

Terms and conditions – MSTS training courses (at centre)

1. Application

Unless specifically waived or otherwise agreed in writing between the parties, the following terms and conditions (“**Terms and Conditions**” or “**Agreement**”) shall apply to all registrations and agreements for training courses to be held on sites owned (including sites leased or otherwise occupied) by MSTS (“**MSTS**”) or any of its associated branches or companies.

2. Registration and order confirmation

The booking of a place on a training course shall be deemed to be accepted upon written confirmation from MSTS or upon the other party’s, whether a corporate or self sponsored client (the “**Client**”), written acceptance of MSTS’s quotation.

Upon the booking of a training course, these Terms and Conditions shall govern the relationship between MSTS and the Client. The Client shall procure that all persons (whether its employees, agents, consultants or subcontractors) attending a training course booked by the Client, or the Client itself in the case of a self sponsored client, (a “**Participant**”) shall act in accordance with and fully comply with these Terms and Conditions.

3. Fees and payment

The fees for standard training courses are set out in the MSTS price list in force from time to time which is available upon request.

Written quotations of MSTS shall be valid for a period of 30 days from the date on which they are given but MSTS may withdraw such quotation at any time.

Applicable fees are stated in the quotation and shall be payable in the local currency unless otherwise indicated.

All prices are exclusive of service tax and any other taxes which shall be payable in addition to the fees at the prevailing rate(s) where applicable.

The fees include the cost of course materials, course facilities and equipment unless otherwise agreed.

The Client shall pay each invoice submitted to it by MSTS, in full and without withholding or deduction and in cleared funds, within 30 days of receipt of the invoice or as otherwise stated in the invoice.

Without prejudice to any other right or remedy that it may have, in the event of failure by the Client to pay MSTS on the due date, MSTS may charge interest on such sum from the due date for payment at the monthly rate of 1.5%, accruing on a daily basis and being compounded monthly until payment is made.

4. Cancellation policy

The Client may give notice to MSTS that it no longer requires the bookings on a training course provided such notice is in writing and received by MSTS at least 14 days prior to commencement of the training course. In such circumstances, MSTS shall refund to the Client all monies paid in respect of such training course less a standard administration fee. If notice of cancellation has not been received at least 14 days prior to commencement of the course or a Participant fails to attend a training course for any reason whatsoever, all fees payable in respect of such course shall remain payable to MSTS.

MSTS reserves the right to cancel or postpone any training course for any reason whatsoever and in such event, MSTS’s liability for such cancellation shall be limited to a full refund of fees paid or, where available and acceptable to the Client, transfer to a training course on an alternative date.

5. Complaints

All complaints in respect of a training course should be preferably made in writing and sent to MSTS within 30 days from the date of the last day of the course in question. MSTS shall not be obligated to the Client in any way in addressing such complaints.

6. Course certification

A Participant must complete all aspects of a training course to the standard(s) specified by MSTS in order to receive course certification. If the Participant fails to complete any element of a training course, the Participant shall not be entitled to certification. Any matter relating to the provision of course certification shall be determined by MSTS in its absolute discretion.

7. Duplicate certificate

Requests for duplicate certificates must be made in writing to MSTS by the sponsoring company or participants in the case of self sponsored participant stating the relevant training course, date, Participant’s name and date of birth. A charge per copy certificate will be applicable. This fee must be paid in advance of the duplicate certificate being issued.

8. Accommodation & transportation

If requested and if available, MSTS will assist the Client in providing information about transportation and local accommodation. MSTS accepts no responsibility for the provision of such information and shall not be liable for any losses (direct, indirect, consequential or otherwise) arising from any arrangement between the Client or Participant and the provider of such accommodation and transportation.

9. Health and safety

The Client must procure that each Participant shall at all times during a training course:

- act in full compliance with all applicable health and safety legislation, regulations and policies;
- follow all instructions or directions given by MSTS personnel; and
- not be under the influence or in possession of alcohol or illegal substances.

