

KDAB (USA) LLC

SCHEDULED ONLINE TRAINING REGISTRATION TERMS AND CONDITIONS

1. **SCOPE OF TERMS AND CONDITIONS.** These Terms and Conditions (“Agreement”) govern the relationship between KDAB (USA) LLC (“KDAB”) and the Client in conjunction with the online event for which Client has registered at www.KDAB.com/schedule. By registering Client confirms acceptance of these Terms and Conditions.
2. **ALTERATIONS TO THE EVENT:** While every reasonable effort will be made to adhere to the Event as advertised, described or summarized, KDAB reserves the right to change any event dates, curriculum, materials, or features or omit event features, or merge the event with another event, as it deems necessary. In the case that there are any changes to an Event and if Client cancels not less than seven (7) days prior to the date of the Event, a full refund will be issued.
3. **CANCELLATION OF EVENT:** In the event that KDAB cancels the Event for any reason whatsoever, (including, but not limited to any force majeure occurrence) and provided that the Event is not postponed to a later date nor is merged with another event and the Client has paid all Fees due to KDAB, the Client shall have the option to receive either a credit voucher for the amount that the client has paid for such cancelled event, valid for up to one year for use at any KDAB event, or to receive a refund of monies paid to KDAB.
4. **EFFECTS OF CANCELLATION OF THE EVENT:** KDAB will not be held liable for any costs or expenses whatsoever incurred by the Client or repayment of any monies to the Client for the cancellation, alteration, merging with another Event or postponement of any Event.
5. **CLIENT CANCELLATION:** Notice of cancellation must be provided to KDAB in writing or by phone. Client may cancel for any or no reason and a full refund will be issued.
6. **FEES.** KDAB fees include course fees and materials.
7. **PAYMENT.** Client shall pay the registration fees in full according to the registration page on the website no later than 30 days after the date of the invoice.
8. **TAXES.** Client will be solely responsible for payment of any excise, use, sales or other taxes owed to federal, state, or local taxing authorities in connection with the Course, other than taxes on income of KDAB. Client agrees to pay and be responsible for any such taxes and levies imposed or charged. If Client is entitled to exemption from such taxes, fees or charges, Client shall be solely responsible for obtaining such treatment from taxing authorities.
9. **CONFIDENTIALITY:**
 - A. **Participant Information.** All information supplied by KDAB (USA), LLC in connection with the Agreement and Event, including the names of participants, are confidential and for Client use only. Client agrees that such information shall not be disclosed to any third party for any purpose whatsoever. All intellectual property rights in all materials produced or distributed by KDAB are expressly reserved and any unauthorized duplication, publication or distribution is prohibited. The audio/video recording, displaying or transmitting of the Event is strictly prohibited.

B. Confidential Information. Confidential Information shall also mean all information, technical or otherwise, written or oral, relating to the Work which is designated as “Confidential” at the time of disclosure and provided that Confidential Information shall not include:

- (1) Information which at the time of the disclosure by the disclosing party is in the public domain;
- (2) Information which, after disclosure by the disclosing party, enters the public domain, except where such entry is the result of the receiving party's breach of this Agreement or other obligation of confidentiality;
- (3) Information which, prior to the disclosure by the disclosing party, was already in the receiving party's possession and not subject to an obligation of confidence with respect to said Confidential Information;
- (4) Information which is obtained by the receiving party from a third party who is lawfully in possession of such information and is not subject to a contractual or fiduciary relationship to the disclosing party with respect to said information, when said third party does not require the receiving party to agree to refrain from disclosing said information.

C. Obligation. Each Party covenants and agrees to hold all Confidential Information of the other in trust and confidence and agrees not to use or to disclose Confidential Information to any person, firm or corporation, or to use such Confidential Information in any manner other than as provided herein.

D. Limitation. No immunity or license or right is granted to Client by the release of Confidential Information by KDAB, by implication or otherwise, with respect to any technology, know-how, patent applications, patent or any claim of patents now or hereafter issued or filed.

