

Blanchard Training and Development, Inc.

General Purchase Terms

Updated April 1, 2023

- 1. Applicability; Definitions.** These general purchase terms (these “**Purchase Terms**”) are between Blanchard Training and Development, Inc., d.b.a., The Ken Blanchard Companies® (“**Blanchard**”) and the client purchasing the Deliverables (each a “**Client**”). These Purchase Terms apply in instances where there is no signed written agreement between the parties related to the Deliverables. When there is a signed agreement between the parties covering the Deliverables, the terms of that agreement apply. When there is no signed agreement covering the Deliverables, these Purchase Terms supersede any terms incorporated in a purchase order provided by Client and supersede other terms provided by Client related to the Deliverables. These Purchase Terms are effective as of the earlier of either: (a) Blanchard’s first date of delivery, or (b) the date scheduled Services with Blanchard are confirmed (confirmation is communicated via email). Defined terms used in these Purchase Terms but not defined in this Section are defined in Section 17 of these Purchase Terms.
- 2. Ownership; Intellectual Property.** Each party maintains exclusive right, title, and interest to its own Intellectual Property. These Purchase Terms do not transfer, assign, or convey ownership of one party’s Intellectual Property to the other party or to any other person or entity. Blanchard hereby grants Client (and each Participant) a limited, world-wide, non-exclusive, non-transferable, non-sub-licensable, and non-assignable license to utilize the Deliverables for the purposes for which the Deliverables were designed. Each individual Participant may download, print, and save copies of Digital Materials for personal, non-commercial use in association with the rights conveyed under these Purchase Terms. This license is unique to the Participant. Except as allowed in this Section, the Deliverables may not be modified, copied, reprinted, reproduced, duplicated, distributed, translated, adapted, incorporated into other works, reverse-engineered, resold, published, broadcast, or recorded. The “work made for hire” doctrine does not apply to the Deliverables. The Deliverables may not be marketed or resold by Client to third parties. Blanchard may terminate the licensing rights granted in this Section in the case of a material breach of these Purchase Terms (a breach of these licensing rights will be considered a material breach).
- 3. Confidential Information.** The parties will hold Confidential Information in confidence and will not reveal Confidential Information to any third parties, except pursuant to court order or other lawful or administrative process. The parties will use Confidential Information and share Confidential Information within their respective organizations only to the extent needed to fulfill their obligations with respect to the Deliverables. Upon written request by the disclosing party (email request is sufficient), the receiving party will destroy all Confidential Information except for copies needed for legal or accounting purposes.
- 4. Cancellation or Date Change for Scheduled Services.** To cancel or change the date of confirmed scheduled in-person or VILT delivery with a Blanchard facilitator (a.k.a. trainer), Client must notify Blanchard. For in-person Services, if Blanchard receives this notice fewer than 30 calendar days prior to the first scheduled date of Services, Client is responsible for paying: (a) 50% of the total Services fees if notice is received 21 to 29 calendar days prior to the first scheduled date; or (b) 100% of the total Services fees if notice is received fewer than 21 calendar days prior to the first scheduled date. Additionally, for in-person Services, if Blanchard receives this notice fewer than 30 calendar days prior to the first scheduled date, Client must reimburse Blanchard for any nonrefundable travel-related expenses incurred by Blanchard. For VILT, if Blanchard receives notice from Client of cancellation or date change 14 calendar days or fewer prior to the first scheduled VILT session, Client is responsible for paying 100% of the Services fees. Fees associated with Client cancelling or changing the date of scheduled Services are not eligible for credit toward a future purchase.
- 5. Return Policy.** Client may return unused hard-copy Materials with a Blanchard return authorization number, which will be provided by the Blanchard Project Manager upon Client request. Client is responsible for shipping costs for returns. For eligible returns, Blanchard will refund Client for the purchase price of the returned Materials and applicable sales taxes. The following are not eligible for return or refund: (a) customized Materials, (b) Digital Materials, and/or (c) hard-copy Materials that are part of a kit that includes Digital Materials. If hard-copy Materials are damaged during shipment, contact the Blanchard Project Manager for resolution.
- 6. Payment Terms.** Unless otherwise agreed upon by both parties, Client’s payment for the Deliverables is due 30 days from the date of the invoice.