If any Participant fails to act in accordance with the above requirements or is reasonably believed to have taken or used any illegal substances or alcohol, MSTS may, in its absolute discretion, require such Participant to leave the training course immediately. MSTS will inform the Client of any such event. In such event, no fees or payments shall be reimbursed to the Client for the Participant’s failure to complete the training course.

Each Participant shall, and the Client shall procure that the Participant shall, read and understand MSTS’s “Information for Participants attending training courses at MSTS training centres” before participating in any training course.

It shall be the Client’s sole responsibility to ensure that Participants are sufficiently fit and able, including being free from respiratory disorders and heart disease, to participate in any physical activity forming part of a training course. If in doubt, it is recommended that Participants seek appropriate medical advice prior to commencement of the training course. MSTS reserves the right to refuse to provide training courses to any Participant if it considers such Participant’s involvement may pose a risk to the Participant’s own health and safety or the health and safety of others.

10. Data Protection

The Client and Participant agree that MSTS is permitted to hold personal information about the Participant as part of its personnel and other business records and MSTS may use such information as part of MSTS’s business. The Client and Participants agree that MSTS may disclose such information to third parties only if and to the extent that such disclosure is, in MSTS’s view, required for the proper conduct of MSTS’s business or that of any subsidiary, associated or holding company/ies of MSTS. This clause applies to information held, processed or disclosed in any medium.

11. Intellectual property rights

All copyright, trademarks, design rights and any other intellectual property rights (registered or unregistered) used, created or embodied in or arising out of or in connection with the delivery of the services shall remain the sole property of MSTS and the Client and Participant shall not during, or at any time after, the completion of the training course assert ownership of or dispute MSTS’s ownership of such rights and shall assign to MSTS such rights to come into its possession.

All materials and information (in whatever form) provided by MSTS to the Client or a Participant in connection with the services may not be copied, distributed or be made available to any third parties. The Client and the Participants shall not use such material and information for any reason which is not connected to the training course or the services provided by MSTS.

A Participant is, subject to the previous paragraph, entitled to retain for their personal use the training course materials that are provided to them for this purpose. Any other materials relating to the training course (in whatever format) provided to the Client or a Participant shall be returned to MSTS on the completion of the training course or upon request by

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MSTS, whichever is earlier. The Client and the Participants shall not copy or otherwise reproduce any materials (including training course materials) provided by MSTS without MSTS's prior written consent.

12. Liability of Clients and Participants

It is the responsibility of the Client to ensure that all sponsored Participants behave responsibly at all times. MSTS reserves the right to remove a Participant from a course if, in MSTS's reasonable opinion, the behaviour of a Participant is unacceptable.

The Client or the self sponsored Participant shall be liable for any damage to MSTS's facilities, including but not limited to furnishings, premises and equipment, directly and indirectly caused by the Participant and resulting from negligence of the Participant. The Client shall further be solely liable for any loss or damage resulting from the Participant's negligence against other participants of a training course.

In the event a Participant requires medical treatment or hospitalization the Client, or Participant in case of self sponsored Participants, shall bear all costs for such medical treatment or hospitalization.

13. MSTS's liability and limitation of liability

13.1 This clause 13 sets out the entire financial liability of MSTS (including any liability for the acts or omissions of its employees, agents, consultants and subcontractors) to the Client and/or Participants in respect of:

- (a) any breach of this Agreement;
- (b) any use made by the Client or a Participant of the services provided to the Client or a Participant (including any course materials or part of them) ("Services"); and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

13.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

13.3 Nothing in this Agreement limits or excludes the liability of MSTS:

- (a) for death or personal injury resulting from negligence; or
- (b) for any damage or liability incurred by the Client or Participant as a result of fraud or fraudulent misrepresentation by MSTS.

13.4 Subject to clause 13.3:

(a) MSTS 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) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and

(b) MSTS'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 Services and this Agreement shall be limited to £500,000.

The Client or Participant shall give notice in writing to MSTS of any claim in respect of this Agreement as soon as is reasonably practicable and without any undue delay.

