

Trauma and Resuscitation Team Skills (TaRTS) Licence Terms of Use

Background

Whereas

(A) The Trust has developed content, training materials and structures to facilitate the delivery of a new training course which is mapped to the National Major Trauma Nursing Group NMTNG Level 1 curriculum (NMTNG)

(B) The Trust may grant a licence to the Licencee to deliver the TaRTS training course

(C) The Trust's objective is to facilitate the delivery of high quality training through its Licencees in a manner in which is cost effective, consistent, reliable and robust and which is delivered using uniform training materials and systems at its core, to which training "with particular emphasis on the NMTNG Level 1 curriculum" can be added in meeting the training objectives agreed and approved by the Trust.

(D) The TaRTS course is primarily targeted but not limited to the training of Emergency Department (ED) nurses who operate in major trauma centres (MTC's) and trauma units (TU's). The course may also be beneficial to staff working or exposed to a trauma environment, such as healthcare assistants (HCAs), operating department practitioners (ODPs), junior doctors, and also senior staff members.

(E) The Trust has, and will continue, to develop training materials and an infrastructure which may lead to the future development of the course to include a second day of study and Objective Structured Clinical Examinations (OSCE) which will allow the higher "Level 2" competencies to be met

(F) The Licencee wishes to access, use and deliver training courses utilising the TaRTS materials and deliver "X" number of courses per year and hereby agrees to the terms and conditions as set out below.

Agreed Terms

1. INTERPRETATION

1.1 The definition and rules of interpretation in this clause apply to this agreement;

Annual Licence Fee: means the annual fee payable by the Licencee to the Trust in accordance with clause 6.

Approved Training Centre Status: means training organisations approved to deliver periodic training by the Trust.

Approved Training Course: means a training course approved by the Trust.

Course Materials: means all materials provided by the Trust to the Licencee to enable the Licencee to exercise its rights under this agreement, including but not limited to all materials relating to the TaRTS training courses.

Fees: means the Annual Licence Fee and such other agreed sums payable from time to time by the Licencee to the Trust.

Intellectual Property: means all intellectual property rights including, but not limited to, patents, trade secrets, trade marks, service marks, copyrights and other rights in works of authorship, content and materials (including rights in computer software), moral and artists' rights, design rights, trade or business names, domain names, know-how and database rights and whether any of the foregoing are registered or unregistered and all rights or forms of protection of a similar nature in any country of the Trust.

The Trust: means Airedale NHS Foundation Trust, Airedale General Hospital

Licence Year: means the period of 12 months commencing on the date signing this agreement.

Party: means either party to this agreement.

TaRTS: means training courses, including Course Materials and content, which are developed by the Trust, approved by the Trust, and which the Licencee is authorised to deliver under clause 3.1 in accordance with the terms of this agreement.

Term: means the term of this agreement as defined in clause 2.

1.2 Words in the singular include the plural and in the plural include the singular and reference to any gender includes the other genders.

2. TERM

2.1 This agreement shall commence on the date that this agreement is signed by both parties and, subject to either party's right to terminate pursuant to clause 8, shall continue for an initial period of 12 months following the date of signature ("Initial Period") and shall continue in force thereafter (automatically renewing at the start of each Licence Year).

3. GRANT OF RIGHTS

3.1 The Trust appoints the Licencee as a non-exclusive provider of the TaRTS training courses to its employees. The Licencee may train up to 60 employees in 5 TaRTS training courses, or up to 120 employees in 10 TaRTS training courses for an annual licence fee detailed in Schedule 1. For the avoidance of doubt the Licencee is not entitled to deliver the training course to any persons who are not employed by the Licencee.

3.2 The grant of rights set out in clause 3.1 above, is specific to the Licencee and is conditional upon the Licencee demonstrating that they meet and will in the future continue to meet the Trust's reasonable requirements from time to time and in particular that they comply with the obligations set out in clause 5.

