

general contract conditions. learning services



randstad
enterprise



general conditions of avanza learning progress, SA for the provision of e-learning training services and training projects.

1. scope of application

AVANZO LEARNING PROGRESS, S.A., with registered office at Calle Vía de los Poblados 9, Edificio B, 5ª, 28033 Madrid, with Tax Identification Code A81944720, hereinafter also referred to as "RANDSTAD", has as part of its corporate purpose, among others, the provision of consultancy services in the field of human resources, specialising in e-learning training services and training projects, and registered with the SEPE as a Training Entity.

2. purpose

The purpose of this document is to define the terms and conditions under which RANDSTAD will provide the e-learning training service and training projects for THE CLIENT who has previously signed an offer or contractual proposal from RANDSTAD (hereinafter referred to as "THE CONTRACT").

3. price

RANDSTAD shall receive from THE CLIENT the amount foreseen in THE CONTRACT for the provision of the contracted service. In addition, any extra costs that may arise due to insurmountable deviations from the initially foreseen budget will be invoiced, subject to the prior authorisation of THE CLIENT.

The prices stipulated in THE CONTRACT are valid exclusively for the service contained therein, and during the period of validity established therein, so that if THE CLIENT requests the service outside this period, they shall request a new economic offer from RANDSTAD.

THE CLIENT shall pay RANDSTAD the amount invoiced in accordance with the terms of THE CONTRACT. In all cases, THE CLIENT must pay the total amount stated in the invoice and may not withhold any part of it for the purposes of full or partial compensation of any claims it may have against RANDSTAD. The delay in the issuance of one or more invoices by RANDSTAD shall in no way imply RANDSTAD's waiver of its right to collect the invoices, which must be paid by THE CLIENT within the aforementioned term.

Failure to pay or, where applicable, late payment of invoices, shall entitle RANDSTAD to claim the full amount of the invoices in accordance with the regulations in force at any given time (Law 3/2004 of 29 December 2004 and its respective amendments).

All that expressed in the preceding paragraph is understood notwithstanding RANDSTAD's right to temporarily or definitively suspend the provision of service given the circumstances set forth therein. If it is temporary, the aforementioned suspension shall not be lifted until RANDSTAD has been paid the total amount of the unpaid invoices according to that established in the previous paragraph. If the service is temporarily or permanently suspended due to any of the aforementioned causes, RANDSTAD shall be released from all of its obligations resulting from this agreement, without this constituting grounds for a claim by THE CLIENT and without prejudice to RANDSTAD's right to take whatever legal action it considers appropriate to claim the amounts due as well as the damages caused by these circumstances.

4. accountability

The total amount for which RANDSTAD will be liable to THE CLIENT is the sum of all of the individual damages and, therefore, all of the damages that are a result of the provision of the services covered by THE CONTRACT that have caused said damages thereto may in no case exceed the total amount that THE

CLIENT paid to RANDSTAD for the provision of the specific service in which the damage occurred. In no case will RANDSTAD be responsible to THE CLIENT for a) any type of indirect and consequential damage, regardless of where and when the damage arose/occurred, or b) damages relating to lost income, interest, benefits, business, opportunities, commercial reputation on the market, etc. Any claim that THE CLIENT intends to make before RANDSTAD for any damages suffered as a result of the implementation of THE CONTRACT must be reported to RANDSTAD by THE CLIENT in writing within seven calendar days of the date on which the damage occurred. The lack of any written notification within the aforementioned period shall imply the CLIENT's definitive renouncement of the right to make any claim against RANDSTAD for the damage concerned.

5. dropout from the training activity

In the case of e-learning training, a student ceasing to be a part of the training activity shall not give THE CLIENT the right to reimbursement or cancellation of the invoiced amount. In the event that THE CLIENT wishes to cancel the requested service once THE CONTRACT has been signed, RANDSTAD shall be entitled to invoice THE CLIENT for the amounts stipulated in THE CONTRACT as a penalty for such early termination.

6. subcontracting

Pursuant to that set forth in Law 30/2015, dated 9 September, RANDSTAD's contracting of trainers/tutors related to the training action(s) that are the subject of THE CONTRACT shall not be considered as prohibited subcontracting.

7. non-compliance

THE CLIENT's breach of the obligations assumed by signing THE CONTRACT shall entitle RANDSTAD to request the early termination of THE CONTRACT, with RANDSTAD notifying THE CLIENT in writing 24 hours prior to the time when such termination is to take effect being sufficient for such purpose.

