

STANDARD TERMS AND CONDITIONS

1 INTRODUCTION

- 1.1. These Terms and Conditions govern the relationship between SUALCA Enterprise Development (Pty) Ltd, registration number 2020/240208/07, ("the **Company**") and the person making use of the Services either as the participant in the Services or the person responsible for payment of the Services ("the **Participant**").
- 1.2. These Terms and Conditions apply in addition to the Company's privacy policy which can be found at <https://sualca.com/privacy-policy/>.
- 1.3. By entering into this Agreement, the Participant has confirmed their acceptance of the Company's right to share their personal information with third party service providers, where necessary, in order to fulfil the Services.
- 1.4. By having signed up for the Services via the online portal and having checked the "I accept" box, the Participant has agreed to these Terms and Conditions and the Participant is deemed to have read and accepted the Company's policies in relation to this Agreement.

2 DEFINITIONS AND INTERPRETATION

- 2.1 "**Agreement**" means these Terms and Conditions, as amended from time to time, read together with the Application Form;
- 2.2 "**Application Form**" means the online Application Form completed by the Participant when signing up for the Services and which forms part of the Agreement together with these Terms and Conditions;
- 2.3 "**Business Day**" means any day other than a Saturday, Sunday or public holiday within the meaning of the Public Holidays Act, 1994, in the Republic of South Africa;
- 2.4 "**Confidential Information**" means any information in whatever form, whether in writing, electronic or digital form, verbally or by inspection of documents, computer systems or sites or pursuant to discussions or by any other means which is confidential in nature, designated orally or in writing by the Party disclosing the Confidential Information ("*the Discloser*") as confidential or which may reasonably be considered by a business person to be commercially sensitive provided by the Discloser, directly or indirectly, by any means to the Party receiving the Confidential Information ("*the Recipient*"), or to any authorised person, before or after the date of this agreement in connection with or in anticipation of the purpose including:
 - 2.4.1 data, ideas and information, whether technical, commercial, financial or of any other type, in any form acquired under, pursuant to or in connection with this Agreement and any information utilised in or relating to the Discloser's business, including information relating to products which are bought, manufactured, produced, distributed or sold, services which are bought or supplied, operations, processes, formulae, methods, plans, strategy, product information, know-how, design rights, trade secrets, market opportunities, customer lists, commercial relationships, marketing, sales materials and general business affairs;
 - 2.4.2 information relating to the customers, suppliers, methods, products, plans, finances, trade secrets or otherwise to the business or affairs of the Discloser;
 - 2.4.3 information acquired by observation by the Recipient or any authorised person at the offices of or other premises of the Discloser relating to the purpose or to the affairs of the Discloser;
 - 2.4.4 analyses, ideas, compilations, studies and other material created by the Recipient or any authorised person which contain or otherwise reflect or are generated or derived from the information referred to above; and
 - 2.4.5 the contemplation and implementation of the purpose, and the existence and content of this Agreement;
- 2.5 "**Course**" means audio-visual and audio media such as training videos, workshops, third party services, downloadable documentation and other services accessible through the Services;
- 2.6 "**Course Access**" means the rights of use issued to the Participant to use the Services and access the Course specific to the Course subscribed for by the Participant;

- 2.7 **"Course Access Period"** means the period in which the Participant may access the Course subscribed for which period commences from the Effective Date;
- 2.8 **"CPD Points"** means the Continued Professional Development points allocated by the relevant accreditation body which are redeemable by the Participant upon completion of the Services subscribed for;
- 2.9 **"Effective Date"** means the date upon which the Participant completed the online Application Form and accepted these Terms and Conditions;
- 2.10 **"Intellectual Property"** means intellectual and industrial property and their associated rights, including copyright, moral rights, patents, know-how, trade secrets, trademarks, service marks, trade names, design rights, registered designs, get-up, database rights, chip topography rights, mask works, utility models, domain names, rights in trade and business names and all similar rights and, in each case:
 - 2.10.1 whether registered or not;
 - 2.10.2 including any applications to protect or register such rights;
 - 2.10.3 including all renewals and extensions of such rights or applications;
 - 2.10.4 whether vested, contingent or future;
 - 2.10.5 including rights in the nature of unfair competition rights and rights to sue in passing off; and
 - 2.10.6 wherever existing.
- 2.11 **"Parties"** means the Company and the Participant and **"Party"** means either one of them as the context may require;
- 2.12 **"POPIA"** means the Protection of Personal Information Act, 4 of 2013;
- 2.13 **"Services"** means the Course distribution services to be provided by the Company to the Participant, where the Participant is able to access individual Course or blocks of the Course for selection and viewing at start times solely determined by the Participant at his/her discretion after having paid the relevant Service Fees for such Course;
- 2.14 **"Service Fees"** means the amounts payable by the Participant to the Company in consideration for the provision of the Services;
- 2.15 **"Territory"** means any country where the Service is made available; and
- 2.16 **"Website"** means www.sualca.com.
- 2.17 In this Agreement, clause headings are for convenience only and are not to be used in its interpretation, the singular includes the plural and vice versa and "including" or "includes" means "including without limitation" or "includes without limitation" respectively.
- 2.18 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to that provision as if it were a substantive clause in the body of the Agreement.
- 2.19 The rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting of this Agreement, shall not apply.

