



Terms and Conditions of Business for the matrix Standard

- (A) **ENTO** shall mean **ENTO** Limited of 4th Floor, Kimberly House, 47 Vaughan Way, Leicester, Leicestershire, LE1 4SG.
- (B) "The Client" shall mean the other party to this Agreement who acknowledges that they have had the opportunity of reading this Agreement and has agreed to be bound by its terms.

Recital

- (1) **ENTO** is engaged in business to arrange Assessments of those Clients wishing to be judged against the requirements of the **matrix** Standard.
- (2) The Client has requested an Assessment and has asked **ENTO** upon the following terms to engage an **Assessor** to carry out the Assessment.

1. INTERPRETATION

"Agreement"	means these terms, the completed RfA (and any variation thereto), any confirmation and/or amendment of the Assessment cost provided to the Client by the Assessor at the time of the Assessment, all correspondence sent by ENTO to the Client relating to the Assessment and the terms of ENTO 's Cancellation Policy;
"Assessment"	means the process of establishing whether the Client satisfies the requirements of the matrix Standard, which shall include any Site visits made by an Assessor prior to the actual Assessment itself and all preparation and follow-up work undertaken by the Assessor in respect of the Assessment;
"Assessor"	means a Registered matrix Practitioner or a trainee undertaking his/her first Assessment but under observation at all times, who has been contracted by ENTO to carry out the Assessment;
"Accreditation Body"	means ENTO ;
"Charges"	means those fees payable by the Client to ENTO for carrying out the Assessment, including any Cancellation Fee payable in accordance with ENTO 's Cancellation Policy. The Client acknowledges that the estimate provided by ENTO following receipt of the RfA may be subject to change, and the Assessor shall notify the Client of any such change in accordance with the terms of condition 4.5;
" matrix Standard"	means the national quality standard for any organisation that delivers information, advice and/or guidance on learning and work;
" RfA "	means the document completed by the Client setting out the Client's requirements and upon which ENTO shall arrange the Assessment;
"The Site"	means the site(s) at which the Client requests that Assessment is carried out.

2. CONTRACT FORMATION

- 2.1 This Agreement shall be upon the terms contained herein and as set out in the **RfA**, including any amendment made to the **RfA** in writing which shall also include, for the avoidance of doubt, any revision made to the Charges as set out in condition 4.5.
- 2.2 The submission of the **RfA** shall constitute an offer by the Client to receive the services on these terms. This Agreement shall be formed when **ENTO** provides the Client with a written cost estimate for the Assessment, and shall continue until the Obligations of **ENTO** set out in condition 3 have been provided and where the Client has paid all of the Charges due to **ENTO** in accordance with condition 4. Termination for any other reason shall be subject to the provisions of condition 5. For the avoidance of doubt, the cost estimate shall be binding upon the Client and may be subject to change by **ENTO** in accordance with condition 4.5.

3. OBLIGATIONS OF ENTO

- 3.1 **ENTO** will provide the following:
 - 3.1.1 All administration and quality assurance arrangements in relation to the assessment process.
 - 3.1.2 In the event of any delay occurring in the delivery of the on site Assessment days **ENTO** will consult with the Client and where that delay appears to be unreasonable and in any event, exceeds 72 hours in duration **ENTO** will use its reasonable endeavours to appoint a new **Assessor** to complete the Assessment, without the Client incurring any additional Charges.
 - 3.1.3 **ENTO** agrees to maintain as confidential, and not to use or disclose to any third party, any information derived from the Client in connection with the review process without the consent of the Client, except to the extent that it is reasonably necessary to enable the **Assessor** to carry out the review process in accordance with the terms of this Agreement. Such obligations shall continue in full force and effect throughout the term of the Agreement. This restriction does not apply to such information which is or shall lawfully become part of the public domain.
- 3.2 The Assessor will:
 - 3.2.1 Undertake the assessment process; including planning activities, on site visit to gather evidence and produce an assessment report following the on site visit.

