

## CONTENTS

|  |           |
|--|-----------|
| <b>1. TERMS AND CONDITIONS.....</b>                                  | <b>1</b>  |
| <b>2. DEFINITIONS .....</b>  | <b>1</b>  |
| <b>3. THIS CONTRACT IF YOU ARE A BUSINESS CUSTOMER .....</b>         | <b>3</b>  |
| <b>4. FORMATION OF THE CONTRACT .....</b>                            | <b>3</b>  |
| <b>5. PROVISION AND USE OF THE SERVICE AND WEBSITE Licence .....</b> | <b>4</b>  |
| <b>6. FEES AND PAYMENT .....</b>                                     | <b>6</b>  |
| <b>7. INTELLECTUAL PROPERTY RIGHTS.....</b>                          | <b>7</b>  |
| <b>8. CONFIDENTIALITY .....</b>                                      | <b>8</b>  |
| <b>9. TERM, SUSPENSION AND TERMINATION .....</b>                     | <b>9</b>  |
| <b>10. LIMITATION OF LIABILITY.....</b>                              | <b>10</b> |
| <b>11. EVENTS OUTSIDE OUR CONTROL.....</b>                           | <b>11</b> |
| <b>12. DATA PROTECTION.....</b>                                      | <b>12</b> |
| <b>13. COMMUNICATIONS BETWEEN YOU AND US .....</b>                   | <b>12</b> |
| <b>14. OTHER IMPORTANT TERMS AND CONDITIONS .....</b>                | <b>12</b> |
| <b>Appendix - Online Training Privacy Policy.....</b>                | <b>13</b> |

Directors: D Carr PgD FIIRSM DipSM FaPS, GradIOSH, D Cooper CMIOSH MIIRSM CMaPS, V Carr  
Registered in England No. 2131209  
Registered Office: Yardley House, 11 Horsefair, Rugeley, Staffs WS15 2EJ



# Online Training Terms & Conditions and Privacy Policy



## 1. TERMS AND CONDITIONS

1.1 You are reading a legal document which is the "Terms and Conditions" between "You" (who is an organisation if purchasing usage rights to the Service for a number of Users, or an individual if just purchasing usage rights to the Service for yourself) and us for your or your Users' use of the Service or the Website. "We" are Callsafe Services Limited, a company registered in England and Wales under registration number 2131209 with registered office at Yardley House, 11 Horsefair, Rugeley, Staffordshire, WS15 2EJ [and with VAT number 421087383. If you have any comments, queries or suggestions about the Service or the Website, you can write to us at our registered office address set out above or email us at [dave@callsafe-services.co.uk](mailto:dave@callsafe-services.co.uk) or call us on 01889 577701 or you or a User can let us know through the feedback form we make available online when a User has taken a Course.

1.2 Please read these Terms and Conditions carefully. By you registering with us or submitting an Order to us or accessing or using the functions, facilities or services within or through the Website (or enabling anyone else to do so), you are agreeing to these Terms and Conditions.

1.3 These Terms and Conditions were most recently updated on 7 February 2017.

1.4 We shall keep a copy of the Contract (i.e. our Order Acceptance and these Terms and Conditions) but you are advised to print and keep a copy of our Order Acceptance and these Terms and Conditions for your own records and future reference. You should also keep a record of any electronic or written correspondence we enter into with you.

## 2. DEFINITIONS

2.1 In these Terms and Conditions, unless the context otherwise requires:

"Commencement Date" means the date on which we first make available the Service to you under the Contract, following our receipt of the Licence Fee;

"Confidential Information" means any information in any form or medium obtained by one Party from or on behalf of the other Party in relation to a Contract which is expressly marked as confidential or which a reasonable person would reasonably consider to be confidential whether disclosed or obtained before, on or after the date of the Contract together with any reproductions of the information or any part of the information (and our "Confidential Information" shall include the Licensed Materials, Courses and any information relating to our methodology, software and Website);

"Contract" means these Terms and Conditions together with the relevant Order Acceptance and/or relevant terms in relation to a particular Order Acceptance; "Courses" means the online health and safety training courses (which are based on English legislation as implemented in Health & Safety Executive guidelines) that we may offer from time to time and "Course" shall mean any one of those courses;

"Callsafe Services Brand" means our brand, trade mark, service mark, trade name, logo, style or image (whether registered or not);

"Fees" means the fees payable by you to us for the Service including the Licence Fee and any other sums due under the Contract;

"Intellectual Property Rights" means all intellectual and industrial property rights of any nature anywhere in the world, including copyright and related rights, trade marks and service marks, trade names and domain names, rights under licences, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, patents, rights to inventions, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or

# Online Training Terms & Conditions and Privacy Policy



unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

"Liability" has the meaning given to it in Clause 10.9;

"Licence" means a licence for an agreed number of Users to use the Service in respect of the Courses set out in the Order Acceptance; "Licence Fee" means the fee payable by you to us in consideration of us providing the Service to you as set out in the Order Acceptance;

"Licensed Materials" means any materials provided by us to you as part of the Courses, including manuals, guidance notes and training documentation;

"Management Site" means (where you are an organisation) your dedicated page for which access is restricted to the Manager which provides the facilities for the Manager to register new Users, enrol Users onto a course, view reports, and monitor progress of groups of Users and individual Users;

