

## Real Estate Coaching Hub Services Agreement – Terms and Conditions

The date of this document is the date of acceptance of the Terms and Conditions

### Parties

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Between: Real Estate Coaching Hub Pty Ltd A.C.N. 600 425 581 of PO Box 300, Sandgate in the State of Queensland.

(“Contractor”)

And: You, as per the detail you have provided to us.

(“Client”)

### Recitals

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- A. The Contractor is engaged in the business of providing coaching, training, education and consultancy services, both online and offline, for the purposes of further educating and training the Real Estate and Business Broking Industries.
- B. The Client warrants they are a registered real estate salesperson, a licensed real estate agent or business broker and is engaged in the business of selling real estate and/or businesses and seeks to engage in coaching, training and consultancy services.
- C. The Client wishes to appoint the Contractor to provide the coaching, training and consultancy services and materials. These services may address a Client’s awareness, thinking and abilities in order to help the Client identify and achieve their work-related goals. The Contractor’s services may include value clarification, upskilling and brainstorming, identifying plans of action, examining modes of operating in life and business, inquiry questioning, and making empowering requests or suggestions for action. The Contractor has Copyright of the materials through which the coaching, training and consultancy services are provided, and will retain sole rights to use, distribution and alteration of the material.
- D. The Contractor will provide the services and materials in the manner, timeframes and for the fees as will be provided to you.

### Operative Part

#### 1. Definitions

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##### 1.1 Definitions and Interpretation

###### 1.1.1. In this Agreement:

**"addressee"**, of an electronic communication, means a person who is intended by the originator to receive the electronic communication, but does not include a person acting as an intermediary for the electronic communication.

**"automated message system"** means a computer program or an electronic or other automated means used to initiate an action or respond to data messages in whole or in part, without review or intervention by an individual each time an action is initiated, or a response is generated by the system.

**"Click Wrap Agreement"** means a Click Wrap Agreement as described in the Electronic Transactions Act (Qld) 2001 and The Electronic Transactions Act (Cth) 1999;

**"Contractor Materials"** means all written or electronic materials, procedures, checklists, guides, tools and programs provided by The Contractor or developed by The Contractor under this agreement that are used to facilitate delivery of the services and Coaching Content, and

**"Coaching, Training and Consultancy Services"** means the delivery of real estate business education and materials, development and assessment of the services and materials pursuant to this Agreement, using the methodology and development tools described in the development specifications.

**"Coaching, Training and Consultancy Specifications"** means the specifications set out in the materials we will provide to you.

**"Coaching, Training and Consultancy options and stages"** means the options and stages in the interim and final completion of the Services.

**"consents"** includes consent that can reasonably be inferred from the conduct of the person concerned, it does not include consent given subject to conditions unless the conditions are complied with.

**"electronic communication"** means—

(a) a communication of information in the form of data, text or images, including podcasting and webinars, by guided or unguided electromagnetic energy; or

(b) a communication of information in the form of sound by guided or unguided electromagnetic energy if the sound is processed at its destination by an automated voice recognition system.

**"information"** means information in the form of data, text, images or sound.

**"Order form"** means the Order Form referred to in Clause 1.2;

**"Remuneration"** means the fees and charges to be specified to you.

**"transaction"** includes—

(a) any transaction in the nature of a contract, agreement or other arrangement; and

(b) any statement, declaration, demand, notice or request, including an offer and the acceptance of an offer, that the parties are required to make or choose to make in connection with the formation or performance of a contract, agreement or other arrangement; and

(c) any transaction of a non-commercial nature.