E. Remedy. Client admits and agrees that KDAB would be irreparably damaged if any provision of this Section is not fulfilled strictly in accordance with its terms and, accordingly, KDAB shall be entitled to a restraint, injunction or injunctions to prevent any breach of this Section. The remedies in this Section shall be in addition to, and not in limitation of, any other remedy available at law or in equity or under this Agreement.

10. LIABILITY:

A. By KDAB. KDAB agrees to protect, defend, unconditionally indemnify and hold CLIENT, its employees, members and officers, free and harmless from and against any liability, losses, claims, liens, demands, damages and causes of action, including without limitation judgments, penalties, interest, court costs and any legal fees incurred by the CLIENT in defense of same (including attorneys' fees incurred in enforcing this indemnity), which CLIENT may at any time suffer or sustain or become liable for by reason of KDAB' gross negligence or wrongful acts of employees or contractors of KDAB while performing services in connection with this Agreement. CLIENT agrees to notify KDAB immediately upon knowledge of any claim, suit, action, or proceeding for which it may be entitled to indemnification under this agreement. KDAB further agrees to investigate, handle, respond to, provide defense for and defend any claims or suits arising hereunder at its sole expense and agrees to bear all costs and expenses related thereto.

B. By CLIENT. CLIENT agrees to protect, defend, unconditionally indemnify and hold KDAB, its employees, members and officers, free and harmless from and against any and all liability, losses, claims, liens, demands, damages and causes of action of every kind and character, including without limitation judgments, penalties, interest, court costs and any legal fees incurred by the KDAB in defense of same (including attorneys' fees incurred in enforcing this indemnity), which KDAB may at any time suffer or sustain or become liable for by reason of (i) negligence or wrongful acts of employees or contractors of CLIENT in connection with this Agreement; (ii) any breach or alleged breach of any representation or warranty by CLIENT, (iii) personal injury or death of any person or damage to any property whatsoever not caused by the gross negligence or wrongful acts of employees or contractors of KDAB. KDAB agrees to notify CLIENT immediately upon knowledge of any claim, suit, action, or proceeding for which it may be entitled to indemnification under this agreement. CLIENT further agrees to investigate, handle, respond to, provide defense for and defend any claims or suits arising hereunder at its sole expense and agrees to bear all costs and expenses related thereto.

C. Limitation of Liability. EXCEPT AS EXPRESSLY SET FORTH ABOVE, KDAB MAKES NO REPRESENTATIONS, COVENANTS, GUARANTIES OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, NON-INFRINGEMENT OF THE RIGHTS OF THIRD PARTIES, FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY, OTHER THAN AS EXPRESSLY SET FORTH HEREIN. IN NO CASE SHALL KDAB BE LIABLE FOR CONTINGENT, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES

11. **BINDING ON SUCCESSORS; NO ASSIGNMENT:** This Agreement shall be binding on and inure to the benefit of the parties, their successors, representatives and assigns. Notwithstanding the foregoing, Client may not assign sublet or share possession of any of the services or materials provided under this Agreement to any third party, nor may any Client distribute materials of any third party without the express written permission of KDAB.

12. **DEFAULT**

A. Events: An event of default exists if any of the following occurs and is continuing beyond any period of time provided for cure:

- (1) **Payments.** A Party fails to pay any sum when due under this Agreement.
- (2) **Insolvency.** A Party is adjudged bankrupt, or if a general assignment is made for the benefit of its creditors, or if a receiver shall be appointed on account of insolvency.
- (3) **Representations and Warranties.** A Party has made any representation or warranty in, or in connection with, this Agreement which when made was false or misleading in any material respect.
- (4) **Unauthorized disclosure.** A Party has disclosed confidential information other than as permitted herein.
- (5) **Unauthorized Use.** A Party has marketed or sold rights to third parties other than as authorized by this Agreement, including engaging in any activity or entering any agreement which would impair enjoyment of a Party's Proprietary Rights.
- (6) **Breach of Agreement.** A Party breaches or fails to comply in any material respect with any provision of this Agreement.