14. Insurance

The Client and MSTS shall respectively obtain, maintain and keep in full force and effect all compulsory and customary insurances.

15. Force majeure

Neither party shall be in breach of these Terms and Conditions nor liable for any failure or delay in performance of its obligations (other than the obligation to make payments of money) arising or attributable to acts, events, omissions or accidents beyond its reasonable control including, but not limited to, acts of God, fire, explosion, embargo, terrorism, civil disturbance, epidemics, lightning damage, electromagnetic interference, radio interference, strikes and industrial dispute.

16. Rights of Third Parties

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

17. Severance

If any provision of these Terms and Conditions (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 Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.

If a provision of these Terms and Conditions (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.

18. Choice of law and venue

These Terms and Conditions and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the laws of Malaysia.

The parties irrevocably agree that the courts of Malaysia shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms and Conditions or its subject matter.

19. Translation

Any local language translation of these Terms and Conditions is provided for the convenience of the Client and Participant only. In the event of any discrepancy between the local language version and the English language version, the text of the English language version shall prevail.

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Information for participants

MSTS Malaysia ("MSTS") would like to take this opportunity to welcome you to its courses in practical safety training. We would also like to provide you with the following information in order for you to be fully prepared for your course. Please complete and sign the form at the bottom of this sheet to confirm that you have received, read and understood the information. Please provide your signed form to your trainer upon arrival.

1. General

MSTS's training courses aim to teach the participants how to deal with dangerous situations which may demand a degree of physical exertion. MSTS strives to ensure that training courses are conducted safely and efficiently.

2. Health and fitness

Your state of health could increase the risk involved in participating in a MSTS training course as a number of courses involve practical training sessions. Whilst the physical impact of such sessions should not pose a problem for those who are physically fit, it *may* pose a problem for anyone who has sustained injuries in the past or who currently suffers from any illness (e.g. diabetes, epilepsy, heart disease or mental illness).

Please also note that prolonged periods in the pool *may* aggravate eczema and other dermatological conditions.

Further, free-fall lifeboat training, fire fighting and helicopter training in the pool involve stress on the muscular and skeletal system. Again, this activity should not pose a problem for the physically fit, but it may aggravate previous injuries or current problems affecting muscles, tendons or the skeleton (e.g. gout or neck/back injuries).

If you have sustained injuries in the past or currently suffer from any illness or condition that *may* increase the risks involved in participating in a MSTS training course, please seek appropriate medical advice before commencing any such course.

3. Swimming ability

Several MSTS training courses require that participants can swim. If you cannot swim, or if you consider yourself to be a poor swimmer, you must inform the course trainer before the course begins. The trainer will take this into consideration and adapt the training if practically possible.

4. Intoxicating substances and medications

The participants must not be under the influence of any intoxicating substances or medications (including alcohol or any illegal substances) which affect alertness during the training course. Any participant suspected of being under the influence of any such substance or medication will be excluded from the training course and his/her employer will be informed accordingly.

5. Safety

Upon arrival you must familiarise yourself with MSTS's safety procedures. Your trainer will assist you to do so and if you have any questions, please ask!

6. Liability and limitations of liability

Please refer to sections 12 and 13 of "MSTS General Terms and Conditions" applicable to your training course for the liability and limitations of liability of MSTS (attached). Your participation in any course is subject to your acceptance of these Terms and Conditions. In completing and signing this form and returning it to a trainer, you hereby agree to be bound by the "MSTS General Terms and Conditions" applicable to your training course.

MSTS does not accept responsibility for personal property. Cloakrooms and storage facilities are provided for the convenience of participants only and any goods deposited in the cloakrooms or storage facilities or left unattended on the premises are done so at the participant's risk and without any liability towards MSTS.

Please complete this form and provide it to your trainer before the commencement of the training course

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By signing this form I hereby confirm that I have received, read and understood the "Information for participants" sheet and the "MSTS General Terms and Conditions".

Course: _____

Date from: _____ until: _____

Name: _____

Employer: _____
 (Capitals)

Signature: _____ **Date:** _____

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