**"Website"** means the Contractor's websites as listed below, which includes the Contractors' Content made accessible to Internet users through the End User Interface and the Contractor Materials, and any parallel or restructured Website in terms of this Agreement;

- (a) [www.RealEstateCoachingHub.com.au](http://www.RealEstateCoachingHub.com.au);
- (b) [www.SalesBreakthrough.com.au](http://www.SalesBreakthrough.com.au);
- (c) [www.BusinessBroker.Coach](http://www.BusinessBroker.Coach);
- (d) [www.GrowthTrack.com.au](http://www.GrowthTrack.com.au);
- (e) [www.RealEstateTrainingBrisbane.com.au](http://www.RealEstateTrainingBrisbane.com.au); and
- (f) [www.RealEstateTraining.co](http://www.RealEstateTraining.co)

**“Client Content”** means the materials provided by the Client to The Contractor under this agreement for use in the Coaching Services including the Website but does not include any materials or data provided by The Contractor or third-party materials to which a link is provided from the Website;

**“World Wide Web”** means a method of representing and obtaining graphical data and linking data items used by Internet users.

- 1.2 Unless otherwise defined in this agreement, words and expressions have the meaning indicated in the attached **example** order form (**Order Form**) in Schedule 1 or the Copyright Act 1968 (as amended), as the case may be.
- 1.3 Unless that context otherwise requires:
- 1.3.1. a word which denotes the singular denotes the plural and vice versa;
  - 1.3.2. a reference to a thing is a reference to the whole and each part of it; and
  - 1.3.3. where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

## **2. Term**

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- 2.1 This agreement will become binding on the Client and the Contractor by virtue of a Click Wrap Agreement entered into as a Transaction under the *Electronic Transactions Act* (Qld), by disclosure and acceptance of these terms and conditions. This agreement commences on the date the order set out on the Order Form is accepted by The Contractor and continues for a term depending on the product or services selected in your check-out process (Initial Term). After the expiration of the Initial Term, this agreement will automatically renew for successive one-year periods (Annual Terms).

## **3. Program Content and Services**

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- 3.1 Coaching, Training & Consultancy Services
- 3.1.1. The Contractor will provide the coaching, training and consultancy services and materials in the manner set out in this Agreement.
  - 3.1.2. The Contractor and Client will adhere to the timeframes contained in the coaching, training and consultancy programs and stages.
  - 3.1.3. The Contractor will be responsible for the publishing of the material on the Website.
  - 3.1.4. The Contractor will provide the Client, on request, with written or verbal reports (as directed by the Client) regarding the status of the services as specified.

- 3.2 Coaching, Training & Consultancy Content.
- 3.2.1. The Contractor will deliver to the Client in either hard written form or in electronic form as stated. The Client Content may be able to be made available by a secure Client Portal on the Website in accordance with the agreed Project Plan or any such other method of delivery the Contractor decides in their sole discretion.
- 3.2.2. The Contractor will be responsible for obtaining all licences and permissions required to provide and distribute the Client Content as contemplated under this agreement, unless the Contractor advises the Client it is their responsibility.
- 3.3 Coaching, Training & Consultancy Services.
- 3.3.1. The Contractor must provide the Services in relation to the Program or product being purchased for the agreed term of this Agreement, on condition of the payment by the Client as specified following the check-out process.
- 3.3.2. The Contractor may provide reports to the Client about the delivery of program content and services and updated use of the Website as specified following the check-out process. These reports may be verbal and/or written and delivered in various formats, if and when considered appropriate.
- 3.4 The Contractor reserves the right to deliver services through an employee, nominee, or sub-contractor or subsidiary by notice in writing from time to time.

#### **4. Materials and Website**

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- 4.1 The Contractor will provide access to Materials and continue to design, develop and make the End User Interface available at the Website on the Internet and incorporate the Content in accordance with the Project Plan and the Specifications.
- 4.2 The Contractor must ensure at all times that the Website complies with any relevant standards, regulations, laws or industry codes of practice this includes without limitation preparing appropriate legal notices.
- 4.3 The Client warrants that all steps will be taken by them for cyber-security, password protection, encryption of documents and messages, storage of data and no liability will be accepted by the Contractor, to the full extent of the law.

