

**HFMA E-LEARNING SUBSCRIPTION
TERMS AND CONDITIONS FOR THE SUPPLY OF E-LEARNING SERVICES**

THESE CONDITIONS are dated that date on which the E-Learning Order Form is signed by the Supplier (herein defined).

Agreed terms

1. Interpretation

1.1 The definitions and rules of interpretation in this condition apply in these terms and conditions (the “**Conditions**”).

Allocation: the number of Users permitted to access the Services, as specified in the E-Learning Order Form.

Charges: has the meaning given to it in condition 7.1.

Content: all text, arrangements or displays of data, information, data, software, executable code, images, audio or video material in whatever medium which form part of the Services.

Contract: the Supplier’s acceptance of the Customer’s offer to purchase Services under condition 2.2 incorporating these Conditions.

Contract Year: a period of twelve (12) months commencing on 1 April, provided that the first Contract Year shall be a period of not less than twelve (12) months commencing on the formation of the Contract in accordance with condition 2.2 and ending on the following 31 March.

Customer: the person, firm or company as specified in the E-Learning Order Form who purchases Services from the Supplier.

Customer's Equipment: any equipment, computers, systems, cabling or facilities provided by the Customer and used directly or indirectly in the supply of the Services.

Documentation: all books, information sheets or other forms of text forming part of the Services including, without limitation, any hard copy forms of the Content, any drawing, map, plan, diagram, design, picture or other image.

E-Learning Order Form: the order for Services from the Customer addressed to the Supplier to which these Conditions are attached, enclosed, referred to or provided with.

Extended Term: has the meaning given to it in condition 3.1.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case

whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Initial Term: the initial duration of this Contract, which shall be either one (1) or three (3) Contract Years, as specified in the E-Learning Order Form.

Licence: has the meaning given to it in condition 8.1.

Revised Charges: has the meaning given to it in condition 3.2.

Services: the services to be provided by the Supplier under the Contract as set out in Schedule 1, together with any other services which the Supplier provides to the Customer.

Software: the software provided by the Supplier to the Customer to enable the Customer to access the Contents from its own learning management system.

Supplier: Healthcare Financial Management Association registered charity (number 1114463) and limited company (number 5787972) of Suite 32 Albert House, 111 Victoria Street, Bristol BS1 6AX.

Termination Invoice: has the meaning given to it in condition 3.2.

User: an employee, agent or contractor of the Customer as the Customer permits to use the Services.

- 1.2 Headings in these conditions shall not affect their interpretation.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The schedules form part of the Contract.
- 1.5 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.6 A reference to **writing** or **written** includes faxes but not e-mail.
- 1.7 Any obligation in the Contract on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.8 A reference to a party and parties shall refer to the Customer and/or Supplier as the context so requires.

1.9 References to conditions and schedules are to the conditions and schedules of the Contract.

2. Application of conditions

2.1 These Conditions shall:

- (a) apply to and be incorporated into the Contract; and
- (b) prevail over and to the exclusion of any terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation, or specification or other document supplied by the Customer, or implied by law (to the extent permissible), trade custom, practice or course of dealing.

2.2 The Customer's acceptance of a quotation for Services by the Supplier constitutes an offer by the Customer to purchase the Services specified in it on these Conditions. No offer placed by the Customer shall be accepted by the Supplier other than

- (a) by an E-Learning Order Form issued by the Supplier and executed by both parties; or
- (b) (if earlier) by the Supplier starting to provide the Services,

when a contract for the supply and purchase of the Services on these Conditions will be established. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other document shall not govern the Contract.

3. Commencement and duration

3.1 This Contract shall commence on the date of acceptance by the Supplier of the Customer's offer in accordance with condition 2.2 and shall continue for the Initial Term, unless terminated earlier in accordance with condition 14 or unless the Customer gives to the Supplier three (3) months' written notice to terminate, expiring on or after the first Contract Year. The Contract shall automatically extend for a further period of one (1) or three (3) Contract Years (as appropriate) (the "**Extended Term**") at the end of the Initial Term and at the end of each Extended Term, unless either party gives to the other party three (3) months' written notice to terminate, expiring on or after the first Contract Year of the relevant Extended Term.

