

## eNetReality Terms and Conditions of Sale

### **1 Parties to the Agreement**

The parties to the Agreement shall be eCom USA Learning Solutions, LLC (the “Company”) and the person(s) and/or entity(ies) whose details appear on the associated eCom USA invoice (the “Client”).

### **2 Date of Agreement**

Any Agreement between the Company and a Client shall have no effect until an agreement has been signed by both parties or until such time as the Company has made the Client an offer and the Client has accepted the offer.

### **3 Appendices, and Schedule**

The Agreement shall include any agreement(s) between the Company and the Client, as well as all appendices and schedules pertaining thereto.

### **4 Other Communications**

Notwithstanding the provisions of Clause 3 above any written communications between the Company and the Client may form part of an agreement but only in the absence of any other definitive Agreement between the Company and the Client.

### **5 Amendment**

Any written, signed agreement between the Company and the Client shall only be amended if the amendment is agreed to in writing by both parties.

### **6 Confidentiality**

Neither party shall reveal to any other person or entity any information of any kind which is considered by the Company or the Client to be confidential information of the Company or the Client unless the written permission of one has been given to the other.

### **7 Copyright & IPR**

Background copyright, which shall include all intellectual Property Rights, in respect of any materials, products, inventions, software produced by the Company prior to the performance of this Agreement shall vest in the Company absolutely and may only be reproduced or disseminated with the expressed written permission of the Company where such reproduction or dissemination is required in order for the Client to enjoy the provision of the Agreement between the Company and the Client. If requested the Company will provide the client a list of all background IPR used in conjunction with this contract.

It shall be a condition of the contract that the Company will in performance of the project do nothing to infringe any patent, trade mark or registered design, other than those provided by the Client. All copyright clearance for using client information must be supplied to Company before work commences. All foreground copyright created for or on behalf of Client in performance of any agreement shall remain with Client.

### **8 Disclaimer**

Whilst every effort is made to ensure the accuracy of our services, we accept no responsibility for any use made of the information provided and we shall not be liable for any loss suffered thereby.

## **9 Insurance and Liability**

Each party shall effect, at no cost to the other, the required insurance cover in order to comply with all prevailing legal requirements insofar as such requirements relate to the provisions of the Agreement between the Company. The Company shall not in the performance of this Agreement, be liable for any loss or damage of whatsoever nature or howsoever caused suffered by any individual, any other third party or the Client unless such loss or damage has been caused by or through the negligence of the Company.

The Client shall not, in the performance of any Agreement between the Company and the Client, be liable for any loss or damage suffered, by any individual, any other third party or the Company of whatsoever nature or howsoever caused unless such loss or damage has been caused by or through the negligence of the Client.

No party shall be responsible for consequential losses of any other party.

eCom maintains insurance for professional indemnity with a limit of \$250,000.

## **10 Ownership of Equipment**

Any equipment and/or software purchased by the Company in the performance of any Agreement for the use of the Client, shall remain the property of the Company until such times as the Company agrees, in writing, to pass the ownership rights onto the Client. Where such equipment/software is, for the purpose of the Agreement, located within the Client's premises, whether such premises are owned, leased, subleased, or rented, the Client shall cause such equipment/software to remain located therein and shall return the same to Company upon termination of the Agreement or upon demand by Company.

The Client shall keep an inventory of the Company's equipment/software such inventory showing and within which area within the Client's premises it is located. The Client shall in terms of the provisions of this Clause and without prejudice to the provisions of Clause 8 keep the equipment in good working order but shall not effect any repairs or undertake any maintenance without the prior agreement of the Company. Notwithstanding the provisions of Clause 8 and the Client shall fully compensate the Company for any or loss damage caused to any equipment/software supplied to the Client where such loss or damage has been caused through neglect, or any insurable peril including fire, theft, accidental damage or malicious damage.

## **11 Health and Safety**

The Client, to include any of the Client's employees, agents, contractors, and/or representatives shall comply with the health and safety policies and procedures of the Company including the evacuation procedures while attending or visiting any of the Company's premises.

## **12 Material**

Notwithstanding the provisions of Clause 8 the Company takes great care in the preparation and production of written, audio, and video materials associated with the Agreement and shall not therefore be liable for any errors or omissions contained therein, unless such errors or omissions are the result of willful neglect.

### **13 Publicity**

The Client shall in promoting any aspect of this Agreement through the press or any other medium of communication acknowledge the contribution made by of the Company.

### **14 Termination**

This Agreement may be terminated before coming to its natural end in any of the following circumstances:

**14.1** by the Company giving the Client fourteen days due notice in writing, where in the opinion of the Company the Agreement is no longer viable.

**14.2** by the Client giving to the Company ninety days of notice in writing.

**14.3** by the Company with immediate effect where the Client is in serious material breach of contract or where circumstances which are out with the control of the Company prevent the Company from performing its obligations under the Agreement

**14.4** by the Client with immediate effect where the Company is a serious material breach of contract or where circumstances out with the client's control prevent the Client from performing its obligations under the Agreement.

### **15 Compensation**

The Client shall compensate Company for any expenses reasonably incurred by the Company in performing or preparing to perform the Agreement in the event that the Client decides to withdraw from the Agreement prior to the date upon which the Agreement is scheduled to commence or where the Agreement is terminated by the Client in accordance with the provisions of sub clause 14.4. Cancellation fees may apply where leased services provided by 3<sup>rd</sup> party have been agreed.

### **16 Price variation**

Estimates are based on eCom USA's current costs of production and, unless otherwise agreed, are subject to amendment on or at any time after acceptance to meet any rise or fall in such costs.

### **17 Preliminary work**

All work carried out, whether experimentally or otherwise, at Client's request, shall be charged to the Client.

### **18 Force majeure**

Except for the obligation to pay money, neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, pandemic, labor shortage or dispute, governmental act or failure, or failure of the Internet, provided that the delayed party: (a) gives the other party prompt notice of such a cause, and (b) uses commercially reasonable efforts to promptly correct such a failure or delay in performance.

During the continuance of such a contingency, the customer may, by writing notice to eCom USA, elect to terminate the contract and pay for work done and materials used, but subject thereto shall otherwise accept delivery when available.

## **19 Taxes**

Client shall be responsible for all taxes associated with any transaction contemplated by any agreement, including but not limited to Sales and Use and Excise taxes.

## **20 Litigation and Settlements**

No settlement or compromise of any claim, loss, or damage entered into by Client or any other party shall be binding upon Company unless adopted and approved, in writing, by Company. No settlement or compromise of any claim, loss or damage entered into by Company shall be binding upon Client or any other Party shall be binding upon Client unless adopted and approved, in writing, by Client.

These conditions and all other express terms of the contract shall be governed and construed in accordance with the laws of the state of Georgia USA.

## **21 Payment**

All monies due shall be paid by the Client on receipt of invoice. Full payment is required prior to Company's release of any completed work.

## **22 Late Payment and Collections**

Any payment that is not received by Company within ten (10) days of the date on which it was due shall accrue interest at the rate of 12 per cent (12%) per annum, starting on the eleventh (11<sup>th</sup>) day after such payment is due. Client shall be responsible for all costs of collections incurred by Company in collecting money owed under any agreement between Client and Company, including attorney's fees, court costs, and any other costs actually and reasonably incurred by Company in collecting amounts due.