



TERMS & CONDITIONS

Regarding

The License of

**The Fresh Connection, the Cool Connection
and the Blue Connection**

CONTENTS

<i>Article 1</i>	Definitions	3
<i>Article 2</i>	Granting of License	4
<i>Article 3</i>	Licensed Products	5
<i>Article 4</i>	Additional Services	5
<i>Article 5</i>	End User	6
<i>Article 6</i>	Consideration	6
<i>Article 7</i>	Payment	6
<i>Article 8</i>	VAT and Pricing	7
<i>Article 9</i>	Development of Licensed Products	7
<i>Article 10</i>	Transfer of knowledge, training	7
<i>Article 11</i>	Violation by third parties and indemnity	7
<i>Article 12</i>	Duration and termination	8
<i>Article 13</i>	Transfer of rights	9
<i>Article 14</i>	Joint and several liability	10
<i>Article 15</i>	Attributable breach and liability	10
<i>Article 16</i>	Penalty clause	10
<i>Article 17</i>	Force majeure	10
<i>Article 18</i>	Scope of the agreement	11
<i>Article 19</i>	Nullity of provisions	11
<i>Article 20</i>	Confidentiality clause	11
<i>Article 21</i>	Miscellaneous	12
<i>Article 22</i>	Dispute resolution	12
<i>Article 23</i>	Correspondence	12

I. General

Article 1 Definitions

1.1 In these Terms, the definitions that are indicated by an initial capital letter have the meaning as attributed to them in this Article.

- Commencement Date: the Commencement Date of the License Agreement as defined in the License Agreement;
- Contract Year: the duration of the License Agreement which is one full year starting on the Commencement Date, to be renewed each time by a period of one year, unless otherwise specified in the License Agreement;
- Inchainge's business simulations: the internet games/simulations and educational series as developed by Inchainge and which are continuously being developed further, for the purpose of training in value chain management;
- Intellectual Ownership Rights: all future and existing patents, copyrights, design rights, trade marks, service marks, trade secrets, know-how, database rights and other rights in the nature of intellectual property rights (whether registered or unregistered) and all applications for the same, anywhere in the world with regard to the Licensed Products and in particular with regard to Inchainge's business simulations;
- Licensor: the private limited company Inchainge, with its registered office in De Bilt, The Netherlands and its business location at Emmalaan 5, 3732 GM, De Bilt, The Netherlands, registered with the Trade Register of the Dutch Chamber of Commerce under number 30252101;
- Licensee: the educational organization which is the licensee of the Licensed Products as specified in the License Agreement;
- License Agreement: the agreement regarding the Licensed Products as entered by the Licensor and Licensee;
- License Expressions: the service marks, word marks, pictorial marks, trade names, indications, advertising slogans, and suchlike as used by the Licensor;
- Licensed Products: offering, to the students connected to the Licensee, of Inchainge's business simulations, and the subsequent components of the educational program connected to Inchainge's business simulations. The Licensed Products also include consecutive versions of Inchainge's business simulations;
- Support: is given when the Licensor answers questions and solves ad hoc playing problems of participants in the Simulation and is given when the Licensor answers questions and solves user problems of a technical and functional nature which cannot be answered or solved by the Licensee during the ad hoc phase;
- Schedule: documents attached to the License Agreement which form an integral part thereof and which provide further details regarding the arrangements recorded in the License Agreement;

- Terms: the present terms and conditions.

1.2 The definitions as indicated in these Terms shall be explained according to their meaning under Dutch legislation and regulations.