3.2 In respect of Contracts with an Initial Term and Extended Terms (if applicable) of three (3) Contract Years, if (i) the Supplier terminates the Contract pursuant to condition 14; or (ii) the Customer serves notice to terminate the Contract in accordance with condition 3.1 expiring prior to the end of the Initial Term or the relevant Extended Term (as the case may be) the Supplier shall recalculate the Charges for the first Contract Year based on an Initial Term or relevant Extended

Term (as the case may be) of one (1) Contract Year (the “**Revised Charges**”) and invoice the Customer (“**Termination Invoice**”) for an amount equal to:

- (a) the difference between the Charges paid by the Customer for the first Contract Year of the Initial Term or Extended Term (as the case may be) and the Revised Charges; and
- (b) fifty percent (50%) of the Charges payable in respect of the remaining period of the Initial Term or relevant Extended Term (as the case may be) unless the Customer paid the Charges for the Initial Term or relevant Extended Term in advance in which case the Supplier shall deduct fifty percent (50%) of the Charges paid for the remaining period of the Initial Term or relevant Extended Term (as the case may be) from the Termination Invoice.

3.3 The Termination Invoice shall be calculated by the Supplier on a pro rata basis and shall be paid by the Customer in full and in cleared funds, within 30 days of the date of the Termination Invoice.

4. Supplier's obligations

4.1 The Supplier shall use reasonable endeavours to manage and provide the Services, and to deliver the Contents to the Customer, in accordance in all material respects with Schedule 1.

4.2 The Supplier shall use reasonable endeavours to meet any performance dates specified in Schedule 1, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

5. Customer's obligations

5.1 The Customer shall:

- (a) co-operate with the Supplier in all matters relating to the Services;
- (b) provide the Supplier, in a timely manner and at no charge the Customer's data as requested and as reasonably required by the Supplier to ensure delivery of the Services;
- (c) ensure that all Customer's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant United Kingdom industry good practice standards or requirements;
- (d) ensure that any Customer's Equipment which consists of computers which are to access the Services:
 - (i) has Internet Explorer version 5.5 (or above) installed and used as the web browser for access to the Services;

- (ii) are not Apple Macintosh (or a variation thereon),
- (iii) has updated industry standard and recognised anti-virus software installed, working and fully updated;
- (iv) is capable of displaying pop-ups within the web-browser;
- (v) has any pop-up blocker disabled when accessing the Services; and
- (vi) has installed and uses a version of flash player; and

5.2 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.

5.3 The Customer shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Supplier confirming such costs, charges and losses to the Customer in writing.

6. Users

6.1 The Customer shall determine which of their employees, agents, or contractors shall receive the Services up to the Allocation and shall ensure that each User is fully informed of the Services and the obligations under this Contract.

6.2 On commencement of the Contract, the Supplier shall provide the Customer with a voucher enabling the Customer to access the Services. The Customer shall be responsible for allocating the voucher to Users and for managing the Users' access to the Services.

6.3 The Supplier shall monitor User activity including, without limitation, the number of Users that are accessing the Services, periodically during the Contract and shall report its findings to the Customer.

6.4 If the Supplier reasonably considers that the Customer is nearing, is likely to exceed or has exceeded its Allocation, it shall notify the Customer. If the Supplier considers it necessary the parties shall promptly meet to discuss ways in which the Customer can avoid exceeding the Allocation and/or agree supplemental charges for the excessive use of the Services.

- 6.5 Notwithstanding condition 6.4 if in respect of a Contract with an Initial Term or Extended Term (as the case may be):
- (a) of one (1) Contract Year, the Customer has exceeded the Allocation at any time during the Initial Term or the Extended Term; or
 - (b) of three (3) Contract Years, the Customer has on average exceeded the Allocation over the Initial Term and/or the Extended Term,

the Supplier reserves the right to increase the Charges on a pro rata basis to account for the additional Users in excess of the Allocation that have accessed the Services.