4. CLIENT'S OBLIGATIONS

- 4.1 The Client agrees to the following requirements:
 - 4.1.1 Comply with reasonable requests for information from **ENTO** and the **Assessor**, including without limitation, any information required which has not been included in the **RfA**. The information contained in the **RfA** will form the basis of **ENTO**'s assessment of the Charges for the Assessment and where inadequate or incorrect information has been provided by the Client, additional days may be required to carry out the Assessment and subsequently, additional Charges may be incurred.
 - 4.1.2 Inform **ENTO** of any significant Client, staff or senior management changes.
 - 4.1.3 Abide by any relevant conditions of accreditation,
 - 4.1.4 Assist in any quality surveys undertaken by **ENTO** to establish the level of service given either by **ENTO** or the **Assessor**.
- 4.2 The Client shall advise the Assessor in advance of the Assessment of any applicable rules and regulations which are then in force for the conduct of visitors at the Site(s).
- 4.3 The Client shall pay the Charges of **ENTO** in respect of the Assessment within 14 days of an invoice being delivered to the Client. **ENTO** shall be entitled to issue an invoice for the Assessment at any time 6 weeks prior to the confirmed on-site assessment dates. **ENTO** reserves the right to raise interim invoices for its services at each appropriate stage of the Assessment, if required, including, without limitation, where the Client opts to pay the Charges in instalments or where a Cancellation Fee has been incurred. Where an invoice has not been paid in the payment terms of the invoice ie 14 days of receipt, **ENTO** reserve the right to cancel the assessment, however the client will still be liable for the cancellation charges as set out in the cancellation policy.
- 4.4 The Client acknowledges that the Charges quoted to the Client on acceptance of its **RfA** are subject to change where the Client's requirements change or where additional days are required to perform the Assessment.