8. confidentiality

Under this CONTRACT, the information and/or documentation provided by the undersigned Parties, regardless of the format on which it is stated, be it of a technical, economic, commercial, IT, or any other nature, is strictly confidential and must be treated and used according to said confidentiality, and only for the sole purposes of providing the services that are the subject of the CONTRACT.

Both Parties undertake and are obliged reciprocally vis-à-vis each other to maintain in confidence and not to disclose to third parties any confidential information provided to one Party by the other Party, which shall take the necessary measures to ensure that no unauthorised third parties have access to such confidential information and that it is not disclosed, the Party receiving such confidential information from the other Party being solely responsible for the consequences of such non-compliance.

This confidentiality agreement will not impede RANDSTAD from referring to THE CLIENT as part of its client portfolio in presentations for advertising and marketing purposes.

9. data protection

1. signatory, representative, and employee data processing

In compliance with the provisions of Organic Law 3/2018, of 5 December, on the Protection of Personal Data and guarantee of digital rights, and the EU General Data Protection Regulation of 27 April 2016, the parties are mutually informed that the personal data of their representatives and employees will be processed by the other party for the management and correct provision of the services regulated in this

agreement, as well as for any other management necessary and related to the same, the legitimacy for this treatment being the execution of the contract subject to regulation. Data will be kept for as long as the relationship is maintained and there will be no request for its deletion, in all cases in compliance with the applicable legal limitation periods. Data will be communicated to the entities of the RANDSTAD Group (www.randstad.es) in accordance with the purposes indicated, as well as to banks and credit institutions, for the collection and billing of the same, to Public Administrations with competence in the matter, such as the Treasury, for compliance with tax obligations or any other kind, as well as Courts and Tribunals in the case of requirement by them, for compliance with such legal obligation. Similarly, data will be processed by suppliers of each of the parties, in their capacity as data processors, where necessary, for the management of communication between the parties and any other management related to the services subject to regulation.

Providers contracted by RANDSTAD for the provision of various services may process the personal data of the signatory(s) and carry out international transfers of data outside the European Economic Area (EEA) and to countries for which there is no adequacy decision by the European Commission, which are carried out by establishing the appropriate legal frameworks.

Likewise, the CLIENT is informed that the personal data of the signatories and contact persons provided to RANDSTAD for the execution of the contract subject to regulation, by virtue of the legitimate interest derived from the signing of this agreement, may be used by the entities of the RANDSTAD Group (www.randstad.es) for the sending of advertising and promotional communications by e-mail or other equivalent electronic means of communication, as well as by non-electronic means, of products and services similar to those contracted. In any case, the potential recipient(s) of such communications have the possibility of opposing the processing of their data for promotional purposes, and may exercise their right at any time, even prior to the sending of such communications, by means of a corresponding request sent to the e-mail address: proteccion.datos@randstad.es

The parties guarantee that they have passed on this information on to their representatives and employees, and that they may exercise, between the parties and at any time, the rights recognised in the regulations on data protection and, specifically, the right of access, rectification, suppression, portability, and limitation, as well as the right of opposition, by means of a request sent in writing to:

In the case of RANDSTAD, to the e-mail address: proteccion.datos@randstad.es, or by post to the attention of the Data Protection Officer, Calle Vía de los Poblados nº 9, Edificio "Trianon", Bloque B, 4th floor, 28033, Madrid.

In the case of the CLIENT, by sending their request to the address indicated in the heading.

Likewise, the interested parties have the right to lodge a complaint with the Control Authority (Spanish Data Protection Agency: www.aepd.es).

2. transfer of personal data

This clause shall apply in the following cases:s:

- When the management, organisation, and implementation of the training is fully delegated to RANDSTAD.
- When the training is subsidised and RANDSTAD makes the appropriate communication of data to FUNDAE, and only in respect of such procedures..

In such cases, the communication of the CLIENT's employees' data will be carried out in their capacity as Independent Controllers.

2.1. commitment to comply with data protection regulations

RANDSTAD, as the transferor of the candidates' personal data, guarantees that it has a sufficient legitimate basis for the processing and communication of the data and has fulfilled its duty to inform the data subjects, in accordance with the provisions of the GDPR and the rest of the applicable regulations.