7. Charges and payment

- 7.1 In consideration of the provision of the Services by the Supplier, the Customer shall pay the charges for the Initial Term as notified by the Supplier to the Customer in the E-Learning Order Form issued and executed by both parties and thereafter, if applicable, the charges for the Extended Term as notified by the Supplier to the Customer (the “**Charges**”).
- 7.2 If the Customer elects to access the Services from its own learning management system, the Supplier reserves the right to charge a Services implementation fee for the provision of the Software, which shall form part of the Charges.
- 7.3 Should the first Contract Year be greater than twelve (12) months, the Charges due in respect of the first Contract Year shall be calculated by the Supplier on a pro rata basis and recorded in the E-Learning Order Form.
- 7.4 Subject to condition 7.4, the Charges shall be paid to the Supplier (without deduction or set-off) in full and in cleared funds within 30 days of receipt by the Supplier of the executed E-Learning Order Form, and in respect of an Extended Term within 30 days of commencement of such Extended Term, to a bank account nominated by the Supplier.
- 7.5 For a Contract with an Initial Term and/or an Extended Term (if applicable) of three (3) Contract Years, the Customer may elect on the E-Learning Order Form, or in respect of an Extended Term prior to commencement of such Extended Term, to pay the Charges for each Contract Year at the beginning of such Contract Year, in which case the Charges shall be paid to the Supplier (without deduction or set-off) in full and in cleared funds within 30 days of the beginning of each Contract Year to a bank account nominated by the Supplier.
- 7.6 The Charges excludes services, goods or training that are not explicitly provided for under these Conditions.

7.7 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier on the due date, the Supplier may:

(a) charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Nat West Bank PLC, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Customer shall pay the interest immediately on demand. The Supplier may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and

(b) suspend all Services until payment has been made in full.

7.8 Time for payment shall be of the essence of the Contract.

7.9 All sums payable to the Supplier under the Contract shall become due immediately on its termination, despite any other provision. This condition 7.9 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.

7.10 The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.

8. Intellectual property rights

8.1 As between the Customer and the Supplier all Intellectual Property Rights and all other rights in the Content shall be owned by the Supplier. Subject to condition 8.4, the Supplier licenses all such rights regarding the Content and the Services to the Customer, in consideration of the sums payable under the Contract, on a non-exclusive basis for the internal educational use of the Customer only in accordance with these Conditions, not for resale (the "**Licence**"). If the Contract terminates, the Licence shall automatically terminate.

8.2 Where the Software forms part of the Services, the Licence shall include the right for the Customer to use the Software solely to access the Services, provided that the undertakings in condition 8.4 shall apply in relation to the Software to the same extent that they apply to the Content.

8.3 The User may reproduce the whole or unamended excerpts of the Content solely for the purpose of their own private and personal use.

8.4 The Customer, subject to this condition 8, undertakes:

- (a) not to copy the Content except where such copying is incidental to normal use of the Services or where it is necessary for the purpose of back-up or operational security;
- (b) distribute, or publicly display the Content or excerpts of the Content through any media now known, or hereafter developed, for any purpose;
- (c) not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Content;
- (d) not to make alterations to, or modifications of, the whole or any part of the Content nor permit the Content or any part of it to be combined with, or become incorporated in, any other materials;
- (e) not to disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the Content nor attempt to do any such things except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Content with another software program, and provided that the information obtained by you during such activities:
 - (i) is used only for the purpose of achieving inter-operability of the Content with another software program;
 - (ii) is not disclosed or communicated without the Supplier's prior written consent to any third party; and
 - (iii) is not used to create any software which is substantially similar to that within the Content;
- (f) to control the use of the Content and ensure that it is used by your employees and representatives in accordance with the terms of this Contract;
- (g) to include a notice indicating the Supplier's interest in and/or ownership of the Content on all entire and partial permitted copies of the Content in any form;
- (h) not to provide, or otherwise make available, the Content in any form, in whole or in part to any person other than Users without prior written consent from the Supplier;
- (i) that it will not do anything in relation to the Content, including using it with any other material or advertisement, that might diminish the value of the Content or the Intellectual Property Rights or the reputation of the Supplier;
- (j) that it will notify the Supplier as soon as is reasonably practicable if it believes or has reason to believe that the Content contains any errors or is incomplete and will provide the Supplier with all reasonable information to assist the Supplier to rectify the Content as soon as is reasonably practicable; and

- (k) that it will not alter or modify the Content in any way and will ensure that no person does so.

8.5 The Customer acknowledges and agrees that the Supplier may cease to supply any of the Services to the Customer in the Supplier's absolute discretion if the Customer is in breach of any of the terms of this condition.

8.6 The Customer must permit the Supplier and his representatives, at all reasonable times and on reasonable advance notice, to inspect and have access to any premises, and to the computer equipment located there, at which the Content is being kept or used, and any records kept pursuant to the Contract, for the purpose of ensuring that the Customer is complying with the terms of the Contract.