II. Subject of the agreement

Article 2 **Granting of License**

- 2.1 The Licensor grants to the Licensee a non-transferable License to use the Licensed Products as described in more detail in these Terms, which License is accepted by the Licensee;
- 2.2 The Licensee hereby explicitly declares to be aware of the fact that the Intellectual Ownership Rights as regards the Licensed Products are and will remain the full property of the Licensor and that by signing the License Agreement and Schedules, the industrial and intellectual property of the Licensed Products have not been transferred, neither wholly nor partially, to the Licensee;
- 2.3 The right of the Licensee to use the Licensed Products is limited to the Licensee only;
- 2.4 The Licensor hereby gives its consent to the use by the Licensee of the License Expressions as applied by the Licensor with regard to the Licensed Products, with the proviso that the use thereof is permitted only in connection with the acting as Licensee. An overview of the License Expressions as currently used by the Licensor has been attached as Schedule 1;
- 2.5 The Licensor explicitly grants the Licensed Products to the Licensee with the intention to educate students and is not intended to facilitate courses for businesses or large groups of professionals. Therefore the Licensed Products are granted to Licensee under the following terms:
- (a) The Licensee shall not facilitate a course with the Licensed Products to a group of students of which more than half of the students are employed with the same company or group of companies; and
 - (b) The Licensee shall not facilitate a course with the Licensed Products for a course with a duration of less than 10 days.
- 2.6 Should the Licensor make any necessary changes with regard to the Licensed Products and will therefore need to use other License Expressions, the Licensee will also be entitled, and be obliged if the Licensor so wishes, to the use thereof, after the Licensees have been notified of this.;
- 2.7 The Licensee hereby explicitly declares that it will acknowledge the industrial and/or intellectual property right of the Licensor with regard to any License Expressions yet to be developed;
- 2.8 The Licensee is not entitled to alter, adapt, change or extend the Licensed Products, unless with the consent of the Licensor;
- 2.9 If the Licensee has made a change to the Licensed Products as stated in the previous paragraph after having been granted consent of the Licensor, all Intellectual Ownership Rights with regard to this change will be vested in the Licensor;

Article 3

Licensed Products

- 3.1 The Licensed Products consist of the following:
- (a) The use of Inchainge's business simulations;
 - (b) The right to receive updates of Inchainge's business simulations, with the proviso that new versions shall be tested first by the Licensor. After these tests have been conducted and any defects have been remedied, a new version will be released. The Licensee shall be provided with the most recently released version at all times;
 - (c) The use of film material (trailer, introduction film, facilitation videos);
 - (d) The use of educational packages for educators and the use of the experience gained by Inchainge regarding the integration of Inchainge's business simulations in educational programmes;
 - (e) Materials such as banners, leaflets, presentations for sponsors/partners, presentations for participants, tickets and suchlike. An overview of the marketing materials has been included in Schedule 2;
 - (f) Hosting of the Simulation;
 - (g) Providing Support. The Licensor shall respond to the Licensee within 24 hours after notification of a problem.
- 3.2 The Licensor undertakes to inform the Licensee of any further developments of the Licensed Products and/or changes thereto, and the Licensee undertakes to implement the developments and/or changes, provided that this is not in violation of the provisions of these Terms or the License Agreement and is not unreasonably onerous in general;
- 3.3 The Licensed Products do not include:
- (a) Marketing costs (printing costs, costs of media partners, etc.);
 - (b) Organising the training/competition and on the basis thereof providing printed evaluations and suchlike to participants;
 - (c) Adaptations of the functionality of the Simulation;
 - (d) Creating additional language versions for the Simulation.

Article 4

Additional Services

- 4.1 Unless specified otherwise in the License Agreement, the License Agreement also grants each student access to the software solution offered by The Talent Connection B.V.. Each student with access to the software may create a profile on the Talent Connection, on the terms as set out by The Talent Connection B.V.
- 4.2 For the use of the software as offered by the Talent Connection, additional terms and conditions may apply, as well as a separate privacy policy.

Article 5 **End User**

- 5.1 The Licensed Products are intended for individual use per student connected to the Licensee. The Licensee shall procure that each student license is used by one individual student only. The Licensee shall procure that the student licenses are not transferred. The Licensee shall inform the students that the student license is non-transferrable. Furthermore, the Licensee undertakes to inform the Licensor if a student license is used by more than one student or others.
- 5.2 The Licensor reserves the right to revoke the access to the business simulations of a student license in the case of presumed misuse of the Licensed Product.
- 5.3 In the case of misuse of the Licensed Product by a student, the Licensor may hold the Licensee liable in the case of damages to the Licensor.

Article 6 **Consideration**

- 6.1 A fee for the Licensed Products as set out in the License Agreement;
- 6.2 A fee based on rates for extra services of the Licensor regarding:
 - (a) Additional language versions;
 - (b) Alterations in the functionality of the Simulation;
 - (c) Full support;
 - (d) Plus support;
 - (e) Train-the-trainer sessions.

The yearly rates are set out in (a Schedule to) the License Agreement.