- 4.5 The **Assessor** shall confirm or amend the time periods for the Assessment up to and including the first day of the Assessment. The Client shall be responsible for any such increased Charges subject to a maximum cap of 2 additional days. Where the **Assessor** considers the time period for the Assessment initially calculated by **ENTO** needs to be extended by a period of more than 2 days, the Client shall be entitled to cancel the Assessment and the Cancellation Fee set out in **ENTO**'s Cancellation Policy shall apply.
- 4.6 Where payment has not been made in full by the client, **ENTO** reserve the right to withdraw Accreditation until such time as payment is made. Where Accreditation is withdrawn, the Department for Business Innovation and Skills and the Learning and Skills Council will be informed. Once full payment is made, Accreditation will be re-instated, and the Accreditation Review will be due no more than 36 months following the last assessment.
- 5. TERMINATION**
- 5.1 The Client may terminate this Agreement at any time prior to the Assessment by providing written notice to **ENTO**. Any such termination shall be subject to **ENTO**'s Cancellation Policy which can be accessed in full via the **matrix** Standard website or by contacting **ENTO** directly, and the Client shall pay to **ENTO** any appropriate charges as set out in such policy.
- 5.2 **ENTO** shall not be required to fulfil its duties and obligations under this Agreement if **ENTO** is prevented from fulfilling its duties and obligations by any acts or omissions of the Client.
- 5.3 Either party may terminate this Agreement, without liability to the other where the other party is:
- 5.3.1 in material breach of any of the terms of this Agreement and, where the breach is capable of remedy, that party fails to remedy such breach within 30 days' service of a written notice specifying the breach and requiring it to be remedied; or
- 5.3.2 is incompetent, commits any act of gross or persistent misconduct and/or neglect or omits to perform any of its duties or obligations under this Agreement; or
- 5.3.3 being a company, summons a meeting of its creditors, makes a proposal for a voluntary arrangement, becomes subject to any voluntary arrangement, is unable to pay its debts within the meaning of section 123 Insolvency Act 1986, has a receiver, manager or administrative receiver appointed over any of its assets, undertakings or income, has passed a resolution for its winding-up (save for the purpose of a voluntary reconstruction or amalgamation previously approved in writing by the party service notice, is subject to a petition presented to any Court for its winding-up (save for the purpose of a voluntary reconstruction or amalgamation previously approved in writing by the party service notice, has a provisional liquidator appointed, has a proposal made for a scheme of arrangement under Section 425 Companies Act 1985, has an administrator appointed in respect of it or is the subject of an application for administration filed at any court or a notice of appointment of an administrator filed at any court of a notice of intention to appoint an administrator given by any person or is the subject of a notice to strike off the register at Companies House.
- 5.4 Without prejudice to any other rights of **ENTO** if the Client fails to pay the invoice price by the date the Client shall pay interest on any overdue amount from the date on which payment was due to that on which it is made (whether before or after judgement) on a daily basis at a rate of 4 per cent per annum over the base rate from time to time quoted by Barclays Bank Plc and reimburse to **ENTO** all costs and expenses (including legal costs) incurred in the collection of any overdue amount.
- 6. LIABILITY**
- 6.1 Subject always to the provisions of clause 6.5, **ENTO** shall not be liable to the Client (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any injury, death, indirect or consequential loss (all of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused arising out of or in connection with this Agreement.
- 6.2 The **Assessor** is acting on behalf of **ENTO**, and **ENTO** shall be contractually responsible for the acts or omissions of the **Assessor** in connection with the **Assessor**'s performance of the Assessment. For the avoidance of doubt, **ENTO** shall not be liable for any acts or omissions of the **Assessor** which fall outside of the **Assessors**' obligations and duties to perform the Assessment in accordance with **ENTO**'s and the Client's instructions.
- 6.3 **ENTO** shall not be liable for any failure in the performance of any of its obligations under this Agreement caused by factors outside of its control.
- 6.4 Subject to the provisions of condition 6.5, **ENTO**'s liability to the Client under this Agreement shall not exceed the Charges payable to **ENTO** by the Client.
- 6.5 Nothing in this Agreement shall seek to exclude or limit **ENTO**'s liability for death or personal injury arising in connection with **ENTO**'s negligence.
- 7. INTELLECTUAL PROPERTY**
- 7.1 All intellectual property rights of whatever nature in the **matrix** Standard materials (including, without limitation goodwill, know-how, copyright material of any kind and all names and trademarks and logos and other marks whether registered or unregistered), in or relating in any way to the **matrix** Standard or process or used in connection with the Assessment belong to **ENTO** or its licensor, the Secretary of State for Innovation, Universities and Skills absolutely,
- 7.2 The Client shall not use any such materials for any purpose other than for performing its obligations under this Agreement and for its own internal administrative use, unless otherwise permitted in writing by **ENTO**.
- 8. NOTICE**
- 8.1 Any notice to be given under this Agreement shall be in writing and shall be deemed to have been duly given if left at or sent by first class post, registered post, telex facsimile or other electronic media to a party at the address or relevant telecommunications number for such party or such other address as the party may from time to time designate by written notice to the other.
- 8.2 Any notice or other document shall be deemed to have been received by the addressee two working days following the date of despatch of the notice of other document by post or, where the notice or other document is sent by hand or is given the telex facsimile or other electronic media simultaneously with the delivery or transmission.
- 9. GENERAL**
- 9.1 The parties do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.
- 9.2 The formation, existence, construction, performance, validity and all aspects whatsoever of the Contract or of any term of this Agreement will be governed by English law. The English and Welsh Courts will have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Agreement. The parties agree to submit to that jurisdiction.
- 9.3 This Agreement embodies and sets forth the entire Agreement and understanding of the parties and supersedes all prior oral and written Agreements understandings or arrangements relating to the subject matter of this Agreement.
- 9.4 If any condition or part of this Agreement is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from that Agreement and will be ineffective, without, as far as is possible, modifying any other provision or part of the Agreement and this will not affect any other provisions of the Agreement which will remain in full force and effect.
- 9.5 No failure or delay by **ENTO** to exercise any right, power or remedy will operate as a waiver of it, nor will any partial exercise preclude any further exercise of the same, or of any other right, power or remedy.
- 9.6 **ENTO** may assign, delegate or sub-contract all or any part of its rights or obligations under this Agreement.