all tuition and Course Materials, but, unless expressly stated otherwise by Babington, excludes any sums payable by the Learner or the Employer to any relevant professional or governmental body, including Learner registration fees, exemptions and examination entry fees. It is the responsibility of the Learner or the Employer to ensure the payment of any such sums directly to the body in question and Babington accepts no responsibility or liability whatsoever to the Learner or Employer for the payment of any such sum or for the consequences of any such sum not being paid by the applicable due date for payment.

4.5 If the Contract has been entered into by the Employer, the Employer is responsible for the payment of the Course Fee. In that event the following provisions will apply:-

4.5.1 Babington will submit a 14 day invoice (the invoice) for the Course Fee to the Employer and may do so at any time after the acceptance by Babington of the application for enrolment on the Course;

4.5.2 Unless otherwise agreed in advance between Babington and the Employer, the Employer shall make payment in full of the Course Fees and any other sums due to Babington, without deduction or set-off, at or before the end of the credit period specified on the invoice;

4.5.3 Notwithstanding the provisions of Condition 4.5.2 if the Course is a Classroom Learning Course the Employer must pay the Course fees to Babington in full, without deduction or set-off, before the commencement of the Course;

4.5.4 The Employer will remain responsible for the payment of the Course Fee in the event of the withdrawal of the Learner from the Course or the termination for any reason or expiry of its contract of employment with the Learner; and

4.5.5 Without limiting the rights of Babington under Condition 16.1.2, if the Employer fails to make any payment due under the Contract in cleared funds on or before the date on which it falls due (as determined in accordance with Conditions 4.5.2,) Babington shall be entitled to:-

4.5.5.1 Suspend the provision of the Course to the Learner; and

4.5.5.2 Charge the Employer interest on the outstanding sum at the rate specified from time to time in the late payment of Commercial Debts (Interest) Act 1998 from the date the payment became due until actual payment is made irrespective of whether the date of payment falls before or after the date of any judgment or award in respect of the same.

4.5.6 Payment must be made by bank transfer, a valid debit/credit card or PayPal.

4.6 If the Contract has been entered into by the Learner, the Learner is responsible for the payment of the Course Fee. In that event the following provisions will apply:-

4.6.1 Babington will submit an invoice for the Course Fee to the Learner and may do so at any time after the acceptance by Babington of the Learner's application for enrolment on the Course;

4.6.2 Unless otherwise agreed in advance by Babington and the Learner the Learner must pay the Course fees to Babington in full, without deduction or set-off, before the commencement of the Course or the despatch of the Course Materials; and

4.6.3 Payment must be made in bank transfer, a valid debit/credit card or PayPal.

4.7 No refund of the Course Fee will be made by Babington once paid.

4.8 Babington, may from time to time, offer promotional discounts which are subject to the following terms and conditions:

4.8.1 The promotional discount is only applicable to those courses clearly identified as being discounted at the time of the promotion;

4.8.2 Any promotional discount rates are in comparison to the most recent price that has been available for at least 28 consecutive days or more within the 6 months prior to the promotion being advertised;

4.8.3 Discounted or promotional course fees are only available if payment is made in full at the time of enrolment;

4.8.4 Promotional discounts cannot be used after submission of the Enrolment Form or in conjunction with any other offer or discount;

4.8.5 Promotional discounts are non-transferable, not for resale and not redeemable for cash;

4.8.6 Babington reserves the right to suspend or terminate any promotion or discounted courses without prior notice.

4.9 Babington may from time to time, offer price match discounts which are subject to the following terms and conditions:

4.9.1 The price match is only applicable to commercial funded courses and does not include courses either funded or partially funded through government funding.

4.9.2 The price match applies to the competitors fixed advertised price and is not applicable for discounted, promotional or sale prices.

4.9.3 Any price match excludes examination and membership fees.

4.9.4 The competitor's course must be identical to and offered on the same terms as the Babington Course

4.9.5 Babington must be able to verify the competitor's price and terms.

5. Your Right To Cancel

5.1 You have a right to a 14 day “cooling off” period (commencing on the Commencement Date) during which time you may cancel this Contract. Notice to cancel must be made in writing and sent by recorded delivery post.

5.2 The 14 day “cooling off” period commences on the Commencement Date even if the Course start date is a later date.

5.3 If you exercise your right to cancel in accordance with clause 5.1 you will receive a refund of any Course Fees paid less the cancellation fee charged in accordance with clause 5.4.

5.4 Cancellation of the Contract under this clause 5 shall incur a cancellation fee of £50 plus the cost of any Course Materials to cover the cost of materials already sent to the Learner, postage fees and administration fees.