3 TERM

- 3.1 The Participant hereby applies for the Services on the terms and subject to the conditions set out herein.
- 3.2 This Agreement shall commence on the Effective Date. Despite the expiration of the Course Access, the rights and obligations which survive the duration of the Course Access shall apply indefinitely unless otherwise terminated mutually between the Parties in writing.

4 ACCESS TO SERVICES

- 4.1 The Participant shall access the Services via the URL www.sualca.com. There will only be one log-in link provided per Participant. Log-in links may not be shared with anyone other than the Participant for whom it was issued.
- 4.2 In the event of the Course being used by more than one person, the Participant will be charged additional fees as appropriate, and the Participant hereby agrees to pay the additional fees so levied by the Company.
- 4.3 The Participant will have access to the Course via the platform in accordance with the Course Access for the duration of the Course Access Period.
- 4.4 The Services are delivered via streaming through an internet connection and it is the responsibility of the Participant to ensure that they have a suitable internet connection to receive the Services and view the

Course. The Company does not take responsibility for any connectivity issues experienced by the Participant and cannot guarantee the quality of the Participant's connection.

- 4.5 It is the responsibility of the Participant to ensure that he/she has all the necessary hardware in order to participate in the training provided through the Course, such as cameras, microphone, internet connection etc.
- 4.6 The Company does not take responsibility for any ancillary costs the Participant may incur in accessing the Course and making use of the Services, such as data costs.
- 4.7 The Company's URL is continuously being improved and therefore features and functionality may change and/or be added or removed from time to time without notice.
- 4.8 The Services and the associated Course may be viewed primarily within the Territory where the Participant has registered for the Services.
- 4.9 To access the Course, the Participant must:
 - 4.9.1 Have registered on the URL website;
 - 4.9.2 Have valid login credentials;
 - 4.9.3 Created an accurate user profile on the URL;
 - 4.9.4 Have an internet connection that is capable of streaming the Course;
 - 4.9.5 Ensure that usernames and passwords are fully under the control of the Participant and never shared with another person. Additionally, the Participant may not use another person's username and password to access the Course;
 - 4.9.6 Notify the Company immediately upon becoming aware of a breach of security or unauthorised use of the Services/login credentials.
- 4.10 The Course will only be available to the Participant in accordance with the Course Access.

5 DELIVERY

- 5.1 Unless otherwise agreed to with the Participant in writing, the Company shall deliver the Course, in accordance with the Course Access, to the Participant via internet streaming.
- 5.2 The Company shall notify the Participant, in writing and as soon as possible, in respect of any delays in the delivery of Course together with the reasons for such delays.

6 SERVICES

- 6.1 The Participant will only be permitted to stream the Course that he/she has subscribed for.
- 6.2 The Course will be available to the Participant in chronological order of the Course subscribed for and shall be available to the Participant in accordance with the Course Access Period.
- 6.3 The Participant will only have access to each of the four modules which make up the Course for the duration of the specific Course Access Period and will not be permitted to view the next module's content until the previous/current module has been completed.
- 6.4 The Participant will be required to complete a multiple choice questionnaire at the end of certain modules in order to gain access to the next module.
- 6.5 The Participant will not have access to the Course the day immediately following the end of the Course Access Period.
- 6.6 The Participant must complete all of the Course subscribed for in order to obtain a certificate of attendance from the Company. Where applicable, the Certificate will reflect the relevant CPD number in order for the Participant to redeem CPD points.
- 6.7 In the event of the Participant having failed to complete the Course within the Course Access Period, the Course Access Period will lapse and the Participant may apply for a re-activation to the Course, for which the Participant will be charged a re-activation fee. The Participant will be able to continue the Course from the point at which the Course Access Period lapsed.