B. Remedies: Upon the occurrence of an event of default, a Party may exercise any right, power, or remedy permitted to it by law or at equity, including the remedy of specific performance and of cancellation of this Agreement. In addition, if a Party reasonably believes that the effect of such default may adversely affect its financial condition, operations or prospects under this Agreement, it may suspend performance of all or any of its obligations hereunder. The non-defaulting Party shall give written notice specifying the claimed particulars of such default or breach. If such default is not remedied within thirty (30) days after submission of such notice, the Party may: (i) for a material breach, terminate this Agreement; (ii) assess interest as provided herein; and/or (iii) enforce the defaulted obligation by any available lawful means. Any indulgence shall not be construed as a waiver of rights under this paragraph either with respect to such default or to similar subsequent defaults.

C. Nonpayment. In addition to the foregoing, if Client fails to pay any amount when due, or if KDAB retains an attorney to protect its interests under this Agreement, Client shall pay any and all costs and expenses incurred by KDAB in enforcing any terms of, or collecting any monies due under this Agreement including reasonable attorney's fees, collection fees and any expenses.

13. **OTHER TERMS AND CONDITIONS**

A. If the Client (or through any subsidiary or associated company) engages on a temporary, short term or full term basis any KDAB employee or contractor who has within six (6) months of employment by Client provided any services on behalf of KDAB in connection to this Agreement, the Client will pay as compensation to KDAB liquidated damages of 25% of the annual starting remuneration paid by Client to the employee.

B. Client agrees to abide by the rules of the Event facility.

C. The undersigned warrants and represents that he or she is specifically authorized by Client to execute this Agreement and bind Client to the obligations under this Agreement. Client acknowledges that KDAB has relied on that representation.

14. MISCELLANEOUS

A. Notices: All notices pertaining to this Agreement shall be in writing and shall be effective upon receipt and shall be sufficient if delivered by hand, sent by U.S. Mail, postage prepaid, or transmitted electronically, fees prepaid, to the addresses below:

KDAB (USA) LLC
5554 S Peek Road
Unit 2101
Katy Texas 77450
866-777-5322
www.KDAB.com

B. Publicity Release. Client hereby grant and convey unto KDAB all right, title and interest in any and all photographic images and video or audio recordings made by KDAB during the Course, including but not limited to any royalties, proceeds, or other benefits derived from such photographs or recordings.

C. Agency: The Parties are independent contractors and are not, and shall not, represent themselves as principal and agent or joint venturers.

D. Headings: The Section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of the Agreement.

E. Waiver: No waiver of any term herein or modification of this Agreement shall be valid unless set forth in writing and duly executed by all Parties to be effected thereby. No waiver of any breach of any term, covenant, warranty or condition herein shall constitute a waiver of any other or subsequent breach of any term, covenant, warranty or condition hereunder.

F. Severability: The invalidity or unenforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision hereof. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain such invalid or unenforceable portion or provision.

G. Authorization: Each Party herein represents and warrants that he or it is authorized to enter into the Agreement in the capacity stated and has the power to perform the obligations imposed and set forth herein.

H. Governing Law: THE INTERPRETATION OF THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LOCAL, INTERNAL LAWS OF THE STATE OF TEXAS, UNITED STATES OF AMERICA. THE PARTIES AGREE TO THE NONEXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN HARRIS COUNTY, TEXAS. EACH PARTY EXPRESSLY WAIVES ALL RIGHTS TO TRIAL BY JURY.

J. Entire Agreement: This Agreement, including any Exhibits attached hereto and the documents delivered pursuant hereto, constitute the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings, and agreements, either oral or written, between the Parties with respect to the subject matter. Except as otherwise provided herein (including in any Exhibit hereto) no changes, modifications, or additions to this Agreement shall be valid unless the same shall be in writing and signed by all Parties hereto.