"Manager" means (where you are an organisation) any individual natural person who is authorised by you to supervise and manage your use of the Service on your behalf;

"Order" means the request by you to us (through the Website or such other means as we may agree with you) for our provision of a particular Service;

"Order Acceptance" means the written document or written communication which we despatch to you (in response to the receipt of an Order by us from you) which may contain the particular details of any provision of a particular Service;

"Party" means either us or you and "Parties" means both of us and you;

"Records" means the records held by us on your behalf confirming the Course or Courses that a User has completed successfully;

"Service" means:

- i) any of the CPD or UKATA accredited online Courses that we offer; and
- ii) any Management Site; and
- iii) the storage of Records which we may provide from time to time; and
- iv) any ancillary services as set out on our website from time to time or provided to you (including automatic record keeping and monitoring facilities and a CPD or UKATA accreditation and certification facility);

"User" means any individual natural person either who are you (if you are an individual customer purchasing usage rights to the Service for yourself) or (if you are an organisation who is purchasing usage rights to the Service) who is your employee, officer, contractor, consultant or representative authorised to use the Service via the Website by the Manager; and

"Website" means our website from which we provide the Service to you and Users, whose current uniform resource locator is at [www.etctraining.com](http://www.etctraining.com).

## 2.2 In these Terms and Conditions:

2.2.1 references to Clauses are to the clauses of these Terms and Conditions;

2.2.2 words importing a gender shall include the other gender and the neutral;

2.2.3 references to persons and entities include individuals, bodies corporate, firms, partnerships or unincorporated associations;

2.2.4 the singular includes the plural and vice versa;

2.2.5 the headings are inserted for convenience only and shall not affect the interpretation or construction of these Terms and Conditions;

2.2.6 references to "includes" or "including" or like words or expressions shall mean without limitation;

2.2.7 references to any statute or statutory provision shall include any subordinate legislation made under it, any provision which it has modified or re-enacted (whether with or without modification) and any provision which subsequently supersedes it or re-enacts it (whether with or without modification); and

2.2.8 references to "written" or in "writing" includes in electronic form.

### **3. THIS CONTRACT IF YOU ARE A BUSINESS CUSTOMER**

3.1 This Clause 3 only applies if you are not a consumer.

3.2 If you are not a consumer, you confirm that you have authority to bind any organisation on whose behalf you are acting when placing an Order or using the Website to obtain Services.

3.3 These Terms and Conditions apply to the exclusion of any terms and conditions submitted, proposed or stipulated by you. These Terms and Conditions apply to our supply of any Service.

3.4 Except as expressly provided herein, the Contract (together with any documents referred to in it) shall operate to the entire exclusion of any other agreement, understanding or arrangement of any kind between you and us preceding the date of the Contract and in any way relating to the subject matter of the Contract and to the exclusion of any representations not expressly stated herein except for any fraudulent misrepresentations or any misrepresentation as to a fundamental matter. Neither you nor we have entered into the Contract based on any representation that is not expressly incorporated into the Contract.

3.5 The Contract (together with any documents referred to in it) constitutes the whole agreement and understanding of you and us as to the subject matter of the Contract and there are no provisions, terms, conditions or obligations, whether oral or written, express or implied, other than those contained or referred to herein.

3.6 Except as expressly stated in the Contract, all warranties, conditions and other terms, whether express or implied, by statute, common law or otherwise are hereby excluded to the fullest extent permitted by law.

### **4. FORMATION OF THE CONTRACT**

4.1 Before placing an Order, you need to be registered with us. Your registration with us does not impose any legal obligation for you to obtain, or us to provide, the Service until the Contract is formed.

4.2 A Contract shall be legally formed and the Parties shall be legally bound when we dispatch our Order Acceptance to you following your Order, confirming the terms on which the Parties have agreed to proceed.

4.3 If you are placing your Order through the Website, our Website pages will guide you through the steps you need to take to place the Order. Our order process allows you to check and amend any errors before submitting your Order to us. Please take the time to read and check your order at each page of the order process.

4.4 It is your responsibility to ensure that all information supplied to us or our Website by you or your Manager or your Users is complete and accurate.

4.5 Except as expressly provided otherwise in a Contract, no change to any Contract shall be binding unless agreed in writing by each of the Parties and in any format which may be described as being required in the Order Acceptance or which the Parties otherwise agree in writing.

# Online Training Terms & Conditions and Privacy Policy



4.6 In respect of any future Contracts, we may amend these Terms and Conditions before you place your Order. Please look at Clause 1.3 in these Terms and Conditions to see when they were last updated. Every time you place an Order with us, the Terms and Conditions in force at the time of your Order will apply to that Contract between you and us, so it is your responsibility to check the latest Terms and Conditions before placing your Order.

4.7 If you provide us with an Order, purchase order, confirmation of order, specification or other document for the Service, such document shall be purely for your administrative purposes only and shall not form part of a Contract unless it is referred to in the Order Acceptance and then only to the extent referred to.

4.8 Each Order Acceptance constitutes a separate "Contract". There may be more than one Contract between the Parties in force at the same time.

## **5. PROVISION AND USE OF THE SERVICE AND WEBSITE Licence**

5.1 In consideration for the payment of the Fees by you, we grant to you the Licence. You shall not allow anyone other than a User in respect of whom you have paid to have access to the Service.