5.5 Any refund of Course Fees paid by you (less the cancellation fees charged in accordance with clause 5.4) will be refunded to you within 28 days of the date of receipt of the notice to cancel received in accordance with clause 5.1

5.5 You shall be deemed to be proceeding with this agreement once the “cooling off” period has elapsed.

6. Course Materials

6.1 Babington warrants that all Course Materials will, in all material respects, be of sufficient quality and comprehensiveness to enable the Learner to participate fully in the Course but does not guarantee that they will be completely free of error.

7. Conditions Specific to Distance Learning Courses.

7.1 The provisions of this Clause 7 apply only to Distance Learning Courses.

7.2 For Distance Learning Courses, Babington will, unless otherwise agreed, make available for download by the Learner the remainder of the Course Materials, at or before the end of the third Working Day after the Commencement Date.

7.3 Not Used

7.4 The Course Fee includes the cost of production and download of material.

7.5 If such of the Course Materials as are in hard copy format have not been received by the Learner within the respective timescales specified in Condition 7.3 , or if such Course Materials are damaged or incomplete in any way, the Learner must inform Babington within five (5) Working Days of the deemed date of delivery. If the Learner fails to comply with this obligation, the Course Materials in question will be deemed to have been delivered and to be complete and undamaged.

7.6 If the Employer or the Learner request that the Course Materials are delivered to an address outside of the United Kingdom, then the cost of any such postage shall be borne by the Employer or Learner (as the case may be) in addition to the Course Fees.

7.7 The duration of the Course will be limited to the period specified in the Course Materials or as notified to the Learner by Babington. Following the end of that period, the Learner will no longer have access to the Course Materials and tutor support.

8. Not Used

9. Assessments and Examinations

9.1 The Learner or Employer must make reservations of assessment sessions, examination or eLearning sittings in connection with the Course at least five (5) Working Days in advance, citing the Learner's institute registration number (if any), date of birth and, if applicable, full payment of any additional fees. Babington shall not be obliged to confirm any such reservation unless and until the Learner or Employer has complied with this Condition 9.1.

9.2 Should the Learner or Employer wish to re-schedule any assessment, examination, or eLearning sitting previously booked, the Learner or Employer must give notice to Babington not less than three (3) Working Days in advance of the date on which the assessment, examination, or eLearning sitting was previously scheduled to take place and pay an administration fee of £50.

9.3 Babington reserves the right to change the date, time or location of any previously arranged assessment, examination and eLearning date by giving not less than three (3) Working Days' notice. If the Learner cannot attend on or at the revised date, time or location then Babington will refund in full to the Learner or Employer (as the case may be) any fees previously paid to Babington in respect of such assessment, examination or eLearning date.

9.4 The Learner or the Employer (as the case may be) hereby authorises Babington to obtain the Learner's examination results from the relevant professional or awarding body. If the Learner is not a party to the Contract, the Employer must procure such authorisation in writing from the Learner in a form acceptable to Babington.

9.5 Babington will inform the Learner or Employer of the specific requirements of the relevant professional, awarding or examining body as to the timing of attendance at examinations, assessments or eLearning sittings, along with any procedural requirements including those regarding the verification of the Learner's identity, but it is the responsibility of the Learner or Employer to understand those requirements and to make any individual enquiries regarding those requirements with the relevant professional, awarding or examining body.

9.6 Any examinations or assessments booked or to be taken by the Learner or the Employer (as the case may be) beyond the end of the Course are the sole responsibility of the Learner or the Employer (as the case may be) and all fees relating thereto are to be borne exclusively by the Learner or the Employer. It is preferable that all examinations and assessments are taken by the Learner during the duration of the Course.

10. Changes of course tutors, course dates and locations

10.1 Whilst Babington will use reasonable endeavours to ensure that dates, times, tutors and locations of any Classroom Learning will not be changed, it reserves the right to change any of the same from the details previously supplied to the Learner or the Employer at its discretion.

11. Amendments to Courses

11.1 Babington reserves the right to change the nature and content of any Course, or of any Course Materials, from time to time in order to reflect changes in applicable legislation or regulations, new course content determined by awarding bodies or any other matter beyond the reasonable control of Babington.

11.2 In the event of any changes to which Condition 11.1 applies, Babington will use reasonable endeavours to produce revised Course Materials in order to reflect those changes, provided that where the nature and extent of such changes results in a material change in the key characteristics or features of the Course, such that the nature of the Course might reasonably be regarded as having changed fundamentally, Babington shall be entitled to treat the Course as changed as a new and separate Course, for which additional Course Fees may be payable.

11.3 Upon receipt of appropriate documentary evidence such as a doctor's letter or a hospital report, Babington may consider the waiver of the administration charges referred to in clause 8.4.4. and 9.2 and further consider the extension of the duration of the Course and dates for assessment. Each case to be considered on its own merits.