7 PRICES AND PAYMENT

- 7.1 The Service Fees paid by the Participant on subscription for the Services is non-refundable save for those instances as set out in the Company's Refund Policy (a copy whereof can be found at https://sualca.com/refund_returns/). Payment is due at the time of subscription and can be made -
 - 7.1.1 Via the online payment portal; or
 - 7.1.2 EFT into the bank account as specified by the Company in instances where an organisation is purchasing bulk Services directly from the Company.

- 7.2 Only once payment has been received by the Company will the Course become available to the Participant. In the event of the Participant having paid via the online portal and the Course is not available, the Participant is required to contact the Company immediately.
- 7.3 Additional fees that may apply herein are:
 - 7.3.1 Re-activation fees, charged at 40% of the fees charged for the Service subscribed for, irrespective of the progress made by the Participant prior to the re-activation;
 - 7.3.2 Additional Participants are charged for at the same rate as the Participant who shared their log-in link.
- 7.4 Tax invoices are available to Participants via the online platform.
- 7.5 Prices increase on 1 January of each year and shall not apply to Services purchased in the year prior to the increase, irrespective of whether the Participant has completed the module(s) prior to the price increase.
- 7.6 The Participant shall not be entitled to set off any amounts owing by the Participant to the Company for any reason whatsoever.
- 7.7 Account queries shall be submitted by the Participant to the Company's finance department within 3 months of the payment date, failing which they will not be considered.
- 7.8 In the event of a dispute arising between the Parties in relation to any amount due in terms of hereof, the Participant shall make payment to the Company of the undisputed amounts pending resolution of the disputed amounts.

8 SPECIFICATIONS AND QUALITY

- 8.1 The Company warrants and undertakes that:
 - 8.1.1 The Course, Course descriptions and Services will, at all times:
 - 8.1.1.1 comply with any quality standards assured by the Company;
 - 8.1.1.2 be free of defects, fit for the purpose for which they are provided; and
 - 8.1.1.3 comply in all respects with all applicable laws and regulations;
 - 8.1.2 it shall provide the Services in compliance with all applicable laws and regulations;
 - 8.1.3 it has all the necessary authorisations, consents licenses and/or permits, which are required to provide the Services in accordance with the Agreement.
- 8.2 The Company shall, at all times, have in place all quality control policies and procedures, as required in terms of all applicable laws and shall immediately notify the Participant of any defects associated with the Services. The Company shall be entitled to recall all Courses affected by defects, the costs of which shall be borne by the Company. The Company shall refund to the Participant all amounts paid by the Participant in respect of all recalled Courses.

9 INTELLECTUAL PROPERTY RIGHTS

- 9.1 All of the Intellectual Property Rights, in and to the Course and Services, excluding Participant personal data, shall remain vested in the Company and/or its licensors.
- 9.2 Unless expressly otherwise stipulated, ownership of all Course that forms part of the Services shall not transfer to the Participant.
- 9.3 There shall be no cession, assignment or transfer to the Participant of Intellectual Property and/or any associated Intellectual Property Rights of any of the Course and/or the Services.
- 9.4 The Participant will only be permitted to use the Services and/or Course in accordance with the limited, non-exclusive, non-transferable and revocable licence of use granted to the Participant in accordance with this Agreement. Where the Course has been licensed from a third party, the Participant's rights of use will also be subject to any terms and conditions which that licensor/third party imposes from time to time and the Participant hereby agrees to be bound thereby.
- 9.5 The Participant is not permitted to use the Course in any way that constitutes a violation of any law, including all intellectual property laws, or in any manner that may infringe the Intellectual Property Rights of the Company, its licensors or any third party.
- 9.6 The Participant may not reproduce, modify, copy, perform, transmit or commercially exploit the Course in any manner whatsoever and no Course delivered to the Participant may be redistributed or copied from the device to which the Course was delivered to.
- 9.7 All Intellectual Property Rights, including all rights, title, and interest in and to the Services and the Course, of whatsoever nature, existing now and in the future, shall remain the sole and absolute property of the Company.

10 SUSPENSION OF SERVICES

- 10.1 The Services and/or Course may, from time to time, become limited or suspended as a result of technical, mechanical, operational, security, legal or regulatory matters. In such an event, the Company will endeavour to restore the Services and/or Course as quickly as possible, but any such suspension will not be a ground for termination or cancellation of this Agreement.
- 10.2 The Company will endeavour to advise the Participant in the event of the Services and/or Course becoming suspended for maintenance and/or technical, mechanical, operational, security, legal or regulatory reasons, however shall not be obliged to do so. Any failure on the part of the Company to so advise the Participant shall not constitute a ground for termination and/or cancellation of this Agreement.
- 10.3 In the event of the Course being suspended as a result of non-payment, compassionate exemptions, medical conditions or the like, the Company may, in its sole and absolute discretion, reactivate the Course once the Participant has met the requirements as advised by the Company whereafter the Participant will be able to access the Course from last point of progress.