5.2 You or your Manager shall not be permitted to add more Users than the number of Users permitted pursuant to the Licence. If you would like to add any more Users, you need first to place a further Order with us. Provision of Service

5.3 Our provision and your use of the Service and/or the Website are subject to these Terms and Conditions.

5.4 We may supply the Service with updates, modifications or improvements incorporated into them and we reserve the right to temporarily suspend the Service if in our reasonable opinion it becomes necessary to amend the Service to include specific updates, modifications or improvements.

5.5 To enable us to provide the Service to your Users, you shall (or shall procure that your Users or Manager shall) supply us with the following (to the extent applicable): name, address, email address, user name, password, telephone and fax numbers. You agree, and you shall procure that your Users and Manager agree, that we shall use that information, together with any further information resulting from your and your Manager's and Users' use of the Service (including dates of Course taken or to be taken and certificate and pass or fail details) in order for us to provide the Service.

5.6 You shall, and you shall ensure that your Users and your Manager shall, use their own details and not impersonate another person or organisation or adopt a false identity.

5.7 If you, your Users or your Manager think that you or they may have allowed a third party to see or use your or their password other than with your or their permission, you shall inform us immediately and we will suspend use of the Service under that password (but in any event you shall be responsible for any use under that password until we do so).

5.8 You shall, and you shall ensure that your Users and your Manager shall, keep your and their passwords strictly confidential and secure and immediately inform us in writing if any unauthorised third party becomes aware of that password or if you become aware of any unauthorised use of your, your Users' or your Manager's email addresses or passwords or there is any breach of security known to or suspected by you. You agree that any person to whom your, your Users' or your Manager's usernames or passwords are disclosed is authorised to act as your agent for the purposes of using the Service and Website. Please note that you are entirely responsible if you or they do not maintain the confidentiality of your or their passwords. You are also entirely responsible for bringing the details of the Contract to the attention of all persons who may access the Service through you, your Users' or your Manager's passwords or your or their Internet connections.

# Online Training Terms & Conditions and Privacy Policy



5.9 We warrant that:

5.9.1 we shall use reasonable skill and care in providing the Service;

5.9.2 the Course will be up-to-date according to the laws and regulations and Health and Safety Executive guidelines in England at the time we make available the Course to the User;

5.9.3 our employees, agents and subcontractors have the necessary skill to provide the Service;

5.9.4 the Service will be provided in a professional, competent and workmanlike manner; and

5.9.5 we have all necessary rights, permissions and consents to enter into the Contract.

5.10 The Courses provide general guidance and have not been customised to your or a User's specific requirements. We do not warrant that the Service will be uninterrupted or totally error-free or that it will meet your or a User's individual requirements. We may carry out planned or emergency maintenance from time to time, and there may be downtime in access for reasons beyond our reasonable control.

5.11 We do not warrant that the content within the Course will remain up-to-date beyond the date on which we make it available to your User. You are responsible for checking and verifying that you receive further training and courses as necessary to conform to the latest laws and regulations and Health and Safety Executive guidelines.

5.12 We are not responsible for services not expressly stipulated in the Contract. You are responsible for any equipment, hardware, services or software that you are required to obtain from someone other than us. Except for any matter upon which we specifically agree in writing with you to advise or do, we shall not be responsible or have any Liability for advising on, or failing to advise on, or doing, or failing to do, anything else (including on any laws, rules, regulations, by-laws or codes of practice).

5.13 We do not warrant that the Website will be compatible with all hardware and software which you may use. Although we may put in place security measures for your protection, we shall not have Liability for damage to, or viruses or other code that may affect, any computer equipment, software, data or other property as a result of your access to or use of the Website or your obtaining any material from, or as a result of using, the Website. We shall also not have any Liability for the actions of third parties in breaching any security measures.

5.14 The Service and use of the Website do not include the provision of a computer or other necessary equipment to access the Website. To use the Service and Website, you will require Internet connectivity and appropriate telecommunication links. We shall not have any Liability for any telephone or other costs that you may incur.

5.15 We shall use our reasonable endeavours to perform our obligations within any timescales set out in the Contract. Records

5.16 We shall retain the Records for up to six years after the Course has been taken by the relevant User, unless and until:

5.16.1 you or the relevant User requests that any or all such Records about a User be sent to you or deleted, in which case we shall promptly comply with that request, subject to any legal requirements to preserve the information and to you paying our reasonable Fees for carrying out the request; or

5.16.2 you request the deletion of a User (or Manager) or you request that a User is removed from a Course, in which case the Records generated by such deleted User (or Manager) will be deleted, subject to any legal requirements to preserve the information and to you paying our reasonable Fees for carrying out your request.