4. OBLIGATIONS OF the Trust

4.1 In consideration of the payment of the Fees by the Licencee to the Trust, the Trust agrees with the Licencee as follows:

4.1.1 To use its best endeavours to maintain and support the TaRTS course material (at its cost) during the Term, provided that in the event that the Trust ceases to provide the TaRTS course, the terms of clause 8.2.5 shall apply;

4.1.2 To ensure that the materials and content forming the TaRTS course at all times meet the requirements of the National Major Trauma Nursing Group NMTNG Level 1 curriculum.

4.1.3 To specify the requirements of the course delivery which will include a faculty who will assist the course director. The faculty will include suitably qualified clinicians with Advance Trauma Life Support skills (ATLS) and associated trauma courses & trauma experience. Other staff such as Operating Department Practitioners (ODPs) with experience of trauma or paramedics may also assist, as approved by the course director. The Trust advises a ratio of 1 instructor per 2 trainee candidates to allow adequate supervision and mentoring.

4.1.4 To maintain a dedicated administration system to ensure that records and information are up to date at all times;

4.2 the Trust warrants it is the owner of all rights in the TaRTS training course and materials.

4.3 the Trust reserves the right at all times to visit the Licencee to audit Licencee's performance of training provision and compliance with this Agreement, by visiting Licencee's premises (including but not limited to visiting to audit records and attend training courses), by telephoning staff trained by Licencee, or otherwise, and Licencee consents to this and will obtain consent from all staff trained by the Licencee for this purpose.

5. OBLIGATIONS OF THE LICENCEE

5.1 In consideration of the rights provided under clause 3 in this agreement the Licencee undertakes as follows:

5.1.1 to ensure that training is delivered in accordance with the requirements of the Trust;

5.1.2 to provide suitable (as determined by the Trust) premises for the delivery of training, secure storage of training records (e.g. notes of reflection necessary to

obtaining CPD certificate) and evidence of premises used and quality assurance records (for a period of at least six years) and suitable administration;

5.1.3 to provide sufficient resources for training, teaching aids, materials and equipment;

5.1.4 to maintain policies for quality assurance, equal opportunities, Health and Safety, trainer standards/development and data protection which are appropriate for from time to time;

5.1.5 to maintain suitable administration staff who are accountable for completing procedures for periodic training, procedures and IT systems;

5.1.6 to engage and/or ensure the TaRTS course is delivered by appropriately qualified and experienced trainers registered with the Licencee for the provision of the training and maintain up to date records of instructors ensuring that training is only provided by suitably qualified medical personnel who are instructors approved by the Trust and/or the Licencee who have appropriate knowledge of the subject and experience of delivering training. It is recommended an established TaRTS course is observed by instructors prior to delivery of their first;

5.1.7 to allow the Trust and /or the competent authority or their representative the right to visit at any reasonable time without prior notice. As part of any quality visit the representative shall be entitled to participate in any the TaRTS training course which the Licencee is permitted to deliver under the terms of this agreement;

5.1.8 to take any necessary actions as reasonably notified by the Trust following a monitoring visit within the time scales indicated on any resultant action plan;

5.1.10 to abide by the sanctions reasonably imposed by the Trust should a significant quality issue be identified, sanctions may include suspension of the rights herein to deliver the TaRTS training course until such identified defects have been remedied to the satisfaction of the Trust;

5.1.11 to use the TaRTS course materials as provided by the Trust. Permission is granted to the Licencee to remove slides which are specific to the Trust and to replace these with similar slides bearing the Licencee's own brand or logo. No right to change text or content is permitted except where the content is clearly marked as being specifically relevant to the licensee's organisation.

