

## **Uploads**

### **Trainologic Terms & Conditions (September, 2008)**

Please take your time to read it carefully, understand and accept the following Terms & Conditions.

#### **1. Your Acceptance**

- a. BY USING OR VISITING THIS WEBSITE (together with all Content available through the Trainologic.com domain name, the "Website"), OR SUBMITTING CONTENT TO THIS WEBSITE, YOU SIGNIFY YOUR ASSENT TO (1) THESE TERMS AND CONDITIONS (the "Terms & Conditions"), AND (2) TRAINOLOGIC.COM'S PRIVACY POLICY.

These Terms & Conditions apply to all Website's users.

If You do not agree to these Terms & Conditions or the Privacy Policy, please do not use the Website and/or the Content.

This Agreement is between Trainologic.com and the user who uploads and/or submits Content to this Website.

Please pay attention that the following Terms and Conditions constitute a legal Agreement between You and Trainologic.com.

- b. For the purpose of this Agreement, "You" means you or, if you are accepting on behalf of your employer or entity, then "You" means that employer or the entity and its affiliates, "Content" means any text, documents, presentation, photographic image, animation, flash file, illustration, film or video footage, visual representation generated optically or a source code of either of the above, either electronically, digitally or by any other means or in any media or other material that can be download from the Site whether owned by Trainologic.com or

whether Trainologic.com is authorized to contribute and/or distribute it; and "Uploaded Content" means any Content submitted to this Website by You.

## **2. Intellectual Property Rights**

- a. Trainologic respects the intellectual property rights of others, and requests You to do the same.
- b. Trainologic does not permit copyright infringing activities and infringement of intellectual property rights on its Website. Trainologic will remove all Content, including without limitation Uploaded Content, if properly notified that such Content infringes or allegedly infringes or is about to infringe this Agreement, on another's intellectual property rights.
- c. Trainologic reserves the right to remove Content, including without limitation Uploaded Content, without prior notice.
- d. Trainologic also reserves the right to terminate the User's access to the Website, if the use of the Content infringes or allegedly infringes or will be about to infringe this Agreement.
- e. Trainologic may remove such Content and/or terminate a User's access for uploading and/or downloading such Content in violation of these Terms & Conditions at any time, without prior notice and at its sole discretion.
- f. By uploading the Content to the Website, You undertake, represent and warrant that (1) You have full power and authority to enter into this Agreement and to carry out the provisions hereof; and (2) You are the owner of the Content and/or any title and right including without limitation the copyright and other intellectual property rights to the uploaded Content and/or its parts and any and all documentation and other material provided by You; and (3) You are not aware that the Uploaded Content violates the intellectual property rights of any third parties; and (4) You acknowledge and give your irrevocable consent that Trainologic may convert, change, modify, alter, adjust, amend, correct, revise, use, reproduce,

distribute, redistribute, publish, republish, post, transmit, crop, package, repackage, produce and sell the Content, including without limitation Uploaded Content and/or its way of presentation, in its sole and absolute discretion; and (5) You irrevocably allow and authorize Trainologic to grant perpetual, worldwide, non-exclusive and non-transferable licenses or sub-licenses to its subscribers and/or Users which would like to access, acquire, and use the Uploaded Content, through the Site or other venues which it may determine from time to time, under the Terms & Conditions of the Standard License Terms and/or the Extended License Terms (that You hereby acknowledge having reviewed and approved) ;and (6) You are not aware that that Uploaded Content is either inaccurate, offensive, indecent, or objectionable; and (7) the Uploaded Content does not depict violence, or contain images of nudity, sexual acts, or other sexual material ("Mature Content");and (7) allow Trainologic to use the Uploaded Content for its own business purposes relating to the promotion of the Site and its distribution programs, and expand the market for the licensing of the Content. You acknowledge that no Compensation shall be due to You for use of uploaded Content solely for such business purposes (as opposed to Compensation under section 3) ; and (8) the Uploaded Content will be considered and deemed "work made for hire" for the benefit and the ownership of Trainologic to the fullest extent permitted by law. Notwithstanding the above, nothing shall restrict You from (i) use the content for commercial purposes but not to the sale or licensing or giving rights in the Content in the Web and/or in any other digital manners; or (ii) use the Content for non commercial purposes for your benefit.