5.17 Although we shall take back-ups of the Records in accordance with our standard practice, you

# Online Training Terms & Conditions and Privacy Policy



shall be responsible for taking and maintaining your own copies of the Records, in case of loss, damage, theft, corruption, deletion or misuse of Records. User Content

5.18 All comments, suggestions, ideas, notes, drawings, concepts or other information disclosed or offered to us by you or in response to solicitations by us regarding the Service or the Website (each being "Ideas") shall be deemed to be our property and shall remain our property. You understand and acknowledge that we have both internal resources and other external resources which may have developed or may in the future develop ideas identical to or similar to Ideas and that we are only willing to consider Ideas on these terms. In any event, any Ideas are not submitted in confidence and we assume no obligation, express or implied by considering it. Without limitation, we shall exclusively own all now known or hereafter existing rights to the Ideas of every kind and nature throughout the world and shall be entitled to unrestricted use of the Ideas for any purpose whatsoever, whether commercial or otherwise, without compensation to the provider of the Ideas. Other rules about use of the Service and the Website

5.19 If the Website and the Service is accessed by you, your Users or your Manager from outside the United Kingdom, this is entirely at your risk. We provide no warranty or representation that the Website or Service (or any products or services referred to in the Website or in or pursuant to the Service) are available or otherwise suitable for use outside of the United Kingdom. If you, your Users or your Manager choose to access or use or obtain the Website or Service from or in locations outside the United Kingdom, you do so on your own initiative and are responsible for:

5.19.1 ensuring that what you are doing in that country is legal; and

5.19.2 the consequences and compliance by you with all applicable laws, regulations, byelaws, codes of practice, licences, registrations, permits and authorisations (including any laws that relate to businesses providing services).

## 6. FEES AND PAYMENT

6.1 You shall pay the Fees in full when due; and the Fees shall be deemed received only when received by us in full cleared funds.

6.2 When you place an Order:

6.2.1 you shall pay the Licence Fee in full at the time of ordering by supplying us with your payment card details from a payment card company acceptable to us, which we require in order to process your Order (or you shall pay by such other payment method as we may expressly agree with you); and

6.2.2 you undertake that all details you provide to us for the purpose of purchasing the Service will be correct, that the payment card or account which you use is your own and that there are sufficient funds or credit facilities to cover the cost of the Service. We reserve the right to obtain validation of your payment card details before providing you with the Service.

6.3 We may issue an invoice to you for the Fee.

6.4 Except where we require payment in advance of using the Service (in which case our provision of the Service is conditional on you having paid in full), you shall pay us for all sums due under an invoice within seven days after the date of such invoice.

6.5 Our provision of access to the Service is conditional on us first receiving the Licence Fee and any other sums due under the Contract prior to the Commencement Date in cleared funds in full from you.

6.6 This Clause 6.6 only applies if you are a consumer. If you are a consumer, you have a right to cancel the Contract by letting us know within 14 days after the Contract is formed (being when we despatch our Order Acceptance to you). The easiest way to do this is by email at [dave@callsafe-services.co.uk](mailto:dave@callsafe-services.co.uk) or contacting us on 01889 577701 or you can write to us at Yardley House, 11



# Online Training Terms & Conditions and Privacy Policy



Horsefair, Rugeley, Staffordshire, WS15 2EJ. If you exercise that right, we will fully reimburse you for the Fee you paid in advance for the Service under the Contract. However, you lose that right to cancel and to be reimbursed if you expressly decide to start using the Service before expiry of that 14 day period. Therefore, only start using the Service before expiry of the 14 day cancellation period if you are happy to lose that cancellation right.

6.7 If you are overdue with any payment due under a Contract (including the Fees) then, without prejudice to any other right or remedy available to us:

6.7.1 we may charge you interest on the overdue amount at the rate specified by virtue of the Late Payment of Commercial Debts (Interest) Act 1998, which interest shall be payable by you forthwith on demand, from the due date up to the date of actual payment, after as well as before judgment. Such interest shall accrue on a daily basis and be compounded quarterly; and

6.7.2 we reserve the right to refuse access to the Service or suspend any Service under any Contract until all payments are up-to-date.

6.8 Unless stated otherwise by us, all sums payable by you under a Contract are exclusive of any Value Added Tax, if applicable, which shall be added thereto and which shall be due and payable by you to us at the same time as the relevant sum is due or payable.

6.9 All Fees shall be payable by you by any payment method reasonably stipulated by us.

6.10 All Fees shall be payable in the currency of England, from time to time.

6.11 Time for payment shall be of the essence.

## 7. INTELLECTUAL PROPERTY RIGHTS

7.1 All Intellectual Property Rights in the Website and Service, information and content and material on or accessible from the Website or pursuant to the Service (including the Courses and Licensed Materials), any data collected by us and database operated by us and all the Website design, text and graphics, and their selection and arrangement, and all software compilations, underlying source code and software (including applets and scripts) and Website methodologies and Service content shall remain our property (or that of our licensors). You shall not, and shall not attempt to, obtain any title to any such Intellectual Property Rights. All rights not expressly granted by us are reserved.

7.2 None of the material described in Clause 7.1 may be reproduced or redistributed without our prior written permission. You and any lawful permitted User may, however, retrieve and display the content of the Website on a computer screen or print one copy of such content for your or their own personal, non-commercial use, provided you and they keep intact all and any copyright and proprietary notices in any electronic or hard copy of the material or the Website or Service. You shall not, and you shall procure that all Users shall not, otherwise reproduce, adapt, modify, copy, distribute, publish, rent, lease, loan, translate, create derivative works or use for commercial purposes any of the materials or content on the Website or Service without our express prior written permission.

7.3 No part of the Website or the material described in Clause 7.1 may be reproduced or stored in any other website or included in any public or private electronic retrieval system or service without our prior written permission or as provided by law.

7.4 If you, having been properly authorised, quote from the Website, you must do so fairly and give due accreditation to the author and us and reference to the Website.