5.1.12 to use the TaRTS course only as provided in this Agreement and to accurately record training and certification of attendance and/or achievement, to have computer systems capable of recording training as may reasonably be required by the Trust onto a central database held by the Licencee;

5.1.13 to return all Course Materials to the Trust in the event of termination of this agreement;

5.1.14 to notify the Trust in writing of all course details (including details of the relevant trainer) no less than 24 hours in advance of such courses taking place, and if a course is cancelled, to notify the Trust of such cancellation no less than 48 hours before such course was due to take place. the Trust reserves the right in its absolute discretion to accept late registration or cancellation of courses;

5.1.15 to commit to ongoing review and improvement as required from time to time and to ensure that all trainer information is accurately maintained and kept up to date at all times and that any changes are promptly notified to the Trust;

5.1.17 To co-operate fully with the Trust including the Trust's right to audit Licencee's compliance with this Agreement under clause 4.3 and to provide such information and assistance as may be required by the Trust to comply with a request or audit by the Trust including (without limitation) evidence of identity pursuant to 5.1.18 below;

5.1.18 To carry out and record identity and eligibility checks in respect of each participant on a course, prior to commencement of the course, and to obtain consent from each participant on a course to hold their personal data and to pass such personal data on to other third parties as may be necessary in order for the participant to participate in the course, to receive confirmation of that participant's completion of the course, and to retain the participant's details after the participant completes the course for the purpose of future monitoring and/or training;

5.1.19 To provide the Trust with such information as the Trust reasonably requires to enable the Trust or other third parties as may be necessary in order to issue participants that attended a given course with a record of attendance;

5.1.20 To ensure that course participants complete a feedback form at the end of the course, and on the Trust's request to provide copies of such feedback forms to the Trust; and

5.1.21 To maintain for a period of at least 6 years all Attendance Forms, Feedback Forms, and all assessment paperwork, and to provide such training records to the Trust on request.

5.2 the Licencee shall not be entitled to exploit or enter into any commercial or other agreement to exploit any of the commercial rights other than contained within this agreement without the express written agreement of the Trust.

5.3 the Licencee shall not:

5.3.1 represent itself as an agent of the Trust for any purpose;

5.3.2 pledge the Trust's credit;

5.3.3 give any condition, warranty or representation on the Trust's behalf;

5.3.4 commit the Trust to any contracts; or

5.3.5 use the Course Materials or any Intellectual Property of the Trust for any purpose other than as expressly agreed with the Trust.

5.3.6 deliver the TaRTS training course for profit or gain and will not make any financial charge to course delegates or attendees under any circumstances

5.4 the Licencee shall not sub-license the rights granted to it under this Agreement to any third party. For the avoidance of doubt, the Licencee may deliver the TaRTS training courses to employees and staff members for the sole purpose of allowing those employees and/or staff who work in major trauma centres (MTC's) and trauma units (TU's) to which the training relates but shall not deliver the TaRTS training courses, or provide Course Materials, to any person for the purposes of enabling that person to deliver training to third parties, nor shall it permit those who take up the TaRTS training courses to use the Course Materials to train third parties.

5.5 the Licencee shall not, without the Trust's prior written consent, make any promises or guarantees about the TaRTS training courses beyond those contained in the material supplied to the Licencee by the Trust.

5.6 In exercising its rights under clause 3.1 above, the Licencee shall:

5.6.1 Exercise its obligations with best care, skill and diligence in accordance with best practice in the Licencee's profession;

5.6.2 Observe all health and safety rules and regulations and any other health and safety requirements that may apply in respect of its exercise of the rights granted in clause 3.1;

5.6.3 Not do or omit to do anything which may cause the Trust to lose any licence, authority, approval, consent or permission on which it relies for the purposes of conducting its business or which might otherwise harm the reputation of the Trust, or of other Licencees.

5.6.5 Ensure that the provisions of this Agreement are complied with at all of its Training Centres and shall ensure that it has adequate procedures to monitor and securely manage user names and passwords of its employees or others with access to its systems.

5.7 the Licencee acknowledges that any breach of the above provisions can lead to the suspension or removal of the Licence and could lead to the withdrawal of approval for the Licencee to deliver the TaRTS course.

