

General terms and conditions of OBM Dynamics BV for TTI Courses and related coaching

Article 1. Definitions

1.1 In these terms and conditions, the following terms stated with a capital letter are understood to mean:

- a. **OBM Dynamics**: the user of these general terms and conditions: OBM Dynamics BV located at 103 Mattenbieslaan in Vleuten, registered with the Chamber of Commerce under Chamber of Commerce number 73953016;
- b. **Counterparty**: the person representing a legal entity called Company who negotiates with OBM Dynamics about the conclusion of an Agreement or who enters into an Agreement with OBM Dynamics in any way (whether or not via the Website);
- c. **Agreement**: the agreement between the Counterparty and OBM Dynamics;
- d. **Company**: the Counterparty, being a company;
- e. **Participant**: the natural person who has registered or wishes to register with OBM Dynamics for a Training as well as the person for whom the Company has entered into the Agreement with OBM Dynamics;
- f. **Training**: This is the Train-the-Instructor Course (hereinafter “TTI”) for one of the OBM Dynamics training products. This is a standard group training offered by OBM Dynamics in which Participants are trained to become Certified Instructors, as stated on the Website, or a customized process offered in accordance with the Company, including, but not limited to, the in-company provision of the TTI;
- g. **Certified Instructors**: Participants who have passed a TTI and who have successfully completed the associated exam, and who are therefore entitled, under certain conditions, to provide the training product for which they have been trained to others, which is arranged in a separate agreement with separate general terms and conditions;
- h. **Lesson**: the lesson or any other part of the TTI that OBM Dynamics provides in the context of the TTI;
- i. **Related coaching** (hereinafter: “Coaching”): Any form of coaching, advice and / or guidance that (a) is booked in addition to the standard TTI by the Company to support the Participant(s) in making the teaching material their own, or (b) is part of a customized process that has been agreed by OBM Dynamics and the Company, with the same supporting goal as described above;
- j. **Website**: the website www.obmdynamics.nl that is managed by OBM Dynamics.

Article 2. General

2.1 These conditions apply to all Agreements concluded with OBM Dynamics with regard to the TTI and the related Coaching. The applicability of any general terms and conditions of the Company, by whatever name, is hereby expressly rejected. The Partner Level Agreements of OBM Dynamics and the accompanying General Terms and Conditions for the Partnership and the licensing model are also out of scope of these terms and conditions.

2.2 Deviations from these terms and conditions are only binding if and insofar as they have been agreed between the parties in writing or by email.

2.3 If one or more provisions of these general terms and conditions are null and void or should be nullified, the other provisions of these general terms and conditions will remain fully applicable. The invalid or nullified provisions will be replaced by OBM Dynamics, whereby the purpose and purport of the original provision (s) is observed as much as possible.

2.4 If OBM Dynamics does not always require strict compliance with these general terms and conditions, this does not mean that the provisions thereof do not apply, or that OBM Dynamics would lose the right to strict compliance with the provisions of these general conditions in other cases.

2.5 OBM Dynamics has the right to change these general terms and conditions. The version of the general terms and conditions that applied at the time of the conclusion of the Agreement is always applicable, unless the Company has agreed to the new version of the general terms and conditions after the conclusion of the Agreement.

Article 3. Offers and quotations

3.1 Every offer and all quotations from OBM Dynamics are without obligation.

3.2 Insofar as offers issued by OBM Dynamics are also based on information provided by the Company, it guarantees that it has provided all essential information for the design and implementation of the offered activities to the best of its knowledge.

3.3 Obvious errors or mistakes in quotations, publications, email messages or Agreements or on the Website do not bind OBM Dynamics.

3.4 Everything that is provided by OBM Dynamics in the context of a quotation remains its inalienable property and must be immediately returned by the Company at the first request of OBM Dynamics.

3.5 An offer or quotation does not automatically apply to a future Agreement.

Article 4. Establishment of the Agreement

4.1 The Agreement is concluded after the Company has explicitly agreed to the offer of OBM Dynamics by signing the agreement or by agreeing to a registration on our Website.

4.2 The Agreement is concluded after the Company has indicated that it agrees with these general terms and conditions.

4.3 After the Agreement has been concluded via the Website or otherwise, OBM Dynamics will immediately send the Company a confirmation by email.

4.4 A reservation placed via the Website is only an Agreement when the Company has explicitly notified OBM Dynamics that the Company wishes to convert the reservation into a registration. After the Company has made this known, OBM Dynamics will send the Company a confirmation by email of the registration.