### **3. Compensation**

- a. In consideration of the grant in Section 2(f) above, Trainologic agrees to pay You a portion of the fees actually collected in respect to Uploaded Content that is downloaded or otherwise purchased or used by Trainologic and/or the Users according to the **rates formula** [\[link\]](#) (the "Compensation ")

- b. The parties acknowledge that the above rate formula is subject to change in the sole discretion of Trainologic in the ordinary course of its business. If at any time the rate is not acceptable by You, You may refrain from providing and/or submitting additional Content or terminate this Agreement in accordance with its terms.
- c. Trainologic will provide You with a monthly statement approving the number of Users for the Uploaded Content, the length of the training chapters and the number of the beneficiaries which together shall constitute irrefutable proof for the Compensation for the Uploaded Content.
- d. In response to your written request, Trainologic will endeavor to make payment of fees in respect of purchased downloads of Uploaded Content on a monthly basis within 10 days following the fees collection, provided such fees aggregate a minimum of US\$100, failing which fees owing will be retained until they exceed such minimum.
- e. In all cases, Compensation and/or any other payment of fees to You will be net of:
  - i. applicable taxes or other withholdings required by applicable law;
  - ii. legal and other reasonable fees incurred in enforcing this Agreement or the Extent License Agreement;
  - iii. where purchases or licenses are by other than the credit system, fees payable to financial institutions for the processing of any credit card, debit card, e-cheque or alternative payment method;
  - iv. bad debts or other uncollectible sums;
  - v. any amounts owing by You to Trainologic under this Agreement or otherwise.
- f. Without limiting the generality of the foregoing, Trainologic is entitled to set-off against any amount owing to You, all amounts to which Trainologic is or may be entitled under this Agreement or otherwise at law, including withholding amounts

as security for any pending or threatened claim relating to any matter which is the subject of a representation, warranty or indemnity of You under this Agreement.

#### **4. Links**

The Website may contain links to third party websites or web pages that are not owned or controlled by Trainologic.com.

Trainologic.com has no control over their web sites, and assumes no responsibility for the content, privacy policies, or practices of any third party websites or web pages.

In addition, Trainologic.com will not and cannot censor or edit the content of any third-party site or page. By using the Website, You expressly release Trainologic.com from any and all liability arising from your use of any third-party website or web page.

#### **5. Account**

In order to access some features of the Website, You will have to create an account. When creating your account, You must provide accurate and complete information. You are solely responsible for the activity that occurs on your account, and You must keep your account password secure. You must notify Trainologic immediately of any breach of security or unauthorized use of your account. You will be liable for any use made of your account or password and the losses of Trainologic or others due to such unauthorized use. Trainologic will not be liable for your losses caused by any unauthorized use of your account.

#### **6. Term of this Agreement**

- a. This Agreement is effective until it is terminated. You can terminate this Agreement by submitting to Trainologic a written application by e-mail to: info@

Trainologic.com and this Agreement will terminate within 14 business days after the application is submitted. However, all representations, warranties and covenants contained herein or made by You shall survive termination of this Agreement and Trainologic will be able to use the Uploaded Content at its sole discretion.

- b. The Agreement also terminates without notice from Trainologic if at any time You fail to comply with any of its terms.
  
- c. In addition, Trainologic has the right to terminate your access to the Website, at its sole discretion, immediately and with or without cause.

## **7. Limited Representations and Warranties**

- a. While Trainologic has made reasonable efforts to correctly categorize and keyword the Content, Trainologic does not warrant the accuracy of such information.
  
- b. THE CONTENT IS PROVIDED “AS IS” WITHOUT REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY OF THE CONTENT, OR ITS FITNESS FOR A PARTICULAR PURPOSE. TRAINOLOGIC DOES NOT REPRESENT OR WARRANT THAT THE CONTENT WILL MEET THE USER'S REQUIREMENTS OR THAT ITS USE WILL BE UNINTERRUPTED OR ERROR FREE. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE CONTENT IS WITH THE USERS ONLY. SHOULD THE CONTENT PROVE DEFECTIVE, YOU (AND NOT TRAINOLOGIC) ASSUME THE ENTIRE RISK AND COST OF ALL NECESSARY CORRECTIONS.

- c. Certain jurisdictions do not allow the exclusion of implied warranties, so the above exclusion may not apply to You. You have specific rights under this warranty, but You may have others, which vary from jurisdiction to jurisdiction.

## **8. Limitation of Warranties and Liability**

- a. IN NO EVENT SHALL TRAINOLOGIC OR ANY OF ITS AFFILIATES OR CONTENT PROVIDERS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, PARTNERS OR AGENTS BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING DAMAGES FOR LOSS OF PROFITS, INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) IN CONNECTION WITH ANY CLAIM, LOSS, DAMAGE, ACTION, SUIT OR OTHER PROCEEDING ARISING UNDER OR OUT OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION YOUR USE OF, RELIANCE UPON, ACCESS TO, DISTRIBUTION OF, ADJUSTMENT OF, OR EXPLOITATION OF THE CONTENT, OR ANY PART THEREOF, OR ANY RIGHTS GRANTED TO THE USERS HEREUNDER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER THE ACTION IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR OTHERWISE.
- b. IN ANY EVENT, THE TOTAL MAXIMUM AGGREGATE LIABILITY OF TRAINOLOGIC UNDER THIS AGREEMENT, THE LICENSE PROVIDED HEREUNDER, OR THE USE OR EXPLOITATION OF ANY OR ALL OF THE CONTENT IN ANY MANNER WHATSOEVER, WHETHER SHALL BE USED BY TRAINOLOGIC OR BY ANY OTHER THIRD PARTY, SHALL BE LIMITED TO THE FEES SHALL BE PAID TO YOU BY TRAINOLOGIC

UNDER THIS AGREEMENT IN RESPECT OF THE USER'S USE OF THE RELEVANT CONTENT.