6. FEES

6.1 the Licencee hereby undertakes to pay to the Trust the annual licence fees as set out in its published pricing structure (as may be varied from time to time) in

accordance with the Trust published payment terms from time to time. These shall include the following:-

6.1.1 The Annual Licence Fee;

6.1.2 Any other fees which the parties may from time to time agree in writing.

6.2 All Fees shall be inclusive of VAT (if appropriate), which the Trust shall include in its invoices at the appropriate rate.

6.3 Subject to clause 6.4 below, the parties agree that the Trust may review and increase its Fees from time to time. the Trust shall give the Licencee written notice of any such increase 2 months before they begin. If such increase is not acceptable to the Licencee, it may, prior to the end of the then current Licence Year, terminate this Agreement with effect from the end of that Licence Year by giving notice to the Trust in writing.

6.4 The Annual Licence Fee set out in Schedule 1 shall remain fixed for a period of 12 months from the date of this agreement. For the avoidance of doubt, the Trust shall be free to increase the Annual Licence Fee in accordance with clause 6.3 above for the Licence Year commencing 12 months from the date of this agreement, and in each Membership Year thereafter.

6.5 Unless otherwise agreed between the parties in writing, the Licencee shall pay each invoice submitted to it by the Trust, in full and in cleared funds, within 30 days of receipt to a bank account nominated in writing by the Trust.

6.6 Without prejudice to any other right or remedy that it may have, if the Licencee fails to pay the Trust on the due date, the Trust may:

6.6.1 charge interest on such sum from the due date for payment at the annual rate of 8% above the official bank rate of the Bank of England, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Licencee shall pay the interest immediately on demand; and

6.6.2 suspend the Licencee's licence until payment has been made in full.

6.7 All sums payable to the Trust under this agreement shall become due immediately on its termination, despite any other provision. This clause 6.7 is without prejudice to any right to claim for interest under the law, or any such right under this agreement.

7. FORCE MAJEURE

7.1 Neither Party shall be deemed to be in breach of this Agreement, or otherwise be liable to the other, by reason of any delay in performance, or non-performance, of any of its obligations hereunder to the extent that such delay or non-performance is due to any circumstances beyond the reasonable control of that Party ("Event of Force Majeure") of which it has notified the other Party in writing and the time for

performance of that obligation shall be extended accordingly.

7.2 If an Event of Force Majeure continues for more than sixty (60) days in a manner which prohibits performance by a Party of its obligations under this Agreement, the other Party may terminate the Agreement immediately by written notice to the Party affected by the Event of Force Majeure, and, in such event, neither Party shall have any further obligations under this Agreement.

8. TERMINATION

8.1 Either Party may terminate this Agreement at any time on not less than 3 (three) months notice.

8.2 the Trust may terminate this Agreement forthwith in the event of the following:

8.2.1 Non-payment of Fees;

8.2.2 Any breach of the terms of this Agreement by the Licencee;

8.2.3 the Licencee becomes, or is reasonably likely to become, insolvent or bankrupt;

8.2.4 the Licencee's business ceasing to trade or appearing likely to cease to trade;

8.2.5 the Licencee loses its Approved Training Centre Status.

8.3 the Licencee agrees and acknowledges that in the event of termination (for whatever reason) of this Agreement no Fees will be refunded.

9. CONFIDENTIALITY AND THE TRUST'S PROPERTY

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

9.2 the Licencee may disclose such information as may be required by law, court order or any governmental or regulatory authority.

9.3 the Licencee shall not use any such information for any purpose other than to enable it to perform the rights granted to it under clause 3 of this agreement.

9.4 the Licencee acknowledges and agrees that all Intellectual Property in the TaRTS training courses, and Course Materials, is owned by the Trust. the Licencee shall only use such Intellectual Property to the extent necessary to enable it to exercise the rights granted to it under clause 3.1 above.