#### **5. Provision of Information**

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- 5.1 The Client agrees that the Contractor is to be granted access to all information as requested to deliver the coaching, training and consulting services, and any other information that may be required in the development of a meaningful and successful relationship for the client, including but not limited to:
- 5.1.1. provision of all logos, designs, graphic and related materials to be incorporated into the website; and
- 5.1.2. all other information, ideas or suggestions which are to be expressly considered by the Contractor in creating or developing a program, product or service.
- 5.2 The Contractor undertakes to ensure that any material incorporated into the Website:
- 5.2.1. does not infringe the intellectual property rights of any person;
- 5.2.2. is not obscene, offensive, upsetting, defamatory; and

- 5.2.3. does not comprise and cannot be used for any purpose or activity of an illegal, fraudulent or defamatory nature.

## **6. Ongoing Assessment**

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- 6.1 As part of its Management Services, the Contractor will periodically assess the performance of the Program Client's potential clients, and exposure on the Internet. Relevant factors to be considered when revising the Materials may include marketing, product or service promotion, and sale of products or services.
- 6.2 The Contractor will inform the Client of the outcome of its assessment, and prior to implementing any proposed updating of the Materials, will obtain approval from the Client.

## **7. Privacy**

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- 7.1 The Contractor will not use or disclose any personal information for a purpose other than discharging its obligations under this Agreement. The Contractor further agrees to comply at all times with the Australian Privacy Principles contained in schedule 1 to the *Privacy Act 1988* (Cth) in the same way and to the same extent as the Client would have been required to comply had it been directly responsible for performing the act or practice concerned. The Contractor will take all necessary steps to protect personal information in its possession against misuse or loss and it will return all such information to the Client upon termination or expiry of this agreement.
- 7.2 The Client warrants that the disclosure of personal information to the Contractor for the purposes of this Agreement, and the collection of such information by the Contractor, will not contravene the Australian Privacy Principles.
- 7.3 For the purposes of this clause, personal information means information of an opinion about an individual as defined in schedule 6 of the *Privacy Act 1988* (Cth) which is collected, used and disclosed, stored or handled by a party for the purposes of this Agreement.
- 7.4 This clause incorporates Real Estate Coaching Hub's privacy policy, which can be found in the link below this agreement.

## **8. Charges and Payment**

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- 8.1 The Client agrees to pay the Contractor the Service Fees and Materials Fees and ongoing monthly charges, if any, to be specified following your check-out process, as well as any agreed additional charges incurred in the consultation, variation, design, and delivery of the Services and materials.
- 8.2 The Contractor will invoice the Client on an order by order basis as specified in the checkout process.
- 8.3 Any agreed additional charges will be invoiced as they occur.
- 8.4 The Client will pay each invoice in full within 7 days of the date of the invoice via the method and timeframe agreed by the parties following the check out process.
- 8.5 The Client will make payment to the Contractor's specified bank account, or via another payment method determined by the Contractor, as nominated from time to time.
- 8.6 Cancellation
- 8.6.1 Cancellation fees may apply which will be specific to the Products and Programs you select upon checkout.

## **9. Goods and Services Tax**

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- 9.1 In this agreement, unless the context otherwise requires, the expressions “adjustment note”, “consideration”, “GST”, “supply”, “tax invoice”, “Client” and “taxable supply” have the meanings given to them in the *A New Tax System (Goods and Services Tax) Act 1999*.
- 9.2 For the purposes of clauses 9.4 and 9.5, “GST” includes any penalties or additional tax imposed in relation to the GST.
- 9.3 All prices or other sums payable or consideration to be provided under this agreement are inclusive of GST.
- 9.4 If a supply is made to which GST applies or is varied under this agreement, The Contractor will provide the Client a valid tax invoice or adjustment note.
- 9.5 If the amount of GST paid or payable by The Contractor on any supply made under this agreement differs from the amount of GST paid by the Client, because the Commissioner of Taxation lawfully adjusts the value of the taxable supply for the purpose of calculating GST, then the amount of GST paid by the Client will be adjusted accordingly by a further payment by the Client to The Contractor or The Contractor to the Client, as the case requires