On the other hand, the CLIENT, as the assignee of the candidates' personal data, undertakes to process the data solely and exclusively for the purposes set out in the Principal Service and to comply with the duty to inform the data subjects set out in Article 14 of the GDPR. Likewise, the CLIENT guarantees that it will comply with the rest of the obligations that correspond to it as Data Controller, in accordance with the applicable regulations.

In the event that the CLIENT processes the personal data of the data subjects for purposes other than those included in the Principal Service, it undertakes to comply with all the obligations that correspond to it as Data Controller, in accordance with the GDPR and the LOPD-GDD.

2.2. exercise of rights

The Parties shall respond to any exercise of rights that data subjects may address to them.

Each party shall be responsible for responding in a timely manner to the rights of the parties concerned. In the event that one of the Parties receives a request to be answered by the other Party, the receiving Party shall provide the data subject with the details of the relevant controller to whom he or she should address his or her request in accordance with his or her right. The Parties shall cooperate to the extent possible, provided that the fundamental rights of data subjects exercising their rights vis-à-vis a specific decision-maker are not violated. Data subjects may exercise their rights under the GDPR against and in relation to each of the Controllers

2.3. data processors

The Parties may appoint and employ data processors for the execution of the purposes described in the Agreement. Each Party shall be responsible for entering into an agreement with the processors and providing them with the necessary instructions for the proper execution of the processing. Pursuant to this agreement, the Parties agree that the Party at whose initiative the data processing is to be carried out shall be responsible for managing the relationship with the data processor.

2.4. international data transfers

Each Party shall ensure that, if it transfers personal data of any data subject to the Agreement outside the EU to a country whose level of protection for personal data is not recognised as adequate by the European Commission, such transfer will be covered by a compliance standard recognised under the GDPR for the lawful transfer of personal data outside the EU, such as the execution of an agreement based on the most current EU model clauses or any other sufficient safeguards.

2.5. security measures

Each Party shall implement appropriate technical and organisational measures for the protection of personal data which are appropriate to the risk, taking into account the state of the art, the costs of implementation, the nature, context, and purposes of the processing, and the risks of varying likelihood and severity to the rights and freedoms of data subjects.

2.6. responsibility

Each Party shall assume the responsibility and consequences that correspond to it for any infringements that each of them may commit within the scope of the provisions of the regulations in force on the protection of personal data, without the infringements committed by one of them affecting the other.

3. data processor contract

This clause shall apply in the following cases:

- When the CLIENT decides on the management, organisation, and implementation of the training.
- When the training is subsidised, with respect to the rest of the treatments, provided that the management, organisation and implementation of the training is not fully delegated to RANDSTAD, with the CUSTOMER deciding on these matters, and RANDSTAD only following its instructions in this respect.

In such cases, taking into account the nature of the provision of the service(s) covered by this agreement, as well as its purposes, RANDSTAD will act as Data Processor and the customer as Data Controller. As such, RANDSTAD will process one or more of the personal data of the CUSTOMER's employees or other data subjects that may be relevant to the subject of the agreement, as set out, without limitation, below:

- Data of an identifying nature, personal characteristics, social circumstances, and/or sensitive personal data;
- Academic and professional data, employment data, and/or data providing commercial information.

Likewise, such personal data will be subject, in accordance with the purposes of this agreement, to one or more of the following processing operations:

- Registration, collection, preservation, and/or extraction.
- Structuring, organising, modifying, and/or adapting.
- Consultation.
- Deletion, destruction, restriction, or other processing according to the nature of the service

To this end, with respect to such data, RANDSTAD shall comply with the provisions of Article 28 of EU Regulation 2016/679 of 27 April and, in particular, with the following obligations:

- a) Adopting and implementing the necessary technical and organisational measures to guarantee its security and avoid its unauthorised alteration, loss or access, taking into account the state of technology, the nature of the data, and the risks to which it is exposed, whether from human action or the physical or natural environment.
- b) Processing it in accordance with the instructions of the CLIENT
- c) Only using it to the extent necessary for the provision of the Service and not for any purpose other than that mentioned.
- d) Not assigning, communicating, or transmitting it to third parties, even for conservation purposes, and not subcontracting all or part of the provision of the service, unless previously requested in writing and with the express prior authorisation of the CLIENT.

e) Assisting the CLIENT in a loyal and good faith manner in any aspect, question, need, incident, or problem arising from and/or in relation to this agreement and its execution, especially in the management of the response to the exercise of rights and communication and management of security breaches.

f) Ensuring that no data remains available once the Service provision has ended, in which case it must be destroyed or returned to THE CLIENT.