9. Confidentiality and the Supplier's property

9.1 The Customer shall keep in strict confidence all technical or commercial know-how, Content, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Supplier, its employees, agents, consultants or subcontractors and any other confidential information concerning the Supplier's business or its products which the Customer may obtain.

9.2 The Customer may disclose such information:

- (a) to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of receiving the Services or carrying out the Customer's obligations under the Contract; and
- (b) as may be required by law, court order or any governmental or regulatory authority.

9.3 The Customer shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this condition 9.

9.4 The Customer shall not use any such information for any purpose other than to facilitate the receipt of the Services or to perform its obligations under the Contract.

9.5 Save for the Documentation, all materials, equipment and tools, drawings, specifications and data supplied by the Supplier to the Customer (including the Software) shall, at all times, be and remain as between the Supplier and the Customer the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Supplier, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.

9.6 The parties acknowledge that damages alone would not be an adequate remedy for the breach of any of the provisions of this condition 9. Accordingly, without prejudice to any other rights and remedies it may have, the Supplier shall be entitled to the granting of equitable relief (including without limitation injunctive relief) concerning any threatened or actual breach of any of the provisions of this agreement.

10. Indemnity

10.1 In this condition, a reference to the Supplier shall include the Supplier's subsidiaries, and the provisions of this condition shall be for the benefit of the Supplier and each such subsidiary, and shall be enforceable by each such subsidiary, in addition to the Supplier.

10.2 The Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with:

- (a) any breach of the warranty contained in condition 8; and
- (b) the Customer's breach or negligent performance or non-performance of this Contract in relation to conditions 5 or 7.

11. Disclaimer

11.1 The Supplier has taken every care in the preparation of the Contents, however the Supplier shall not accept any liability resulting from unintentional errors or omissions contained therein.

11.2 The Supplier does not warrant that the use of the Software will be uninterrupted or error free.

11.3 The Customer shall be aware that the certification or accreditation of the User's completion of any part of the Content is a test of knowledge within the limitations of the Content's teaching and is not an indicator of full understanding and competence.

12. Limitation of liability - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION

12.1 This condition 12 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:

- (a) any breach of the Contract;

- (b) any use made by the Customer of the Services, the Content or any part of it; and
 - (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 12.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 12.3 Nothing in these Conditions limits or excludes the liability of the Supplier:
 - (a) for death or personal injury resulting from negligence; or
 - (b) for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Supplier.
- 12.4 Subject to condition 12.2 and condition 12.3:
 - (a) the Supplier shall not be liable for:
 - (i) loss of profits; or
 - (ii) loss of business; or
 - (iii) depletion of goodwill and/or similar losses; or
 - (iv) loss of anticipated savings; or
 - (v) loss of goods; or
 - (vi) loss of contract; or
 - (vii) loss of use; or
 - (viii) loss of corruption of data or information; or
 - (ix) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and
 - (b) the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of the Contract shall be limited to the Charges paid for the Services in accordance with condition 7.

13. Data protection

- 13.1 During the term of the Contract the Supplier may collect and store the Customer's and Users' data, which may include personal data and any responses to any interactive element of the Services for the purposes of:
 - (a) providing the Services;
 - (b) improving the provision of Services;

- (c) research and statistical analysis into the Customer's and Users' use of the Services;
- (d) accrediting or certifying the Users' completion and satisfaction of any evaluation elements of the Services;
- (e) identifying the Users who have completed parts of the Content and processing certificates for such Users; and
- (f) marketing.

13.2 Any use by the Customer of the Customer's and/or Users' data in accordance with condition 13.1 shall also be in compliance with the Data Protection Act 1998 and the privacy policy of the Supplier which can be found at www.hfma.org.uk/privacypolicy.

13.3 The Customer warrants that any data provided by them or Users is truthful and accurate.

14. Termination

14.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other immediately on giving notice to the other if:

- (a) the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than seven (7) days after being notified in writing to make such payment; or
- (b) the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of that party being notified in writing of the breach; or
- (c) the other party repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract; or
- (d) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- (e) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; or
- (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or

- (h) a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; or
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; or
- (j) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
- (k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 14.1(d) to condition 14.1(j) (inclusive); or
- (l) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- (m) there is a change of control of the other party (as defined in section 574 of the Capital Allowances Act 2001).