## **10. OWNERSHIP**

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- 10.1 The parties agree that:
- 10.1.1 the End User Interface and The Contractor Materials are the exclusive property of The Contractor or The Contractor’s licensor;
  - 10.1.2 the Client Content, as provided by the Client to The Contractor and as included in the Website, is the exclusive property of the Client or its third-party licensors; and
  - 10.1.3 during the term of this agreement and thereafter, neither party will have the right to disclose or provide to any third party or otherwise use the property of the other party except as expressly permitted by this agreement.

## **11. WARRANTIES AND INDEMNITY**

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- 11.1 The Client is solely responsible for any legal liability arising out of or relating to the Client Content.
- 11.2 If the Client is a Corporation, a designated person is an authorised “Officer” under the *Corporations Act 2001*.
- 11.3 The Client represents and warrants to the Contractor that:
- 11.3.1 If it is a Corporation, it has full authority to provide and use the Client Content as contemplated by this agreement and that the provision and use of the Client Content do not, and will not, violate any copyrights, trademarks, trade secrets or other proprietary rights of any third party or create any liability to any third party;
  - 11.3.2 the Client Content does not contain any matter that is:
    - (a) objectionable, false, libellous or defamatory; or
    - (b) which may cause injury or result in damage to any third party;
  - 11.3.3 the Client Content does not contain any matter that is misleading or deceptive, or likely to mislead or deceive;

- 11.3.4. if the author of any Client Content has not been attributed as the author of that content, the Client has obtained that author's written consent to the Client, The Contractor and the users not attributing that author as the author of that content when either the Client, The Contractor or the users deal with that content;
  - 11.3.5. if an individual is attributed as the author of any Client Content, they are the author of that content;
  - 11.3.6. if an individual other than the author adapts, revises or develops the Client Content and that individual is attributed as an author, the Client has obtained the consent of the original author to the Client attributing that individual as an author of the Client Content and to The Contractor and the users dealing with the Client Content with that attribution so The Contractor can perform its obligations and the users can exercise their rights under this agreement;
  - 11.3.7. if the Client Content has been or is subjected to any derogatory treatment as a result of The Contractor exercising its rights or performing its obligations under this agreement, the author of that content has consented to that treatment and the Client has obtained the author's written consent to the Client, The Contractor and the user dealing with and using that content with that derogatory treatment;
  - 11.3.8. it is entitled to grant the licence to The Contractor set out in clause 3.2;
  - 11.3.9. the information provided under this Agreement is true and correct;
  - 11.3.10. any logo designed in accordance with clause 5.1 does not infringe the intellectual property rights of any third party;
  - 11.3.11. it has made all relevant disclosures, obtained all necessary consents and complied with the privacy guidelines referred to in clause 7; and
  - 11.3.12. it will comply with all applicable laws, rules and regulations regarding professional ethics, conduct and advertising in its performance under this agreement.
- 11.4 The Client warrants that the Contractor has no liability for the performance, quality, safety or any other aspect whatsoever of the Client's products and services; and
- 11.5 The Client indemnifies the Contractor against any loss or liability (including legal fees and expenses) incurred by The Contractor arising from any claim, demand, suit, action or proceeding if such loss or liability arose out of or related to a breach of this agreement by the Client including, without limitation, the representations and warranties set out in clause 11.3.

## **12. Disclaimer of Warranty**

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- 12.1 Subject to clause 13.1, any condition or warranty which would otherwise be implied in this agreement is excluded, that is, any service provided, or goods supplied under this agreement is provided or supplied without warranty of any kind including, but not limited to, warranties of performance, merchantability, fitness for a particular purpose, accuracy, omissions, completeness, currency or delays. There is no Guarantee of outcomes as a result of the Services or Materials. The contractor gives no warranty as to accuracy of third party materials provided (for example ABS or [www.realestate.com.au](http://www.realestate.com.au)) no legal, accounting, taxation or professional services are being provided and the Client must seek their own independent advice in this regard. If any services are provided by way of "standing in" for a Client, there is no warranty on those services and the Contractor is merely acting as agent for the Client. The company may appoint a person as authorised agent to assist the client with open houses.
- 12.2 The Contractor will have no liability whatsoever for any claim relating to any user's inability to view, access or use the Material.