Article 5. Implementation of the Agreement

5.1 OBM Dynamics is entitled:

- a. to change the program of the TTI in the interim, for reasons of reprogramming of examination requirements of external examination institutes and / or for reasons of qualitative improvement;

- b. to change the schedule of the TTI in terms of place and time. The Participant will be notified of such a change in writing or by email, whereby an obligation to use best endeavors arises to comply with this change. If the Participant cannot participate in the TTI at the new place and / or at the new time, the Company has the right to dissolve the Agreement free of charge within 5 working days after the Company has been notified of the change;
- c. increase the group size by a maximum of 2 participants in exceptional cases.

5.2 OBM Dynamics will perform the work to be performed to the best of its knowledge and ability, and in accordance with the requirements of professional craftsmanship. The obligation that OBM Dynamics enters into with the Agreement has the character of a best-efforts obligation. OBM Dynamics does not guarantee that the intended result will be achieved with its work. Success partly depends on the efforts of the Participant.

5.3 If during the implementation it appears that there are circumstances that require a changed approach, OBM Dynamics will strive to adjust the original Agreement in consultation with the Company - or vice versa. Both the Company and OBM Dynamics have the duty to signal this in a timely manner and to discuss and record in writing the consequences for the Agreement and any (additional) costs.

Article 6. Cancellation of Training by the Company

6.1 The Company has the right to cancel participation in the TTI in writing or by email. The cancellation date is the date of the postmark or email date.

6.2 The Company can cancel free of charge 4 weeks before the start of a planned TTI. If the TTI is canceled by the Company within 4 weeks before the start but before 2 weeks before the start, the cancellation costs owed amount to 50% of the training costs. If the Company cancels the training within 2 weeks before the start, the cancellation costs owed will be 100% of the training costs.

6.3 OBM Dynamics will send the Company an invoice for the cancellation costs.

6.4 If participation in the TTI is not canceled and the Participant does not appear at the Class(es) or if participation in the TTI is canceled during the TTI, the total agreed price for the TTI remains due.

Article 7. Cancellation and rescheduling of an exam by the Company

7.1 Cancellation or rescheduling of an exam (including re-exams) by the Company must be made in writing or by email.

7.2 For cancellations up to 12 working days before the start of the (re-)exam, administration costs of € 75.00 excluding VAT are due.

7.3 For cancellation less than 12 working days before the start of the (re-)exam, the full exam fee is due.

7.4 It is possible to reschedule the (re-)exam once free of charge, as long as this is requested at least 12 working days before the scheduled exam date. The full exam fee is due for the second transfer, within any term.

7.5 Late / non-appearance at the (re-)exam will lead to exclusion from taking the (re-)exam. The full exam fee remains due.

7.6 The (re-)exam is not transferable to other persons.

Article 8. Replacement

8.1 The Participant can, in consultation with OBM Dynamics, have someone else participate in the TTI, provided that the TTI has not yet started.

Article 9. Cancellation or change by OBM Dynamics

9.1 OBM Dynamics has the right, without stating reasons, to cancel the TTI or to refuse participation of the Participant, in which cases the Company is entitled to a refund of the full amount paid by it to OBM Dynamics. OBM Dynamics will inform the Company in writing or by email of such a cancellation or refusal.

Article 10. Following a Lesson

10.1 The Company is responsible for the behavior of the Participant that he has registered for the TTI.

10.2 OBM Dynamics is authorized to deny a Participant who misbehaves or otherwise unreasonably impedes or prevents the proper execution of the Lesson from further access to the Lesson. In that case, the agreed compensation remains due in full, without prejudice to OBM Dynamics' right to compensation for any damage.

10.3 The Participant is expected to actively participate in the Class.

10.4 The use of alcoholic drinks or drugs during the Class is not allowed.

10.5 Smoking at the location where the Class is given is not allowed.

10.6 During the Lesson, the Participant must not be able to be disturbed by incoming telephone calls, messages or emails, unless the Participant has received permission for this from OBM Dynamics.

10.7 If, for whatever reason, the Participant is not present at the agreed place and time or if the Participant misses a Lesson, the agreed fee remains payable.

10.8 OBM Dynamics can never be held liable for damage, loss, theft or the loss of property of the Participant on the premises of OBM Dynamics or at the location where the Lesson is given.

10.9 Without prior permission from OBM Dynamics it is not allowed to make images and / or sound recordings of the Lesson.

Article 11. Coaching

11.1 Coaching can be obtained by the Company by purchasing a voucher in advance that represents a number of hours during which the Participants are guided outside the Lesson. The number of hours can be further agreed between the Company OBM Dynamics, based on the wishes of the Company and advice on the required quantity by OBM Dynamics. The validity of such a voucher expires after 12 months, calculated from the date of the first Lesson of the relevant TTI to which the coaching hours relate.