Article 7 **Payment**

- 7.1 The fees due pursuant to Article 6 shall be charged upfront at the Commencement Date;
- 7.2 Payment of the amounts due pursuant to Article 6 shall be made within 30 (thirty) days into a bank account of the Licensor, without any right to discount or setoff;
- 7.3 If payment, for whatever reason, has not taken place within 30 (thirty) days after the invoice date, the Licensee will be in default by operation of law and the Licensor will be entitled, without further demand or notice of default, to charge a monthly interest of 1.5% on the outstanding amount as from the due date, whereby part of a month shall be calculated as one full month;
- 7.4 If payment, for whatever reason, has not taken place within 30 (thirty) days after the invoice date, the Licensor will, after having sent a notice of default to the Licensee by means of a registered letter whereby the Licensee is granted a reasonable term to remedy the default in accordance with Article 15, be entitled to terminate the License Agreement by means of a registered letter;

- 7.5 All extrajudicial costs to be made after a notice of default in writing in order to collect the amounts due by the Licensee to the Licensor, amongst which the costs of engaging a legal advisor, shall be at the expense of the Licensee. The extrajudicial collection costs shall amount to at least 15 % of the amount owed by the Licensee, with a minimum of EUR 1,000.

Article 8 **VAT and Pricing**

- 8.1 All fees, rates and prices in these Terms and the License Agreement are excluding VAT and other taxes, duties and/or charges, unless explicitly otherwise agreed upon in.
- 8.2 If the License Agreement is ongoing, the fee as set out in Article 1 of the License Agreement are subject to price indexation. Resulting from the price indexation, the Licensor reserves the right to raise the fees with a percentage equal to the raise of the Dutch consumer price index (*consumentenprijsindex*) as published by the Statistics Netherlands (*Centraal Bureau voor de Statistiek*). A raise of the fees according to this Article, shall not give the Licensee a reason for termination as referred to in Article 12.

III. Specific Provisions

Article 9 **Development of Licensed Products**

- 9.1 The Licensor and the Licensee are aware that continuous development of the Licensed Products benefits all parties. The Licensee undertakes to cooperate and inform the Licensor with regard to innovations, new developments, the market, actions of competitors etc;
- 9.2 The Licensee undertakes towards the Licensor to, during the term of the License Agreement, inform the Licensor of all experience gained during the usage of the Licensed Products;
- 9.3 The Licensor shall aim to innovate and improve the Licensed Products and in particular the simulations continuously.

Article 10 **Transfer of knowledge, training**

- 10.1 The Licensor has set up an educational programme, amongst which the train-the-trainer course and a refresher course for the Licensee and educators. This educational programme shall be made available to the Licensee and consists of:
- (a) access to a workshop of 1 day, organised by Licensor, for the Licensee and its educators under supervision of a partner or a principal consultant of Licensor with regard to the possibilities of one of Inchainge's business simulations;
 - (b) access to the online train-the-trainer trainings; and
 - (c) educators' licenses for educator training purposes.

Article 11 **Violation by third parties and indemnity**

- 11.1 The Licensee shall notify the Licensor immediately of any violation by third parties of the rights of the Licensor and shall, inasmuch as necessary, cooperate in ending such violations. Where necessary, the Licensor shall take measures in order to end such violations, insofar as these are the responsibility of the Licensor;
- 11.2 The Licensee shall cooperate in any manner as reasonably requested by the Licensor in order to protect the rights of the Licensor in the broadest sense of the word;
- 11.3 The Licensee shall, if becoming involved in disputes which might lead to legal proceedings insofar as connected to License rights as granted to the Licensee, notify the Licensor of this immediately and shall, depending on the nature of the dispute, grant the Licensor the right to join the proceedings as a party;
- 11.4 The Licensee indemnifies the Licensor explicitly against any litigation, claims based on forecasts, demands, statements or other liabilities or costs on the part of third parties, by whatever name, which may arise in connection to the exploitation by the Licensee of the License and which comes explicitly under its responsibility.

Article 12 **Duration and termination**

- 12.1 A License Agreement is entered into for a period of 1 year, with effect as from the Commencement Date. Except in the event of giving notice of termination by means of a registered letter sent by the Licensee to the Licensor, or by the Licensor to the Licensee, at least 2 months prior to the expiry of the agreement, the License Agreement will be renewed every year for a period of one year, provided that the Licensee is not in default at that time under the License Agreement and that the Licensee accepts, tacitly or in writing, the License Agreement valid at that time for the renewed period;
- 12.2 Without prejudice to the grounds and the manner of termination as described in the following paragraphs of this Article, a party is entitled to end the License Agreement by means of termination if and insofar as this party is entitled thereto pursuant to the law. Termination will have the consequences as set by the law;
- 12.3 A party is entitled to terminate the License Agreement effective immediately, wholly or partially and without Court intervention by means of a registered letter, if one of the following circumstances occurs:
- (a) The Licensee or the Licensor has been declared insolvent or has requested a suspension of payments;
 - (b) An executory attachment has been levied under the Licensee;
 - (c) The Licensee does not comply with the exploitation obligations as agreed upon;
 - (d) The Licensee or Licensor has effectively terminated its activities without validly transferring the rights under these Terms or the License Agreement to a third party;
 - (e) The Licensor or the Licensee has failed imputably in complying with its obligations under these terms or the License Agreement.
- 12.4 The abovementioned does not prejudice the Licensor's right to claim damages from Licensee;