- 12.3 The Contractor makes no warranty:
- 12.3.1 that display of, and access to, the End User Interface or Client Content through the Website will be uninterrupted;
- 12.4 that the ability of any internet user to access the Website, and the End User Interface or Client Content published at the Website, will be free from error. The Contractor does not warrant any other services or products from any third-party supplier used in the course of delivering services. The Client must take all steps to limit risks for themselves including cyber-security, storage of data and communications and no liability will be accepted for third party actions.

### **13. Limitation of Liability**

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- 13.1 If legislation implies in this agreement any condition or warranty, and that legislation avoids or prohibits provisions in a contract excluding or modifying the application or exercise of, or liability under, such condition or warranty, the condition or warranty will be deemed included in this agreement. However, the total liability of the Contractor for any breach of such condition or warranty for damages, regardless of the cause of action, whether contract, tort (including without limitation, negligence) or breach of statute or any legal or equitable obligation will be limited, at the option of the Contractor, to one or more of the following:
- 13.1.1 the supplying of the services again; or
- 13.1.2 the payment of the cost of having one month of the services supplied again. For clarity, this clause does not enable the Client to obtain a further twelve-month coaching, training and consultancy service from the Contractor.
- 13.2 In no event will the Contractor be liable for any lost profits or any consequential, exemplary, incidental, indirect or special damages whatsoever arising from, or in any way related to, this agreement.

### **14. Termination**

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- 14.1 Either party may terminate this agreement by giving at least 60 days' prior written notice to the other party.
- 14.2 Either party may terminate this agreement immediately by written notice to the other party if:
- 14.2.1 the other party commits a breach of any term of this agreement and, if the breach is capable of remedy, fails to remedy the breach within 14 days after being required to do so in writing by the party giving the notice of the breach;
- 14.2.2 the other party, being a corporation, goes into liquidation, has a receiver or receiver and manager appointed to it or any part of its assets, enters into a scheme of arrangement with creditors or suffers any other form of external administration;
- 14.2.3 the other party, being an individual, commits any act of bankruptcy or enters into a scheme of arrangement with creditors; or
- 14.2.4 either party ceases to carry on business or that part of its business which is relevant for the purposes of this agreement.
- 14.3 On the termination of this agreement:
- 14.3.1 The Contractor will cease to make Client access to the Website available on the Internet; and



- 14.3.2. The Client will deliver to The Contractor any The Contractor Materials in its possession or control;
- 14.3.3. The Contractor will deliver to the Client all copies of the Client Content within its possession or control and, subject to any agreement reached under clause 14.3, destroy all copies of the Client Content which cannot be returned.

14.4 Clauses concerning Charges, Ownership, Privacy, Warranties, Confidentiality and Copyright survive termination of this agreement.

## **15. Rights to Material on Termination**

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- 15.1 Upon termination of this Agreement, the Contractor will remove the Client Materials from the Internet, any of its marketing materials and archive all site material. All such archived material will be held by the Contractor in confidence on behalf of the Client.
- 15.2 All Client information held by the Contractor will be returned to the Client or destroyed by the Contractor within ninety (90) days of the date of termination. Should the Client require return of the material it must provide written notice to the Contractor within seven (7) days of the date of termination.

## **16. Independent Contractor**

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- 16.1 The Contractor is an independent contractor without authority to bind the Client contractually or otherwise and is not an agent or employee of the Client by virtue of this agreement. The Client must be licensed for the sale or dealing in Real Estate and/or the sale of businesses and acknowledges that the Contractor is not engaged to sell real estate and/or business on it or their behalf. Compliance with all laws regarding the sale or dealing in real estate and/or the sale of businesses will be the sole obligation of the Client, including any disclosures of Referral Fees payable to the Contractor.