10. INDEMNITY

10.1 the Licencee shall keep the Trust indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Trust as a result of or in connection with:

10.1.1 any claim made against, or loss suffered by the Trust arising out of, or in connection with, a breach of this agreement or the negligent exercise by the Licencee (including its employees, agents or subcontractors) of its rights under this agreement; and

10.1.2 the Licencee losing its Approved Training Centre Status as a result of the breach of this agreement or the negligent exercise by the Licencee (including its employees, agents or subcontractors) of its rights under this agreement.

11. WARRANTIES AND LIABILITY

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

11.2 Nothing in this agreement limits or excludes the liability of either Party:

11.2.1 for death or personal injury resulting from negligence; or

11.2.2 for fraud or fraudulent misrepresentation; or

11.2.3 for any liability incurred as a result of any breach of the clause as to title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982.

11.3 Subject to clause 11.2:

11.3.1 the Trust shall not under any circumstances whatever be liable for:

11.3.1.1 loss of profits; or

11.3.1.2 loss of business; or

11.3.1.3 depletion of goodwill and/or similar losses; or

11.3.1.4 loss of anticipated savings; or

11.3.1.5 loss of goods; or

11.3.1.6 loss of contract; or

11.3.1.7 loss of use; or

11.3.1.8 loss of corruption of data or information; or

11.3.1.9 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and

11.3.2 In each Licence Year or part of a Licence Year, the Trust'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 this agreement shall in all circumstances be limited to the Licence Fee received by the Trust in respect of that Licence Year.

12. ANTI-BRIBERY COMPLIANCE

12.1 the Licencee shall:

12.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);

12.1.2 have and shall maintain in place throughout the term of this agreement its own policies and procedures to ensure compliance with the Relevant Requirements, and will enforce them where appropriate;

12.1.3 promptly report to the Trust any request or demand for any undue financial or other advantage of any kind received by the Licencee in connection with the performance of this agreement; and

12.1.4 immediately notify the Trust (in writing) if a foreign public official becomes an officer or employee of the Licencee or acquires a direct or indirect interest in the Licencee (and the Licencee warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this agreement).

12.2 the Licencee shall ensure that all of its suppliers, agents and subcontractors who perform services or provide goods in connection with this agreement do so only on the basis of a written contract which imposes on and secures from such persons terms equivalent to those imposed on the Licencee in this clause 12 (Relevant Terms). the Licencee shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Trust for any breach by such persons of any of the Relevant Terms.

13. VARIATION

13.1 No variation of this agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

14. WAIVER

14.1 A waiver of any right or remedy under this agreement is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a Party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy,

nor shall it preclude or restrict any further exercise of that or any other right or remedy.

14.2 No single or partial exercise of any right or remedy provided under this agreement or by law shall preclude or restrict the further exercise of any such right or remedy.

15. CUMULATIVE REMEDIES

15.1 Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.

16. SEVERANCE

16.1 If any provision of this agreement (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.

16.2 If a provision of this agreement (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.

17. ENTIRE AGREEMENT

17.1 This agreement and any documents referred to in it constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, arrangements, understandings or agreements between them, whether written or oral, relating to the subject matter of this agreement.

17.2 Each Party acknowledges that, in entering into this agreement, it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this agreement. Each Party agrees that its only liability in respect of those representations and warranties that are set out in this agreement (whether made innocently or negligently) shall be for breach of contract.

17.3 Nothing in this clause shall limit or exclude any liability for fraud.

18. ASSIGNMENT

18.1 the Licencee shall not, without the prior written consent of the Trust, assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights or obligations under this agreement.

18.2 the Trust may at any time assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights or obligations under this agreement.

18.3 Each Party that has rights under this agreement is acting on its own behalf and not for the benefit of another person.

19. RIGHTS OF THIRD PARTIES

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

20. GOVERNING LAW AND JURISDICTION

20.1 This agreement 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.

20.2 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 this agreement or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE 1: ANNUAL LICENCE FEE

Option	Description	Price
1	License and materials to deliver 5 TaRTS courses a year for up to 60 employees in your organisation	£750
2	License and materials to deliver 10 TaRTS courses a year for up to 120 employees in your organisation	£900