11.2 Coaching hours can only be used to perform activities for the Participant of the TTI to which the coaching hours relate and for activities related to the TTI to which the coaching hours relate. Coaching hours cannot be used for other people and / or activities.

11.3 Insofar as applicable, the location and time of the activities that are carried out within the framework of coaching hours will be determined in joint consultation.

11.4 If the Company does not make use of the coaching hours, then this does not entitle to a refund or any other form of compensation.

11.5 If the participant is not present at the agreed location and time, the planned hours will be debited from the voucher, unless the Participant has changed the appointment at least 5 working days in advance in consultation with OBM Dynamics.

Article 12. Payment

12.1 OBM Dynamics will charge the fees owed by the Company by means of an invoice. The Company must pay the fees due 30 days after the invoice date, but no later than before the start of the TTI or Coaching.

12.2 The travel and package / accommodation costs as well as recommended literature in connection with participation in a Course or Coaching are not included in the course price, unless explicitly agreed otherwise in writing.

12.3 In the event of non-payment or late payment, the Company will owe statutory (commercial) interest from the due date of the invoice until the day of full payment on the outstanding amounts. Furthermore, all judicial and extrajudicial costs for collection are for the account of the Company. The extrajudicial costs amount to 15% of the principal sum.

12.4 If the Company is in default as a result of late and / or incomplete payment, OBM Dynamics is entitled to immediately suspend the execution of the Agreement, including the right to refuse participation in the TTI.

12.5 Payments made by the Company always serve to settle, in the first place, all interest and costs owed, and in the second place of due and payable invoices that have been outstanding the longest, even if the Company states that the payment relates to a later invoice.

12.6 In case of liquidation, bankruptcy or suspension of payments of the Company, the claims of OBM Dynamics and the obligations of the Company towards OBM Dynamics will be immediately due and payable.

Article 13. Dissolution and suspension

13.1 OBM Dynamics has the right to dissolve the Agreement if the Company does not fulfill its (payment) obligations towards OBM Dynamics and the Company has not complied with a notice of default sent. If compliance is permanently impossible, a notice of default can be omitted.

13.2 OBM Dynamics is entitled to dissolve the Agreement, without notice of default and without obligation to pay compensation, in whole or in part by means of a written or electronic statement, or - at its option - to suspend the further execution of the Agreement, if:

- a. the Company is declared bankrupt;
- b. the Company files for suspension of payments;
- c. the Company proceeds to liquidate its business;
- d. the Company is placed under guardianship.

13.3 OBM Dynamics always reserves the right to claim compensation. Amounts owed are immediately due and payable upon dissolution.

Article 14 Evaluation

14.1 All Training Courses can be evaluated by OBM Dynamics. The evaluation results are for your own use and will not be made available to individual Participants / Counterparties.

Article 15. Complaints

15.1 OBM Dynamics finds it important that the Company is and remains satisfied. If the Company finds shortcomings in the performance of the Agreement, the Company must inform OBM Dynamics within 2 weeks after completion of the Agreement, substantiated. This will be treated confidentially at all times. Complaints can be submitted to:

OBM Dynamics B.V.
Attn the management
Mattenbieslaan 103
3452AD Vleuten
info@obmdynamics.nl

15.2 The receipt of the complaint is confirmed in writing by OBM Dynamics to the submitter within 1 week. The handling of the complaint is the responsibility of the management of OBM Dynamics. The management of OBM Dynamics will give an adequate response within 3 weeks of receipt.

15.3 If the complaint is not resolved to the satisfaction of the submitter, it can be submitted to the competent court.

Article 16. Copyright

16.1 All training material, in whatever form, including software, is and remains the property of OBM Dynamics. Publication in any form can only take place after obtaining written permission from OBM Dynamics.

16.2 All materials provided to the Participant during or in connection with the TTI may only be used internally for his own activities. OBM Dynamics notes in this regard that the intellectual property of all training materials rests with OBM Dynamics.

16.3 The copyright on reports, proposals and other documents arising from the work of OBM Dynamics rests exclusively with OBM Dynamics, unless otherwise agreed in writing. OBM Dynamics also reserves the right to use the knowledge gained through the performance of work for other purposes, insofar as no confidential information is disclosed to third parties.

16.4 In the event that the intellectual property of OBM Dynamics is infringed and / or any provision of these conditions is violated, the infringer will forfeit an immediately payable fine of € 5,000.00 per violation. OBM Dynamics reserves the right to additionally recover the actual damage resulting from the violation from the infringer. OBM Dynamics is also entitled to terminate the agreement regarding TTI and / or Coaching with immediate effect without it becoming liable for compensation.