- c. Certain jurisdictions do not allow the exclusion of implied warranties, so the above exclusion may not apply to You. You have specific rights under this warranty, but You may have others, which vary from jurisdiction to jurisdiction.

## **9. User Submissions**

### **10.**

- a. The Website facilitates the submission of Content by other users ("User Submissions") and the hosting and publishing of such User Submissions. You understand that whether or not such User Submissions are published, Trainologic does not guarantee any confidentiality with respect to any User Submissions. Trainologic has complete discretion whether to accept or reject User Submission, or to transfer User Submission from one portion of the Website to another.
- b. You understand that when using the Website, You may be exposed to User Submissions from a variety of sources, and that Trainologic is not responsible for the accuracy, usefulness, safety, or intellectual property rights of or relating to such User Submissions. You may be exposed to User Submissions that are inaccurate, offensive, indecent, or objectionable, and You agree to waive, and hereby do waive, any legal or equitable rights or remedies You may have against Trainologic with respect thereto, and agree to indemnify and hold Trainologic, its owners, affiliates, employees, agents and/or licensors, harmless to the fullest extent allowed by law regarding all matters related to your use of the Website. You acknowledge that access to certain Content include Mature Content is permitted only if You are over the minimum age applicable in your jurisdiction (often but not necessarily 18 or 21).

## **10. Indemnity**

You agree to defend, indemnify and hold harmless Trainologic, its affiliates, and their respective officers, shareholders, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs and expenses (including but not limited to attorney's fees) arising from: (i) your use of the Website; (ii) your violation of these Terms & Conditions; (iii) your violation of any third party right, including without limitation any copyright, property, publicity or privacy right; or (iv) any claim that one of your User Submissions and/or the uploaded Content caused damage to a third party. This defense and indemnification obligation will survive these Terms & Conditions and your use of the Website. Notwithstanding the above, in case of infringing of intellectual property rights, You shall pay Trainologic a non-refundable fee in the amount equal to the Compensation shall be paid to You by Trainologic according to this Agreement (the "Agreed Compensation"). It shall be noted that the payment of the Agreed Compensation shall not harm any of the Trainologic's rights to any claim, demand and/or suit regarding the Agreement.

## **11. Ability to Accept Terms & Conditions**

You affirm that You are either more than 18 years of age or possess legal parental or guardian consent to enter into these Terms & Conditions, and to comply with these Terms & Conditions.

## **12. Assignment**

These Terms & Conditions, and any rights and licenses granted hereunder, may not be transferred or assigned by You, but may be assigned by Trainologic without restriction.

## **13. General**

- a. You agree that: (i) the Website shall be deemed to be managed, controlled and supervised in Tel Aviv, Israel; and (ii) the Website shall be deemed a passive website that does not give rise to personal jurisdiction over Trainologic, either specific or general, in jurisdictions other than the State of Israel.
- b. These Terms & Conditions shall be governed by the internal substantive laws of the State of Israel, without respect to its conflict of laws principles. Any claim or dispute between You and Trainologic that arises in whole or in part from the Website or these Terms & Conditions shall be decided exclusively by a court of competent jurisdiction located in Tel Aviv, Israel.
- c. These Terms & Conditions, together with the Privacy Policy shall constitute the entire agreement between You and Trainologic concerning the Website.
- d. If any provision of these Terms & Conditions is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms & Conditions, which shall remain in full force and effect.
- e. No waiver of any term of this these Terms & Conditions shall be deemed a further or continuing waiver of such term or any other term, and a party's failure to assert any right or provision under these Terms of Use shall not constitute a waiver of such right or provision.
- f. Trainologic reserves the right to amend these Terms & Conditions at any time and from time to time without any notice, and it is your responsibility to review these Terms & Conditions for any changes. Your use of the Website following any amendment of these Terms & Conditions will signify your assent to and acceptance of its revised terms.

Contact:

If You have any concerns relating to this Terms & Conditions, please contact Trainologic at [info@ Trainologic.com](mailto:info@Trainologic.com).

THANK YOU FOR VISITING US.

EFFECTIVE DATE: September 18, 2008

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