11 CANCELLATION, TERMINATION AND BREACH

- 11.1 The Company shall have the right to terminate this Agreement, in part or in full, if –
 - 11.1.1 The Company is advised by a third party that the Participant has not complied with its terms and conditions;
 - 11.1.2 The Participant has failed to comply with a written request made by the Company within 5 (five) Business Days of receipt thereof; or
 - 11.1.3 The Services and/or Course has become permanently unavailable.
- 11.2 Upon termination, the Participant will no longer have access to the Course and/or Services, however will remain liable for the Service Fees paid and/or due to the Company.
- 11.3 In the event that either Party ("**Defaulting Party**") commits a breach of this Agreement and fails to remedy (if capable of remedy) such breach within 10 (ten) Business Days of having been called upon in writing by the other Party to do so or commits an act of insolvency or is placed under business rescue or business rescue proceedings are pending or threatened against it or is placed under voluntary or compulsory liquidation (whether provisional or final), then the non-Defaulting Party may, in its discretion and without prejudice to its rights to claim damages from the Defaulting Party, on written notice to the Defaulting Party, terminate this Agreement immediately (with or without claiming specific performance).

12 DISPUTE RESOLUTION

- 12.1 Any dispute arising between the Parties in connection with this Agreement will in the first instance be referred for resolution to the respective Managing Directors of each Party, where applicable, who shall attempt to resolve the dispute within 15 (fifteen) Business Days of it having been referred to them for resolution, failing which either Party shall be entitled to refer the matter in writing for resolution by mediation and failing a successful mediation, arbitration in terms of this clause 12.
 - 12.1.1 The matter shall be referred by the Parties to mediation on the following terms:
 - 12.1.1.1 The dispute shall be mediated by a single mediator at a place and time to be determined by the mediator.
 - 12.1.2 The Parties shall agree who would act as a mediator. Should the Parties not agree within 3 (three) Business Days of agreeing to mediate who the mediator shall be, then the mediator shall be appointed by the Director of the Legal Practice Council, Gauteng.
 - 12.1.3 The mediator shall, in his/her discretion, determine whether the representation shall be made in the form of written and/or oral representations and in what manner the mediation will take place, provided that, in making these determinations, the mediator shall consult the Parties and be guided by their desires.
 - 12.1.4 The costs of the mediator shall be borne equally by the Parties and shall be due and payable to the mediator on presentation to them of the mediator's written account.
 - 12.1.5 Each Party shall bear their own costs of any legal advice or representation that Party may have obtained in connection with the mediation.
 - 12.1.6 If the dispute cannot be resolved within 20 (twenty) Business Days following the appointment of the mediator, then the dispute shall be referred to arbitration.

- 12.2 Any dispute referred to arbitration in terms of this clause 12 will be held in Sandton and in English, in accordance with the rules of the Arbitration Foundation of Southern Africa or any successor or replacement body (if any) ("**Rules**") and before one arbitrator appointed in terms of the Rules, it being the intention that the arbitration will be held and concluded within 21 (twenty one) Business Days after it has been demanded.
- 12.3 The decision of the arbitrator will be final and binding on the Parties and there will be no right of appeal and the arbitrator's decision may be made an order of court at the instance of any Party to the arbitration.
- 12.4 Nothing herein contained will prevent or prohibit either Party from applying to the appropriate court for interim or urgent relief.