## **17. Assignment**

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- 17.1 The Client must not resell, assign or transfer any of its rights or obligations under this agreement, in whole or in part, without the Contractor's prior written consent, which consent may be withheld at the Contractor's discretion.

## **18. Notices**

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- 18.1 All notices under this agreement must be in writing or transmitted via electronic means (for example, but not limited to, facsimile transmission or scanned and sent as an email attachment) sent to the address of the Client and Contractor as set out in this agreement or the Order Form or such other address as the Client or Contractor may designate by written notice to the other party. Any notice may be delivered by hand, pre-paid mail, sent as an email, or fax. Any such notice will be deemed to have been served when delivered (if delivered by hand), 3 days after posting (if sent by pre-paid mail) or on transmission by the sender (if sent by email or facsimile).

## **19. Entire Agreement**

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- 19.1 This agreement embodies the entire understanding between the parties with respect to its subject matter and supersedes all prior understandings and agreements relating to the subject matter of this agreement.

## **20. Severability**

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20.1 If any provision of this agreement is or becomes void, invalid, unenforceable or illegal, that provision will be severed from this agreement. Such invalidity will not affect the validity of the remaining provisions of this agreement.

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## **21. Waiver**

21.1 No waiver of any breach of this agreement will be binding on either party unless it is in writing and executed by the party alleging breach or deemed to be a waiver by either party of any other or subsequent breach of the same term.

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## **22. Force Majeure**

22.1 The Contractor is not responsible or liable for any failure, delay or errors in provision of the materials or Services caused by acts of nature, labour stoppage, unrest or disputes, computer viruses, power failure, power failure resulting from upgrading or servicing of the Website or related systems, failure of the Internet or other networks beyond the control of The Contractor or acts or omissions of the Client or any third party.

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## **23. Priority**

23.1 If there is any conflict between any of the documents comprising this agreement, then that conflict will be resolved in the following order of priority:

23.1.1. this Contractor agreement;

23.1.2. the schedules to these terms; and

23.1.3. the Order Form.

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## **24. Costs**

24.1 Each party will bear its own costs and expenses in relation to the negotiation, preparation, execution, delivery and completion of this agreement and any other related documentation.

24.2 The Client will pay all stamp duty, taxes and other governmental charges payable or assessed on this agreement and any other related documentation.

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## **25. Governing Law and Jurisdiction**

25.1 This agreement will be governed by and construed according to the law of Queensland and the parties agree to submit to the jurisdiction of the courts and tribunals of that State.

## Schedule 1 – Order Form

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Session Date:

Client/Organisation  
Name: \*

Phone:

Client/Organisation  
Address \*

Email:

Training Co-ordinator: \*

Phone:

Venue Co-ordinator: \*

Phone:

Venue Address:

Access Arrangements:

***\*Please Note: Venue Hire and Catering are the sole responsibility of the Client.***

### Training Details:

*Preparing for the training session will allow us to optimise the results from our time together with your team. Prior to the session we require you to answer the following questions and return them to Real Estate Coaching Hub **14 days (NO LATER)** prior to the date of your training session.*

1. Focus / Title of Training:

2. Primary Objective / Topic / Goal to be covered in this training session:

3. Secondary Objective / Topic / Goal to be covered in this training session:

4. Third Objective / Topic / Goal to be covered in this training session:

5. Sub-Topics / Underlying Themes to be brought out in the training:

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6. Sensitivities and/or Needs of Particular Attendees to be Mindful of:

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7. Special Requests/Specific Instructions:

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8. Length of training session required (please tick):

½ Day (3½ - 4 Hours Training Delivery)

Full day (4 Hours or more Training Delivery)

9. Another Comments / Message for the Trainer:

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SAMPLE