14.2 The parties acknowledge and agree that any breach of conditions 7, 8 and 9 shall constitute a material breach for the purposes of this condition 14.

14.3 On termination of the Contract for any reason:

- (a) The Customer shall immediately cease using the Services;
- (b) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices (including the Termination Invoice) and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
- (c) the Customer shall immediately destroy or return to the Supplier (at the Supplier's option) all copies of the Software then in its possession, custody or control and, in the case of destruction, certify to the Supplier that it has done so; and
- (d) the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination shall not be affected.

14.4 On termination of the Contract (however arising), the following conditions shall survive and continue in full force and effect:

- (a) condition 7;
- (b) condition 8;

- (c) condition 9;
- (d) condition 11;
- (e) condition 12;
- (f) condition 14; and
- (g) condition 24.

15. Force majeure

The Supplier shall have no liability to the Customer under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

16. Variation

- 16.1 The Supplier may, from time to time and without notice, change the Services in order to comply with any applicable statutory requirements or relevant change applicable to the Content, provided that such changes do not materially affect the nature, scope of, or the charges for the Services.
- 16.2 Subject to condition 16.1, no variation of the Contract or these Conditions shall be valid unless it is in writing and signed by or on behalf of each of the parties.

17. Waiver

- 17.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.
- 17.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

18. Severance

- 18.1 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 18.2 If a provision of the Contract (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

19. Entire agreement

- 19.1 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.
- 19.2 Each party acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) (other than for breach of contract).
- 19.3 Nothing in this condition shall limit or exclude any liability for fraud.

20. Assignment

- 20.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, subcontract, or deal in any other manner with all or any of its rights or obligations under the Contract.
- 20.2 The Supplier may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- 20.3 Each party that has rights under the Contract is acting on its own behalf and not for the benefit of another person.

21. No partnership or agency

Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the

agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

22. Rights of third parties

A person who is not a party to the Contract shall not have any rights under or in connection with it.

23. Notices

23.1 Any notice required to be given under the Contract shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the other party and for the attention of the person specified in Schedule 2, or as otherwise specified by the relevant party by notice in writing to the other party.

23.2 Any notice shall be deemed to have been duly received if delivered personally, when left at the address and for the contact referred to in Schedule 2 or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

23.3 This condition 23 shall not apply to the service of any in any proceedings or other documents in any legal action.

23.4 A notice required to be given under or in connection with the Contract shall not be validly served if sent by e-mail.

24. Governing law and jurisdiction

24.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.

24.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Contract or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1 SERVICES

Part 1. SERVICES DESCRIPTION

The Services provided under the Contract shall be the provision of a training environment by way of online access either:

- (a) via the Supplier's website (www.hfma.org.uk); or
- (b) (subject to an additional implementation fee) via the Customer's own learning management system using the Software,

to an interactive facility for the teaching and evaluation of Users and as further described in this Schedule, and any reasonable technical support during normal working hours which is necessary for the Customer and Users to receive the Services.

Part 2. DELIVERY OF THE SERVICES

- a. The Customer at any time may permit a number of Users to access the Content and use the Services, up to its Allocation.
- b. Each User has a limit of 12-months to complete content which has been allocated to them. Any User accessing content beyond the initial 12-month term will be counted towards the Customers allocation in that subsequent year.
- c. The Supplier shall provide the Customer with a voucher within 48 hours of registration to enable the Customer to access the Services.
- d. The Supplier shall provide the Customer with such Documentation as it considers necessary during the Contract.
- e. The User may access the Services and receive information and training.
- f. The Content may be reviewed, and if necessary updated, from time to time by the Supplier.
- g. Following the receipt of information and training the User shall be given the opportunity to perform a test of their knowledge of the information and training provided. On completion of the test the User shall be given notice of the outcome and on successful completion of the test the Supplier shall issue a certificate of completion to the User.
- h. The Supplier shall monitor the access to the Services by the Users and Users' performance in the tests.

Schedule 2 NOTICE

FOR THE SUPPLIER:

Healthcare Financial Management Association, Suite 32 Albert House, 111 Victoria Street,
Bristol BS1 6AX

FOR THE CUSTOMER:

The address and contact details as contained in the E-Learning Order Form or should none
be contained the Customer's registered office or known place of business.