- 12.5 In all other respects, the License Agreement shall end only if both parties consent in writing to interim termination of the License Agreement;
- 12.6 In the event as referred to in Article 12.3 sub c and e, termination may only be implemented after the party in default has explicitly been given notice of default by means of a registered letter in which the party in default is given a term of thirty days to remedy the default;
- 12.7 The Licensor will, after the notice of default as referred to in the previous paragraph, be entitled to terminate the License Agreement early if:
- (a) The Licensee violates the License Agreement or these Terms;
 - (b) The Licensee fails to procure that each student licenses is used by only one student;
 - (c) Actions of the Licensee jeopardize the reputation of the Licensor and/or the Licensed Products;
 - (d) The Licensee submits or has submitted false statements to the Licensor.
- 12.8 By means of the termination of the License Agreement between the parties – whether prematurely or otherwise – this will, irrespective of the direct ground for termination, end all to which the Licensee is entitled pursuant to the License Agreement, amongst which the right to use the Licensed Products, the License Expressions and suchlike of the Licensor;
- 12.9 Furthermore, the Licensee is obliged to, within thirty days as from the time of ending of the License Agreement, return to the Licensor all documents and/or goods provided by the Licensor to the Licensee in connection with the execution of the present agreement, by whatever name, and to return these in the manner as indicated by the Licensor;
- 12.10 The parties shall provide each other, within thirty days after the end of the License Agreement, with all required information with regard to possible fees payable at the time of termination, which fees will have to be paid or set off within that term;
- 12.11 The Licensee is obliged to, after the present License Agreement has ended, immediately cease the use of trade names, trademarks, models and other elements forming part of the Licensed Products, and to avoid from that time creating the impression in any way that the Licensee is still entitled to exercise this right of use, or the use of the name, the pictorial mark and other features forming part thereof.
- 12.12 The License Agreement cannot be dissolved, neither wholly nor partially.

Article 13 **Transfer of rights**

- 13.1 The Licensee is not permitted, without consent of the Licensor, to transfer, sell, alienate or relinquish in any way whatsoever the use or the enjoyment of the Licensee's rights and obligations arising from the License Agreement to another party, nor to encumber or burden these in any way whatsoever.
- 13.2 The Licensor is entitled to transfer its rights under the License Agreement to third parties or to have these executed by third parties, with the proviso that the continuity of the use of the Licensed Products may not be jeopardized.

- 13.3 The Licensor undertakes to, in the abovementioned case, stipulate in writing for the benefit of the Licensee that the subsequent Licensor shall fulfil all obligations under the License Agreement.

Article 14 **Joint and several liability**

- 14.1 In the event that multiple Licensees enter into one License Agreement, all obligations of the Licensee arising from the License Agreement are considered to be joint and several obligations of each separate Licensee.

Article 15 **Attributable breach and liability**

- 15.1 The party who fails imputably toward the other party and/or commits a wrongful act towards the other party, is liable for compensation of the damage suffered and/or to be suffered by that other party;
- 15.2 Liability of the parties for consequential damage or resulting damage is excluded. Examples of these are loss of profit or lost savings;
- 15.3 The parties can only claim compensation of their damage as referred to in paragraph 1 with regard to an attributable breach if the injured party gives notice of default to the defaulting party and if performance within the term given fails to occur. The obligation to give notice of default lapses if it has become impossible to perform or to remedy and will remain so indefinitely.

Article 16 **Penalty clause**

- 16.1 If the Licensee imputably fails to meet the obligations from the License Agreement or if the Licensee violates Article 2 (Granting of License), Article 11 (Violation by third parties and indemnity), Article 12.8 through 12.11 (return of goods and ceasing to exercise the right of use) or Article 20 (Confidentiality) of these Terms, the Licensee is liable towards the Licensor for a penalty, due and payable immediately, of EUR 10,000 per breach, as well as a penalty of EUR 1,000 per day that the Licensee remains in default as regards the performance of its obligations arising from the License Agreement or the aforementioned Articles, without prejudice to the right of the Licensor to claim the actually suffered damage in any of these cases and to, at the discretion of the Licensor, limit or remove the exclusive right of the Licensee.