For its part, in terms of the data in question, THE CLIENT is required to:

- That all of it is legitimate and lawfully obtained.
- That, prior to allowing RANDSTAD to access the data, it has obtained the relevant consent from the people that it refers to.

Notwithstanding the provisions of this clause, in the event that there is an agreement that specifically regulates the processing of data, and provided that it complies with current legislation on the protection of personal data, said agreement shall prevail over the provisions of this clause, and this clause shall be supplementary in all matters not regulated by said agreement.

10. external users

In the event that the CLIENT has signed a CONTRACT, in which it is established that RANDSTAD acts as "external user" of the CUSTOMER in the application of the state foundation for employment training (FUNDAE), the following conditions shall apply:

When the CLIENT in the "Economic Offer" section has opted for RANDSTAD to act as its "External User" in the FEFE platform with respect to the training activity that is the subject of THE CONTRACT, the CLIENT will have to be registered in the aforementioned platform as a "Subsidised Company", to subsequently register RANDSTAD as an "External User"; to this end RANDSTAD will provide the CLIENT with the necessary information. In this capacity, RANDSTAD shall be responsible for the necessary online paperwork in the cited application with regard to the training action that is the subject of this CONTRACT, so that they may be credited by the CLIENT. In no case shall such an assignment make RANDSTAD the Organising Entity of the training action.

THE CLIENT declares that it is aware of the regulations that govern the obtaining of training credit with regard to the training actions that are planned for their employees, as well as the individual training permits granted to them, and that it complies and will comply with the obligations imposed thereby on companies benefiting from the training credits. For this purpose, a commitment is made to provide certified information and documentation to RANDSTAD so that it may act as the Training Entity and, where applicable, the External User. RANDSTAD shall not be responsible in any way for CLIENT non-compliance that impedes cited credit being received with regard to the aforementioned training action.

RANDSTAD declares that it has professionals with proper qualifications to exercise the arranged service, and to carry out the unfolding of all activities contained therein, the service RANDSTAD is responsible for being understood to be an obligation for measures and not results. In this sense, RANDSTAD in no way guarantees the CLIENT obtaining training credit with regard to the training action to which this CONTRACT makes reference, given that this depends on the CLIENT's compliance with all obligations that fall upon them.

RANDSTAD does not assume any type of obligation towards the CLIENT and its training credit in relation to training actions other than those included in THE CONTRACT.

The CLIENT is reminded that in order to receive the credit corresponding to the training action object of the offer, it is necessary, among other requirements, that: i) the invoice corresponding thereto has been paid and ii) the student has completed the training action.

11. intellectual property

This partnership agreement and/or the participation in the training units, as well as the provision of training materials on the e-learning training platform, does not grant the CLIENT or the trainees/training course participants any rights to use the training methods or training materials beyond the use within the training units, the further processing of the material or the monitoring of the trainee's results.

Any other use or publication of the training methods or teaching materials, in whatever form, requires prior written consent from RANDSTAD.

12. regulatory compliance

THE CLIENT declares that neither it nor its employees and/or directors, nor any of its subsidiaries, nor the directors and/or employees thereof have been the subject of a formal or informal investigation, sanction, or sentencing for non-compliance with national or international regulations regarding the prevention or fight against terrorism, human rights violations, and or international security, nor are they included on the corresponding exclusion lists. Likewise, THE CLIENT declares that it is not the owner, nor is it under the control of any legal or physical person under such circumstances.

The CLIENT undertakes to take all reasonable steps to ensure that it and its affiliates, and their respective employees, comply with such regulations and that neither the services provided by RANDSTAD nor the employees of RANDSTAD are affected by activities that may violate such regulations.

The CLIENT shall ensure that it will not transfer funds to RANDSTAD from businesses, activities, and/or transactions with third parties sanctioned by such regulations, or from any activity that violates such regulations.

13. legislation and jurisdiction

For the resolution of any dispute that may arise related to the interpretation and execution of this CONTRACT, the parties expressly waive their corresponding jurisdictions and subject themselves to the Courts and Tribunals of the city of Madrid.