- 7. Taxes; Sales Orders.** Client is responsible for Sales Taxes as well as freight, shipping, handling, customs, duties, and reasonable travel expenses related to the Deliverables. When Blanchard provides a sales order to Client, the sales order is an estimate of fees for the Deliverables and may not include Sales Taxes, freight, shipping, handling, customs, duties, and/or travel expenses. It is Client's responsibility to ensure any purchase order generated for the Deliverables is sufficient to cover all these items.
- 8. Subcontractors.** With respect to the Deliverables, Blanchard may use subcontractors for delivery, course design, print production, and online platform provision.
- 9. Digital Materials and Online Platforms.** Blanchard utilizes various third-party online delivery platforms for delivery of VILT and certain Digital Materials. These platforms may have different applicable terms of use and/or privacy policies, depending on the platform provider. For Digital Materials provided on *Blanchard Exchange*, the platform most frequently utilized by Blanchard, the online subscription terms found here apply: <http://www.kenblanchard.com/Terms>. Additionally, different Digital Materials provided on online platforms may have different Participant access time frames. For *Blanchard Exchange*, those time frames are found at the link provided in this Section.
- 10. Delivery (a.k.a. facilitation) of Blanchard Programs.** If Client utilizes Client Trainers to deliver Blanchard programs within its organization, Client must purchase the applicable Blanchard training materials for the Client Trainer(s) to use or ensure the applicable training materials have been purchased for them. Additionally, Client must purchase one set of the supporting participant materials for each Participant attending a training session (whether in-person or VILT) in a Blanchard program. If Client utilizes Client Trainers to deliver Blanchard programs, the trainer terms found here apply: <http://www.kenblanchard.com/Terms>.
- 11. Representations; Insurance Coverage.** Blanchard maintains generally accepted industry standard administrative, physical, and technical safeguards to protect Client Confidential Information and Client data. Blanchard has full authority and sufficient right, title, and interest in and to the Deliverables to provide Client with the rights Blanchard grants in these Purchase Terms. Blanchard represents that, in connection with its performance and delivery of the Deliverables, Blanchard will comply with the Laws. Blanchard carries comprehensive general commercial liability insurance in an amount not less than \$1,000,000 (covering personal injury, death, and property damage) as well as employer's liability and worker's compensation insurance, as required by law.
- 12. FOB Shipping Point.** For shipment or delivery of hard-copy Materials, FOB Shipping Point applies.
- 13. Indemnification.** Subject to the limitations in this Section, Blanchard will indemnify Client against Claims brought against Client if these Claims arise out of any claim that Client's use or possession of the Deliverables infringes any patent, copyright, trade secret, or other proprietary right of any third party. Blanchard's obligation to indemnify Client excludes Claims arising from: (a) Client having provided Blanchard infringing content that was incorporated into the Deliverables developed for Client by Blanchard; (b) Client's modification or use of the Deliverables in a manner that violates the scope of the license granted to Client or the Deliverables' intended use; or (c) the failure of Client to use or make any corrections or modifications to the Deliverables required by Blanchard and provided to Client by Blanchard free of charge. If acting under its indemnification obligations, Blanchard has the right to select counsel, settle, try, or otherwise dispose of any Claims. However, without Client's prior written consent, Blanchard is prohibited from entering into any settlement that: (i) would be in Client's name; (ii) imposes any liability or obligation, or an admission of fault or guilt, on Client; or (iii) enjoins Client. The parties will cooperate in the settlement or defense of a Claim and give one another access to all relevant information.
- 14. Disclaimer.** THE DELIVERABLES ARE PROVIDED ON AN AS-IS AND AS-AVAILABLE BASIS. EXCEPT AS OTHERWISE SPECIFICALLY STATED IN THESE PURCHASE TERMS, BLANCHARD DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, RELATED TO THE DELIVERABLES, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, AND TECHNICAL PERFORMANCE.
- 15. Force Majeure.** If a Force Majeure Event occurs, the Affected Party will be excused from performing the obligations it is unable to perform owing to the Force Majeure Event, on condition that: (a) the Affected Party used reasonable efforts to perform those obligations, and (b) the Affected Party's inability to perform those obligations is not due to its failure to take reasonable measures to protect itself against the event or circumstance giving rise to the Force Majeure Event. If a Force Majeure Event occurs, the Affected Party will promptly notify the other party of the occurrence of that Force Majeure Event, its effect on performance, and how long that party expects it to last. Thereafter, the Affected Party will update that