13 CONFIDENTIALITY AND POPIA

- 13.1 Each Party ("**Receiving Party**") shall treat and hold as confidential the Confidential Information, which it may receive from the other Party ("**Disclosing Party**") or which becomes known to the Receiving Party concerning the Disclosing Party during the currency of this Agreement.
- 13.2 The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in its Confidential Information it will only make the Confidential Information available to those of its personnel who are actively involved in the execution of its obligations under this Agreement or who are involved in the management of the relationship between the Parties or to its professional advisors appointed to advise on any aspect relating to this Agreement and then only on a "need to know" basis.
- 13.3 The foregoing obligations shall not apply to any information which:
- 13.3.1 is lawfully in the public domain at the time of disclosure;
 - 13.3.2 subsequently and lawfully becomes part of the public domain by publication or otherwise;
 - 13.3.3 subsequently becomes available to the Receiving Party from a source other than the Disclosing Party, which source is lawfully entitled to disclose such Confidential Information; or
 - 13.3.4 is disclosed pursuant to a requirement or request by operation of law, regulation or court order.
- 13.4 By entering into this Agreement each Party consents and authorises the other Party to:
- 13.4.1 collect, process, transfer and store its personal information, as defined in POPIA ("**Personal Information**") in accordance with the provisions of POPIA and each Party's privacy policies;
 - 13.4.2 disclose its Personal Information to a third party in circumstances where it has a legal or contractual duty or obligation to do so;
 - 13.4.3 transfer its Personal Information outside of the borders of the Republic of South Africa for any legitimate purposes and in compliance with the provisions of POPIA.

14 NOTICES AND DOMICILIUM

- 14.1 The Participant choose as their *domicilium citandi et executandi* ("**Domicilium**") for all purposes of and in connection with this Agreement the physical addresses provided by the Participant at the time of subscription of the services. The Company's physical address is 1171 Tauber Road, Wilgeheuwel, Roodepoort.
- 14.2 All notices, demands, communications or payments intended for either Party must be made in writing and will be made or given at such Party's Domicilium for the time being.
- 14.3 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Party will be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen Domicilium.
- 14.4 The Parties record that whilst they may correspond via email, WhatsApp and/or sms during the currency of this Agreement for operational reasons, no formal notice required in terms of this Agreement, nor any amendment or variation to this Agreement may be given or concluded via email, WhatsApp and/or sms.

15 AUTHORITY AND ACCEPTANCE

The Parties whose signatures are affixed below and in the Application Form, agree to accept the terms and conditions set out herein and warrant that the persons signing this Agreement are duly authorised to enter into this Agreement.

16 GENERAL

- 16.1 The Parties agree that the Application Form hereby form part of these Terms and Conditions with the same force and effect as if the provisions set out therein had been set out in full herein and shall be binding on the Parties.
- 16.2 The Company reserves the right in its sole discretion to vary or amend these Terms and Conditions from time to time and any such amended or varied Terms and Conditions shall be binding on the Participant from the date that the Participant is notified thereof. Any subsequent dealings shall be on the Company's amended terms and conditions.
- 16.3 The relationship of the Parties will be that of independent parties and nothing in this Agreement shall constitute or be deemed to constitute a:
 - 16.3.1 partnership or joint venture between the Parties or constitute or be deemed to constitute the Participant as an agent of the Company;
 - 16.3.2 a temporary employment service as contemplated in section 198 of the Labour Relations Act, 1995, as amended.
- 16.4 Each Party agrees that:
 - 16.4.1 This Agreement represents the entire agreement between them and that no alternations or additions to this Agreement may be effected unless agreed to by both of them, reduced to writing and signed by their duly authorised representatives;
 - 16.4.2 This Agreement will govern all future contractual relationships between them;
 - 16.4.3 This Agreement supercedes all previous agreements entered into between them in relation to the supply of the Course and/or the provision of the Services;
 - 16.4.4 the terms of this Agreement apply to all agents, employees, subcontractors and/or successors in title of each of them.
- 16.5 No variation or consensual cancellation hereof and no addition hereto (including the provisions of this clause) shall be of any force or effect unless reduced to writing and signed by each Party or its duly authorised representatives.
- 16.6 No indulgence which either of the Parties ("**Grantor**") may grant to any other or others of them ("**Grantee**") will constitute a waiver of any of the rights of the Grantor, who will not thereby be precluded from exercising any rights against the Grantee which might have arisen in the past or which might arise in the future.
- 16.7 The Participant shall not be entitled to cede its rights nor assign its obligations to any third party without having obtained the prior written consent of the Company. The Company shall be entitled to cede its rights and assign its obligations to any third party, without the written consent of the other Participant.
- 16.8 The expiration or termination of this Agreement shall not affect such of the provisions hereof, which expressly provide that they will operate after any such expiration or termination or which of necessity, must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 16.9 This Agreement shall be governed and construed in accordance with the laws of the Republic of South Africa and the Parties, subject to the provisions of clause 12, hereby consent and submit to the jurisdiction of the South African courts.
- 16.10 The Parties record and agree that it is not required for this Agreement to be valid and enforceable that a Party initials the pages hereof and/or has its signature verified by a witness.
- 16.11 This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.