7.5 Except to the extent that we expressly permit, you shall not, and you shall procure that your Users shall not, modify any material described in Clause 7.1.

7.6 As between you and us, all rights (including goodwill) in the ETD Brand are owned by us (or

# Online Training Terms & Conditions and Privacy Policy



our licensors). Other product and company names mentioned on the Website and the Service are the trade marks or registered trade marks of their respective owners.

## 8. CONFIDENTIALITY

8.1 Each of you and we shall keep and procure to be kept secret and confidential the Confidential Information of the other Party (whether disclosed or obtained before, on or after the date of a Contract) and shall not use nor disclose the same save:

8.1.1 for the purposes of the proper performance of its obligations or exercise of its rights under a Contract; or

8.1.2 as otherwise permitted by a Contract; or

8.1.3 with the prior written consent of the other Party.

8.2 Where either Party discloses Confidential Information of the other Party to its employee, consultant, subcontractor, supplier, customer, agent, professional adviser or insurer, it shall do so on a need-to-know basis and subject to obligations equivalent to those set out in this Clause 8. Each Party shall use its reasonable endeavours to ensure that any such employee, consultant, subcontractor, supplier, customer, agent, professional adviser or insurer complies with such obligations.

8.3 Each Party shall at all times:

8.3.1 adopt, retain and keep updated adequate procedures and physical security measures which protect the Confidential Information of the other Party from inadvertent disclosure or release to unauthorised persons; and

8.3.2 hold the Confidential Information of the other Party in strict confidence and in any event with no less standard of confidentiality than that which it applies to its own confidential information.

8.4 The obligations of confidentiality in this Clause 8 shall not extend to any matter which the Party can show:

8.4.1 is in, or has become part of, the public domain other than as a result of a breach of the confidentiality obligations of the Contract; or

8.4.2 was in its written records prior to receipt; or

8.4.3 was independently developed by it; or

8.4.4 was independently disclosed to it by a third party entitled to disclose the same.

8.5 If either Party is required to disclose the Confidential Information of the other Party under any applicable law, or by order of a court or governmental body or authority of competent jurisdiction, then the Party so required may disclose the Confidential Information to the extent required but shall, prior to any disclosure where practicable, give the other Party as much notice thereof as practicable and notify and consult with the other Party and, at the other Party's request and cost, fully co-operate with and assist that other Party in opposing any such disclosure.

8.6 Neither Party shall make any announcement of any kind in respect of the subject matter of a Contract except with the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed) or as is required by law.

8.7 Subject to Clause 8.6, we may identify you as a customer and the type of services provided by us to you, provided that in doing so we shall not (without your prior written consent) reveal any of your Confidential Information.

## 9. TERM, SUSPENSION AND TERMINATION

9.1 Each Contract shall commence in accordance with Clause 4.2 and shall continue until:

9.1.1 the Contract expires in accordance with Clause 9.2; or

9.1.2 the Contract is terminated by either Party giving notice to the other under Clauses 9 or 11.4; or

9.1.3 in the case of you being a consumer, it is cancelled by you in accordance with Clause 6.6.

9.2 Users have a maximum of one year to take the Course. The Contract shall expire on the earlier of the first anniversary of the Commencement Date or the date on which the last User, of the agreed number of Users permitted to use the Service pursuant to the Licence, successfully complete the Course or last of the Courses included in the Service as set out in the Order Acceptance.

9.3 We shall be entitled immediately or at any time (in whole or in part), without Liability, to suspend your use of the Service and/or Website (in whole or in part) if:

9.3.1 you commit any material breach of a Contract; or

9.3.2 we suspect, on reasonable grounds, that you have, might or will commit a material breach of a Contract.

9.4 If we suspend your use of or participation in the Service and/or Website (in whole or in part) under Clause 9.3:

9.4.1 you shall not attempt to use or access the Service and/or the Website directly or indirectly under any other name or user; and

9.4.2 any Fees paid by you or invoiced to you shall in any event be payable and non-refundable.

9.5 If we suspend your use of or participation in the Service or Website (in whole or in part), we may refuse to restore the Service or Website until we receive an assurance from you, in a form we reasonably deem acceptable, that there will be no further breach of the provisions of a Contract.

9.6 Either Party may terminate the Contract immediately by notice to the other Party if:

9.6.1 the other Party is in material breach of any of its obligations under the Contract or any other agreement between the Parties which is incapable of remedy; or

9.6.2 the other Party fails to remedy, where capable of remedy, any material breach of any of its obligations under the Contract or any other agreement between the Parties after having been required in writing to remedy such breach within a period of no less than 30 days; or

9.6.3 the other Party is in persistent breach of any of its obligations under the Contract or any other agreement between the Parties; or

9.6.4 the other Party gives notice to any of its creditors that it has suspended or is about to suspend payment or if it shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or an order is made or a resolution is passed for the winding-up of the other Party or an administration order is made or an administrator is appointed to manage the affairs, business and property of the other Party or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the other Party's assets or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver and/or manager or administrative receiver or administrator or which entitle the court to make a winding-up or bankruptcy order or the other Party takes or suffers any similar or analogous action in consequence of debt in any jurisdiction.

9.7 For the purposes of Clause 9.6, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects other than as to time to the

reasonable satisfaction of the other Party.