information as reasonably necessary. During a Force Majeure Event, the Affected Party will use reasonable efforts to limit damages to the other party and to resume its performance.

16. Disputes; Governing Law. If a dispute arises between the parties related to the Deliverables and the parties elect to proceed with mediation or litigation, the matter will be heard under the jurisdiction of the state or federal court where Client's main offices are located and will be conducted in English. *The United Nations Convention on Contracts for the International Sale of Goods does not apply to the Deliverables.*

17. Definitions.

"Affected Party" means the party prevented by a Force Majeure Event from performing any one or more obligations with respect to the Deliverables.

"Blanchard Intellectual Property" means: (a) Blanchard's preexisting Intellectual Property; (b) all Intellectual Property in the Deliverables owned by, assigned to, or licensed to Blanchard; and (c) the processes, know-how, ideas, inventions, and materials owned by or licensed to Blanchard and used to create or constitute the Deliverables.

"Claim" means third-party claims, suits, losses, liabilities, costs, damages, and expenses.

"Client Trainers" means Client employees or members of Client personnel who facilitate Blanchard programs.

"Confidential Information" means proprietary or sensitive information, technology, materials, and know-how of the other party disclosed or acquired that is either designated as proprietary or confidential or, by the nature of the information or the circumstances surrounding disclosure, ought in good faith to be treated as proprietary or confidential. Confidential Information does *not* include information the receiving party can demonstrate: (a) was previously known to the receiving party free of any obligation to keep it confidential; (b) is or has become generally available to the public through no wrongful act; (c) was rightfully received from a third party under no obligation of confidence to such third party; or (d) was independently developed by the receiving party without reference to information disclosed in connection with this Agreement.

"Deliverables" means the Services and Materials, collectively.

"Digital Materials" means Materials provided by Blanchard in any electronic manner, whether distributed on an online platform or by email.

"Force Majeure Event" means, with respect to a party, any event or circumstance, whether foreseeable or not, that was not caused by that party and that prevents that party from complying with any of its obligations with respect to the Deliverables (other than an obligation to pay money). A Force Majeure Event does *not* include: (a) a strike or other labor unrest that affects only one party; (b) an increase in prices; (c) a change in law; or (d) third-party non-performance.

"Intellectual Property" means all copyrights, trademarks and service marks, trade secrets, patents, patent applications, contract rights, know-how, and other proprietary rights, including without limitation all rights considered "moral rights," whether registered or unregistered, and whether existing now or in the future, throughout the world.

"Laws" means all applicable laws, rules, statutes, regulations, decrees, orders, and requirements of any government organization having jurisdiction.

"Materials" means materials provided by Blanchard to Client.

"Participant" means a Client employee or member of Client personnel who is provided access to Blanchard Intellectual Property through Client's purchase of the Deliverables.

"Sales Taxes" means sales and use taxes, value added tax, business tax, tariffs, or any similar taxes that may apply to the Deliverables.

"Services" means services Blanchard provides to Client, or that Client schedules to be provided, and includes in-person as well as VILT.

"VILT" means virtual instructor-led training.