12. IT Requirements, Disruption of Access and System Support

12.1 It is the responsibility of the Learner or the Employer to ensure that the computer and internet connection that will be used to access the Website and Course Materials platform is in good working order and fit for purpose.

12.2 Not Used

12.3 Under no circumstances will Babington be responsible or liable for the inability of the Learner or Employer to gain access to the Website or Course Materials to the extent that this arises as the result of:

12.3.1 any defect, fault or malfunction in any computer equipment or internet connection being used by the Learner or Employer;

12.3.2 any defect, fault or malfunction in the operation of the internet or worldwide web;

12.3.3 any firewall restrictions imposed by or upon any network or computer being used by the Learner or Employer in order to gain access to the Website or Course Materials;

12.3.4 the failure of telecommunications links or equipment, or browser issues;

12.3.5 any inability of the Learner or Employer to gain access to the Website or Course Materials or any interruption to such access arising as the result of any failure by the Learner or the Employer strictly to follow any advice or instructions issued by Babington as part of the support provided;

12.3.6 the suspension of access to the Website or Course Materials by Babington, as required by Babington at its discretion from time to time, for the purpose of scheduled or emergency maintenance, repairs and upgrades or to improve performance or functionality neither does Babington guarantee uninterrupted availability of Course Materials or the Website generally.

12.4 In the event of any defect, failure, fault or malfunction in the communications systems being used by Babington, the operation of or access to the Website or failure to deliver the Course Materials, Babington will use reasonable endeavours to provide a solution to the defect, failure, fault or malfunction within five (5) Working Days of the date on which the same is reported by the Learner or Employer to Babington.

13. Intellectual Property

13.1 All intellectual property rights (including but not limited to copyright) in the Course Materials, the content of the Website and all other documents, information and materials of whatever kind and in whatever form, whether relating specifically to the Course or otherwise are vested absolutely and unconditionally either in Babington or its licensor.

13.2 Babington grants to the Learner or the Employer (as the case may be) a personal, nontransferable, non-exclusive licence, limited in time to the duration of the Course, to use the Course Materials and the documents, information and materials for the purpose of the participation by the Learner in the Course but not further or otherwise. The Learner shall, and if the Learner is not a party to the Contract the Employer shall procure that the Learner will, use the Course Materials and the documents, information and materials solely for such purpose and will not copy, make available, re-transmit, reproduce, sell, license, distribute, publish, broadcast or otherwise circulate such materials without the express prior written consent of Babington. The Learner shall, or if the Learner is not a party to the Contract the Employer shall, fully indemnify Babington and keep Babington fully indemnified from and against any and all loss, damage, costs (including legal costs), expenses or liability suffered or incurred by it as the result of any failure on the part of the Learner or Employer to observe the requirements of this Clause 13.

13.3 Usernames and passwords provided by Babington or created by the Learner for the purpose of participating in the Course and gaining access to Course Materials are for the

personal use of the Learner only and the Learner must not disclose or share any of them with any third party.

14. Learner Conduct

14.1 The Learner must conduct themselves at all times with honesty and integrity, and in a manner which demonstrates respect for Babington, its officers and employees, its property, its policies, facilities, fellow Learners and all others with whom the Learner comes into contact as a result of enrolling onto the Course.

14.2 Without limiting the generality of this Clause 14 the Learner must not perform any action or make any statement that might reasonably be expected to bring Babington or any of its officers or employees into disrepute.

14.3 In accessing the learning material, the Learner agrees not to:

14.3.1 Set-up links from any website controlled by the Learner or Employer to any of the service or materials without Babington's written permission.

14.3.2 Make any commercial or business use of the learning materials or resell or commercially benefit from any part or aspect of.

14.3.3 Reproduce any of the content (other than that allowed) or commit plagiarism.

14.3.4 Redistribute any of the content.

14.3.5 Impersonate another person or use a false name that the Learner or Employer are unauthorized to use.

14.4 Any failure by the Student or Employer to observe the requirements of this Clause 14 shall constitute a material breach of the Contract.

15. Liability

15.1 Babington makes no promise, representation or warranty that participation by the Learner in the Course will meet any specific requirements of the Learner or Employer nor achieve any specific outcome or result.

15.2 The Employer or Learner (as applicable) undertakes responsibility for the suitability and fitness for purpose of the choice of Course to be undertaken by the Learner and each acknowledges that the selection of the Course has been made entirely by the Learner or, where applicable, the Employer, relying entirely on their own judgement.

15.3 While Babington has exercised reasonable care and skill in ensuring that the Course Materials and in any other document or published material produced by it from time to time are correct, Babington does not warrant the accuracy or completeness of such material.