9.8 Without prejudice to the status of any breach of any other provision of a Contract, the Parties agree that any breach of the other Party's Intellectual Property Rights (including use of the Service other than strictly in accordance with the provisions of the Contract) or Confidential Information shall be considered a material breach which is not capable of remedy.

9.9 Termination of a Contract shall be without prejudice to any accrued rights or remedies of either Party.

9.10 Termination of a Contract will not affect the coming into force or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

## 10. LIMITATION OF LIABILITY

10.1 This Clause 10 prevails over all other Clauses and sets forth our entire Liability, and your sole and exclusive remedies, in respect of:

10.1.1 the performance, non-performance, purported performance or delay in performance of a Contract or the Service or Website (or any part of it or them); or

10.1.2 otherwise in relation to a Contract or the entering into or performance of a Contract.

10.2 Nothing in a Contract shall exclude or limit our Liability for (i) fraud or fraudulent misrepresentation; (ii) death or personal injury caused by our Negligence; or (iii) any other Liability which cannot be excluded or limited by applicable law.

10.3 In performing any obligation under a Contract, our only duty is to exercise reasonable care and skill.

10.4 We do not warrant and we exclude all Liability in respect of the completeness, fitness for purpose or legality of any information accessed using the Service or Website; and we exclude all Liability of any kind for the transmission or the reception of or the failure to transmit or to receive any material of whatever nature.

10.5 Save as provided in Clause 10.2, we do not accept and hereby exclude any Liability for Negligence other than any such Liability arising pursuant to the terms of the Contract.

10.6 Save as provided in Clause 10.2, we shall have no Liability for:

10.6.1 loss of revenue;

10.6.2 loss of actual or anticipated profits;

10.6.3 loss of contracts;

10.6.4 loss of the use of money;

10.6.5 loss of anticipated savings;

10.6.6 loss of business;

10.6.7 loss of operation time;

10.6.8 loss of opportunity;

10.6.9 loss of goodwill;

10.6.10 loss of reputation;

10.6.11 ex gratia payments;

10.6.12 loss of, damage to or corruption of data; or

10.6.13 any indirect or consequential loss; and such Liability is excluded whether it is foreseeable, known, foreseen or otherwise. For the avoidance of doubt, Clauses 10.6.1 to 10.6.12 apply whether such losses are direct, indirect, consequential or otherwise.

10.7 Save as provided in Clause 10.2, our total Liability shall in no circumstances exceed, in aggregate, a sum equal to the greater of: a) £10,000; or b) 110% of any aggregate amount paid or otherwise payable to us under the Contract.

10.8 The limitation of Liability under Clause 10.7 has effect in relation both to any Liability expressly provided for under the Contract and to any Liability arising by reason of the invalidity or unenforceability of any term of such Contract.

10.9 In this Agreement:

10.9.1 "Liability" means liability in or for breach of contract, Negligence, misrepresentation, deliberate tort, breach of statutory duty, restitution or any other cause of action whatsoever relating to or arising under or in connection with the Contract, including liability expressly provided for under the Contract or arising by reason of the invalidity or unenforceability of any term of the Contract (and for the purposes of this definition, all references to the "Contract" shall be deemed to include any collateral contract); and

10.9.2 "Negligence" means the breach of any (i) obligation arising from the express or implied terms of a contract to take reasonable care or exercise reasonable skill in the performance of the contract or (ii) common law duty to take reasonable care or exercise reasonable skill (but not any stricter duty).

## 11. EVENTS OUTSIDE OUR CONTROL

11.1 We shall not have any Liability or be responsible for any failure to perform, or delay in performance of, any of our obligations under a Contract that is caused by an Event Outside Our Control.

11.2 An "Event Outside Our Control" means any act or event beyond our reasonable control, including any act of God, actions or omissions of hackers or governments or quasi-governmental or supra-national or local authorities, insurrection, riot, civil war, civil commotion, war, hostilities, threat of war, warlike operations, armed conflict, imposition of sanctions, embargo, seizure or forfeiture, breaking off of diplomatic relations or similar actions, national emergencies, actual or threatened or suspected terrorism, nuclear, chemical or biological contamination or sonic boom, piracy, arrests, restraints or detentions of any competent authority, blockade, strikes or combinations or lock-out of workmen, unusual traffic volumes, unusual travel restrictions, epidemic, fire, explosion, storm, flood, drought, severe adverse weather conditions (including cold, heat, wind, rain, snow, ice or fog), loss at sea, earthquake, volcano, ash cloud, natural disaster, accident, mechanical breakdown, third party software, collapse of building structures, failure of machinery (other than used by the relevant party) or third party computers or third party hardware or vehicles, failure or problems with public utility supplies (including general: electrical, telecoms, water, gas, postal, courier, communications or Internet disruption or failure), shortage of or delay in or inability to obtain supplies, stocks, storage, materials, equipment or transportation.

11.3 If an Event Outside Our Control takes place that affects or hinders the performance of our obligations under the Contract:

11.3.1 we will contact you as soon as reasonably possible to notify you; and

11.3.2 our obligations under the Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control.

11.4 Either you or we may terminate a Contract affected by an Event Outside Our Control which has continued for more than 30 days. To terminate, please contact us, as described in Clauses 6.6 or 13. If you or we terminate under this Clause 11.4, we will refund any of the amounts you have paid for any Courses that your User has not yet taken (if applicable, on a pro rata basis).