Article 17. Takeover of personnel

17.1 The employees of OBM Dynamics are bound by a non-competition clause during their employment and for 2 years after termination of the employment, which means that they are not allowed to perform work for clients of OBM Dynamics. On this basis, the Company is prohibited, without prior written permission from OBM Dynamics, to employ (former) employees of OBM Dynamics during the aforementioned period, or in any other way, in any legal construction whatsoever, free of charge or against payment, to use their services.

17.2 It is prohibited for OBM Dynamics to employ (ex-) employees of the Company for a period of one year, without the prior written consent of the Company, or in any other way, in any legal construction whatsoever, free of charge or against payment, to use their services.

Article 18. Liability and prescription

18.1 All Participants are personally liable for all damage caused to themselves or third parties during the Lesson and / or at the location where the Lesson is given.

18.2 OBM Dynamics will never be liable for damage resulting from:

- a. any shortcoming on the part of the Company or the Participant(s) designated by the Company in complying with his / their obligations, including the provision of insufficient cooperation in the performance of the Agreement;
- b. incorrect and / or incomplete and / or late information provided by the Company;
- c. an event that is in fact beyond its control and thus cannot be attributed to its actions and / or omissions, as described, among other things, in Article 19.

18.3 OBM Dynamics is not liable for possible consequential damage due to implementation in the organization of the Company of the (exam) papers produced by the Company or of the assignments or exam papers produced by the Participant during the TTI, such as action plans, practical assignments, etc.

18.4 The Participant is at all times responsible for the choices made, his own behavior and the consequences thereof, both during the time that the Participant and OBM Dynamics spend together and afterwards.

18.5 OBM Dynamics is not liable for a wrong interpretation by the Participant of the content of the TTI.

18.6 OBM Dynamics is not liable for damage, loss, theft or the loss of property of the Participant at the class location.

18.7 OBM Dynamics is not liable for mutilation or loss of data as a result of sending the data with the aid of telecommunication facilities.

18.8 OBM Dynamics is not liable if the result arising from the work performed by OBM Dynamics does not meet the expectations of the Company.

18.9 OBM Dynamics is in no way liable for consequential damage, lost profit, lost turnover, delay damage, missed savings, damage to reputation, fines and / or other government measures and damage due to business interruption.

18.10 If OBM Dynamics would be liable by law for any damage, then the liability of OBM Dynamics is limited to the amount of the payment made by the insurer of OBM Dynamics. If, in any case, the insurer does not pay or the damage is not covered by the insurance, the liability of OBM Dynamics is limited to the amount that the Company has paid for the TTI to which the damage-causing fact relates.

18.11 All claims against OBM Dynamics that have not been submitted to OBM Dynamics within 1 year after their creation will lapse by prescription.

Article 19. Force majeure

19.1 Force majeure includes, but is not limited to, weather influences; natural disasters; war; terrorism; fire; theft; internet and power failure; disruption in email traffic; computer trespass or hacker attack; government measures; illness of the natural person who performs the Agreement on behalf of OBM Dynamics; obstacles in traffic.

19.2 Force majeure should also be understood to mean a non-attributable shortcoming of a third party engaged by OBM Dynamics.

19.3 OBM Dynamics has the right to suspend the execution of the Agreement during the period that the force majeure situation lasts. If the force majeure situation has a permanent character, OBM Dynamics can dissolve the Agreement in whole or in part without owing any compensation for this.

19.4 If a Lesson cannot take place due to force majeure, OBM Dynamics will notify the Participant as soon as possible and OBM Dynamics will notify the Participant of a new date for the Lesson.

Article 20. Confidentiality and personal registration

20.1 Both parties are obliged to maintain the confidentiality of all confidential information that they have obtained from each other or from another source in the context of the Agreement. Information is considered confidential if this has been communicated by the Company or if this arises from the nature of the information.

20.2 If OBM Dynamics - on the basis of a statutory provision or a court decision - is obliged to provide confidential information to third parties designated by law or the competent court and OBM Dynamics cannot invoke a legal or competent court in this regard recognizes or permits the right to change, then OBM Dynamics is not obliged to pay compensation or compensation and the Company is not entitled to dissolve the Agreement.

20.3 All personal data obtained in the context of the Agreement will be treated by OBM Dynamics in strict confidence and in accordance with the applicable privacy laws and regulations.

20.4 Name and address details are included in the OBM Dynamics customer database and are used to keep Participants informed of the TTI.

Article 21. Applicable law and competent court

21.1 Dutch law applies to every Agreement between OBM Dynamics and the Company.

21.2 Disputes arising from Agreements to which these terms and conditions apply will be settled by the competent court in Amsterdam.

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