Article 17 **Force majeure**

- 17.1 Licensor is not liable towards Licensee or a third party for damage or loss of any kind whatsoever (other than payment of a sum of money) originating from or suffered by that party, and will not be in default either due to delays or faults in the performance of or compliance with a provision from the License Agreement, as a result of or arising from circumstances which constitute force majeure for the party who invokes this Article;
- 17.2 Force majeure occurs if Licensor is prevented from complying with its obligations under these Terms, from the License Agreement or from complying with the preparation thereto as a result

of causes, which arose through no fault of or beyond the control of the Licensor.

Article 18 **Scope of the agreement**

18.1 The parties undertake to execute the License Agreement in good faith and to inform each other with regard to any relevant information regarding the cooperation, amongst which circumstances, which impede, or could impede a correct performance of the cooperation.

Article 19 **Nullity of provisions**

19.1 If any provision of these Terms or the License Agreement is declared, or proves to be, void or invalid or is no longer applicable as a result of changed circumstances, for instance as a result of changed national or international legislation and regulations, such a declaration or proof will not have any effect on the remaining provisions;

19.2 The parties shall consult each other in good faith with regard to the void or voided provision, or the provision which is no longer applicable as a result of changed circumstances, with the purpose of agreeing upon a new provision in that respect which reflects the intention of the parties inasmuch as possible. Additionally, it will be judged to what extent the changes in the provision concerned influence the other provisions of the Terms or the License Agreement. If necessary, these other provisions may also be changed in consultation.

Article 20 **Confidentiality clause**

20.1 The parties will do their utmost to prevent third parties from acquiring confidential information of the other party in any way. This is not applicable if the disclosing party demonstrates that the information concerned was already publicly known other than by violation of this confidentiality obligation or if a party is forced by an authority or judicial authority competent thereto to disclose confidential information;

20.2 The Licensee undertakes towards the Licensor to observe full confidentiality with regard to any information the Licensee becomes aware of in the context of the performance of the License Agreement with regard to activities and the organisation of the Licensor, including all knowhow which is of importance with respect to the Licensed Products. This obligation is of unlimited duration with regard to the use and disclosure of any information, knowledge, knowhow and technological lead which the Licensor has designated as confidential, with the exception of information which was already part of the public domain through no actions of the Licensee;

20.3 The Licensee undertakes towards the Licensor to impose the abovementioned confidentiality obligation and its related prohibitions on all persons who work or shall be working for the Licensee, whether or not in employment;

20.4 The Licensor undertakes towards the Licensee to impose the abovementioned confidentiality obligation and its related prohibitions on all persons who work or shall be working for the Licensor, whether or not in employment;

20.5 The clause as described in this Article will take effect as from the day of signing the License

Agreement and will continue up until three years after the end of the License Agreement.

Article 21 **Miscellaneous**

- 21.1 The Licensor may alter these Terms if the Licensor sees fit. The latest version of these Terms apply to the License Agreement.
- 21.2 If the Licensor has intentions to alter these Terms significantly, the Licensor shall notify at least a month before the intended alterations, or as soon as possible.
- 21.3 In the case of a significant alteration in these Terms, the Licensee may terminate the License Agreement per the date of the alteration.
- 21.4 For the performance of the License Agreement and these Terms, Licensor may gather personal data. Licensor's privacy policy applies for the data storage. The applicable privacy policy is attached to the License Agreement as Schedule 3.

Article 22 **Dispute resolution**

- 22.1 The parties shall endeavour to solve all disputes amicably with regard to the execution of these Terms and the License Agreement. Disputes which cannot be settled amicably shall be judged exclusively in accordance with the provisions of paragraph 2 hereafter;
- 22.2 The Court of the Utrecht Judicial District, the Netherlands, is exclusively competent with regard to any disputes between the parties which are related to these Terms and the License Agreement;
- 22.3 These Terms and the License Agreement are governed by Dutch law.

Article 23 **Correspondence**

- 23.1 All important notifications in writing from the Licensee to the Licensor as mentioned in these Terms and the License Agreement must always be sent by registered mail to:

[Inchainge B.V.]

[Emmalaan 5]

[3732 GM De Bilt_]

[The Netherlands_]