## 12. DATA PROTECTION

12.1 Please see our latest Privacy Policy which forms part of each Contract. The latest version of our Privacy Policy is as set out in the Appendix to these Terms and Conditions.

12.2 In performing a Contract, each Party shall:

12.2.1 comply with all applicable data protection legislation; and

12.2.2 procure that their employees, agents, consultants and contractors comply with all applicable data protection legislation.

12.3 The Parties agree and acknowledge that in respect of our obligations under the Contract as to any "personal data" within any Manager's or User's data, we are a "data processor" and you are the "data controller" (as those terms are defined in the Data Protection Act 1998). Accordingly, we shall act in accordance with your reasonable instructions as to processing such data, and in accordance with the seventh principle of that Act we shall take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to such data.

12.4 Although we take security measures in accordance with good industry practice, we cannot guarantee the absolute security of any data, including as a result of the acts or omissions of third parties.

12.5 You must have the express consent of any third party (including any other Users or Manager whom you represent) in order for you to disclose or post details about that other third party to us or to the Website.

12.6 We may amend or remove data relating to any living individual if they ask us to do so.

## 13. COMMUNICATIONS BETWEEN YOU AND US

13.1 If you are a consumer, you may contact us as described in Clauses 1.1 or 6.6.

13.2 If you are a business:

13.2.1 Any notice given by you to us, or by us to you, under or in connection with the Contract shall be in writing and shall be delivered personally, sent by pre-paid first class recorded delivery post or other next working day courier service or email.

13.2.2 A notice shall be deemed to have been received: if delivered personally, when actually delivered; if sent by pre-paid first class recorded delivery post or other next working day courier service, at 9.00 am on the third Working Day after despatch; or if sent by email, one Working Day after transmission (provided that the email is confirmed by sending through one of the other authorised methods). A "Working Day" is any day other than (a) a Saturday, (b) a Sunday, or (c) a day which is a bank holiday in England (as set out on [www.gov.uk/bank-holidays](http://www.gov.uk/bank-holidays) for bank holidays in England).

## 14. OTHER IMPORTANT TERMS AND CONDITIONS

14.1 We may assign, transfer, novate or subcontract any of our rights, liabilities or obligations under the Contract either in whole or in part to any other person, firm or company.

# Online Training Terms & Conditions and Privacy Policy



14.2 You shall not (or purport to) assign, transfer, novate, charge or otherwise encumber, create any trust over or deal in any manner with the Contract or any of your rights, liabilities or obligations under the Contract without our prior written consent.

14.3 The Contract is between you and us. No other person shall have any rights to enforce any of its terms and conditions.

14.4 Each Clause and part of the Clause of these Terms and Conditions operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining Clauses or parts of Clauses will remain in full force and effect.

14.5 If either Party fails to insist that the other Party performs any of its obligations under the Contract, or either Party does not enforce its rights against the other Party, or if there is a delay in doing so, that will not mean that either Party has waived its rights against the other Party and will not mean that the other Party does not have to comply with those obligations. If either Party does waive a default by the other Party, it will only do so in writing, and that will not mean that the waiving Party will automatically waive any later default by the other Party.

14.6 If you are a consumer, please note that these Terms and Conditions are governed by English law. This means the Contract and any dispute or claim arising out of or in connection with it will be governed by English law. You and we both agree to that the English courts will have jurisdiction. Unless you have any mandatory and non-excludable right to bring any court action in another place, you shall bring any legal action only in the English courts.

14.7 If you are a business, the Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law. In respect of any disputes:

14.7.1 If you are domiciled in the European Union, the exclusive forum for settling any disputes which may arise out of or in connection with the Contract shall be the English courts.

14.7.2 If you are not domiciled in the European Union, any dispute which may arise out of or in connection with the Contract shall be exclusively referred to and finally resolved by arbitration under the LCIA Rules. Those Rules are deemed to be incorporated by reference into this Clause. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London, England. The language to be used in the arbitral proceedings shall be English.

## Appendix - Online Training Privacy Policy

### About Us

Callsafe Services Limited, a company registered in England and Wales under registration number 2131209 with registered office at Yardley House, 11 Horsefair, Rugeley, Staffordshire, WS15 2EJ ("**we**" or "**us**") is the operator of the website and service at [www.callsafe-services.co.uk](http://www.callsafe-services.co.uk) (the "**Website**").

In this Privacy Policy, references to "**you**" means any person submitting any data to us or to this Website about himself or herself or about any other living individual in respect of any use of the Website or the services available through the Website (the "**Service**"). References to "**your organisation**" means anyone who is in the same organisation as you or who represents that organisation.

When you use different aspects of the Website or Service, we may ask you to supply us with various information about you, your organisation or anyone whom you represent. This Privacy Policy sets out the way in which we may use that information.

If you have any questions, comments or suggestions about the way in which we use your personal

# Online Training Terms & Conditions and Privacy Policy



information or if any of your personal information changes, please write to us at the above address or email us at [dave@callsafe-services.co.uk](mailto:dave@callsafe-services.co.uk).