Subject to Clause 15.4:

15.4.1 Babington's total liability to the Learner and the Employer in connection with any and all claims arising in relation to the Course or the Contract shall not exceed in aggregate the Course Fees actually paid; and

15.4.2 Under no circumstances shall Babington be liable to the Learner or to the Employer for any loss of profit, loss of revenue, loss of bargain, loss of business or business opportunity, diminution of goodwill or for any other economic loss (whether direct, indirect or consequential), or for any indirect or consequential loss or damage of any kind.

15.5 Nothing in the Contract shall limit or exclude the liability of either party:

15.5.1 For death or personal injury;

15.5.2 For fraud or fraudulent misrepresentation; or

15.5.3 For any matter in respect of which it would be unlawful or illegal to exclude or limit its liability.

16. Termination

16.1 Babington may terminate the Contract at any time with immediate effect by giving notice to the Learner or, if the Employer is the other party to the Contract, the Employer, in the event that either:

16.1.1 the Learner or the Employer commits any material breach of the Contract; or

16.1.2 there are material errors in the Enrolment Form, or

16.1.3 the Learner is not a party to the Contract but does or omits to do anything by which act or omission would, had the Learner been a party to the Contract, have constituted a material breach of the Contract and such breach, act or omission, if capable of remedy, is not remedied within five (5) Working Days following the date of receipt by the Learner or the Employer, as the case may be, of notice from Babington identifying the breach, act or omission in question and requiring it to be remedied; or

16.1.4 the Course Fee remains unpaid after the time for payment, as determined in accordance with Condition 4, has expired.

16.2 Babington may also terminate the Contract by giving notice to the Learner or, if the Employer is the other party to the Contract, the Employer, in the event that it decides to discontinue the Course for any reason.

16.3 In the event of the termination of this Contract pursuant to Clause 16.1:

16.3.1 Babington shall immediately withdraw the ability of the Learner to have access to any Course Materials in electronic form or accessible via the Website;

16.3.2 the Learner must, within seven (7) Working Days of the effective date of termination, return any Course Materials in hard copy form previously sent to the Learner at the Learner's own risk and expense; and

16.3.3 neither the Learner nor the Employer shall be entitled to any refund, in whole or in part, of any Course Fees previously paid.

16.4 In the event of the termination of this Contract pursuant to Clause 16.2, Babington shall, within 30 days of the effective date of termination, make a partial refund to the Learner or the Employer (as the case may be) of any Course Fees previously paid, such refund to be calculated on a pro rata basis having regard to the proportion of the Course that has already been delivered as at the effective date of termination.

16.5 Termination of the Contract, howsoever arising, shall be without prejudice to the rights or remedies of either party under the Contract which have accrued before, or arise in respect of any event, matter or circumstance occurring before, the effective date of termination.

17. Miscellaneous and General

17.1 This Contract constitutes the entire agreement between the parties and cancels and supersedes any and all previous agreements (whether oral or written, express or implied) between the parties relating to the subject matter of this Contract. Except for the express written terms of the Contract, the parties acknowledge and agree that in entering into the Contract they have not relied on or been induced by any warranty, statement or representation of the other or any other person relating to the Contract.

17.2 None of these Conditions shall be enforceable by a party who is not a party to the Contract, either under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

17.3 Each of these Conditions is to be construed as independent of every other Condition so that the invalidity, illegality or unenforceability of any Condition shall not affect the other Conditions, all of which will remain in full force and effect.

17.4 No variation of the Contract is effective unless it is made in writing, refers specifically to the Contract and is signed by the Learner or the Employer (as the case may be) and a duly authorised representative of Babington.

17.5 No omission or delay on the part of either party to the Contract in exercising any right, power or privilege under the Contract shall operate as a waiver by it or of any right to exercise it in future or of any other of its rights under the Contract.

17.6 The Contract shall, as to any of its provisions remaining to be performed in whole or in part or capable of having effect following termination or performance, remain in full force and effect despite termination in accordance with Condition 16

17.7 Babington shall be entitled to assign the whole or any part of its rights or obligations under Contract, or to sub-contract the whole or any part of its obligations under the Contract.

17.8 Any notice required to be sent under the Contract will be properly served if sent in writing:

17.8.1 by hand in which case such notice shall be deemed to be served at the time of delivery where it is delivered on a Working Day, and at 09.00 hours on the first Working Day following the day of delivery if it was not delivered on a Working Day or was delivered after 16.00 hours local time;

17.8.2 by first class or recorded delivery post to the address of the party in question given on the Order (or such other address as the parties may notify to each other from time to time) in which case such notice will be deemed to have been served two Working Days after the date of posting; or

17.8.3 by e-mail to the party in question, in which case such notice will be deemed to have been served at the time of delivery where it is sent on a Working Day, and at 09.00 hours on the first Working Day following the day of delivery if it was not sent on a Working Day or was sent after 16.00 hours local time.

17.9 English law shall govern the construction and operation of the Contract and the Parties agree to submit to the exclusive jurisdiction of the English courts.