Your privacy is very important to you and us. We shall therefore only use your name and other information which relates to you in the manner set out in this Privacy Policy. We will only use your personal information in a way that is fair to you. We will only collect information where it is necessary for us to do so and we will only collect information if it is relevant to our dealings with you.

We will only keep your information for as long as we are either required to by law, or as is relevant for the purposes for which it was collected.

## ***Data that we collect***

We may collect and use various information, including some or all of the following: the names, email addresses, postal addresses, telephone numbers, Website usernames, passwords, details about your organisation, preferences and opinions, in each case relating to you or your organisation. We need some of that information in order to allow you to place your order for the Service, register for the Service and to build your profile within the Service. We may need to use your data to collect payment from you. You also need to provide that information in order to go ahead and use various parts of the Service, including without limitation, when logging on as a user or manager, or when, as a manager, you add new users.

In addition, we may use that information to enable managers to enrol users on a course, monitor users' progress, test scores and online forms and to send you information relevant to the Service or Website, in case there is any servicing required and in case we have any queries.

We shall also collect and use the names of users enrolled on a course, the name of the course on which the user is enrolled, the date on which each user is enrolled or successfully completes a course and a record of how each user did on a course (the "**Records**"). We shall retain the Records for up to six years after the course has been taken unless and until you or your organisation requests that any or all of the Records be sent to your organisation or deleted, in which case the Records will be sent to your organisation or deleted subject to any legal requirements to preserve that information.

We may also use your email address that you initially submit to us to send you an email with information about the Service and to enable you to commence using the Service.

We may use your contact details to respond to any queries you raise with us.

We may email you with your password (or a new password) if you tell us or the Website that you have forgotten it.

We may also use your data to send you feedback forms to complete about us and to contact you over any aspect of the Service or the Website (including, but without limitation, providing customer support, enforcing any agreements between us and any of our Website users and verifying information).

We may further collect (or allocate to you and you may change) a username and password to use restricted parts of the Website. We use that to enable you or anyone you represent or who represents you to access your restricted parts on the Website.

You must only submit to us or the Website information which is accurate and not misleading and you must keep it up to date and inform us of changes. By submitting data in respect of you and your organisation, you must ensure that you have full authority and consent to supply us with that data on their behalf and you warrant to us that you have that authority.



# Online Training Terms & Conditions and Privacy Policy



## ***Other uses of your personal information***

We may also send you or your organisation other information about us, promotions, further events, our newsletters, anything relating to other companies in our group or our business partners related to our Service or anything in which you or your organisation show an interest. If you would prefer not to receive any of this additional information as detailed in this paragraph (or any part of it) please send us an appropriate e-mail to [dave@callsafe-services.co.uk](mailto:dave@callsafe-services.co.uk) or write to us at the above address specifying which information you do not wish to receive. Within seven working days of our receipt of your instruction we will cease to send you information as requested. If your instruction is unclear, we will cease to send you all information referred to in this paragraph.

## ***Third Parties and Links***

We may pass your details to our agents and subcontractors to help us with any of our uses of your data set out in our Privacy Policy. For example, we may use third parties to assist us with providing the administration for running the Website, to enable us to collect payments from you, to store data and to provide us with marketing or customer service assistance.

We may exchange information with third parties for the purposes of fraud protection, tackling money laundering and other crime, and credit risk reduction.

We may transfer our databases containing your personal information if we sell our business or part of it.

We may also disclose your details as described elsewhere in this Privacy Policy.

Other than as set out in this Privacy Policy, we shall NOT sell or disclose your personal data to third parties without obtaining your prior consent unless this is necessary for the purposes set out in this Privacy Policy or unless we are required to do so by law, statute, regulations or codes or practice.

The Website may contain advertising of third parties, dedicated pages operated by third parties and links to other Websites or frames of other Websites. Please be aware that we are not responsible for the privacy practices or content of those third parties or other Websites, nor for any third party to whom we transfer your data in accordance with our Privacy Policy.

## ***Generic Data***

We may aggregate and anonymise data relating to you or your organisation so that the aggregated and anonymised data does not identify you, your organisation or any individual personally. We may supply that aggregated and anonymised data to any third party without recourse to you or any other user.

## ***Security***

We have in place appropriate technical and security measures to prevent unauthorised or unlawful access to or accidental loss of or destruction or damage to your information.

We store your personal details on a secure server which is protected by firewalls. When our Merchant Bank (WorldPay) collect payment card details electronically, they use encryption by using Secure Site Certificate technology. Whilst we are unable to guarantee 100% security, this makes it hard for a hacker to decrypt your details. You are strongly recommended not to send full credit or debit card details in unencrypted electronic communications with us.

We maintain physical, electronic and procedural safeguards in connection with the collection, storage and disclosure of your information. Our security procedures mean that we may occasionally request proof of identity before we disclose personal information to you.

# Online Training Terms & Conditions and Privacy Policy



You are responsible for protecting against unauthorised access to your password and to your computer.

## ***Changes***

Any material changes to the way in which we use your data will be described in future versions of this Privacy Policy. Each time you enter the Website, use the Service, or upload material onto the Website, you agree that the Privacy Policy current at that time shall apply to all information which we hold about you.

## ***Consent***

By submitting data to us and using the Website, you consent to our use of your data and of your organisation in the manner set out in this Privacy Policy (as amended) and you are responsible for ensuring that you have authority to consent on behalf of your organisation.