

BSI TERMS AND CONDITIONS

CLIENT LEARNING PORTAL

1. APPLICATION

1.1 These terms and conditions (the **Terms and Conditions**) shall apply to the provision of the Services by BSI to the Customer.

2. INTERPRETATION

2.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions shall have the following meanings:

Authorised Users: those employees, agents and independent contractors of the Customer who have been provided with log in details and a password, either by BSI or Customer's nominated administrator and are authorised by the Customer to use the Services.

BSI: BSI Assurance UK Limited

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Client Learning Portal: the online software provided by BSI to access the Services.

Customer: the organisation to whom BSI provides the Services.

Customer Data: the data provided by the Customer for the purpose of facilitating the Customer's use of the Services.

Data Protection Legislation: means:

(a) the General Data Protection Regulation (**GDPR**), the Data Protection Act 2018, the Privacy and Electronic Communications (**EC Directive**) Regulations 2003; and

(b) any other legislation in force from time to time relating to privacy and/or the Processing of Personal Data and applicable to the provision and receipt of Training under these Terms and Conditions; and

(c) any statutory codes of practice issued by the Information Commissioner in relation to such legislation.

Documents: any materials or documents provided by BSI as part of the Training including any certificates attained.

Effective Date: the date on which Customer is provided access to the Services.

Normal Business Hours: 8.00 am to 6.00 pm local UK time, each Business Day.

Personal Data: has the meaning given to it in the Data Protection Legislation.

Processing: has the meaning given to it in the Data Protection Legislation.

Services: the services provided by BSI to the Customer through the Client Learning Portal under these Terms and Conditions, which makes available the information and materials required to complete training with BSI, enables the customer to track progress through qualifications, view their training history and certificates attained.

Term: shall begin on the Effective date and continue until terminated in accordance with these Terms and Conditions.

Training Services: training services provided by BSI.

User Guide: any user guide and related documents designed to assist the Customer to use the Services.

Virus: any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network.

2.2 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

3. USER PERMISSIONS

3.1 Subject to the Customer being granted access and the restrictions set out in these Terms and Conditions, BSI hereby grants to the Customer a non-exclusive, revocable, non-transferable right, without the right to grant sub licences, to permit the Authorised Users to use the Services during the Term solely for the Customer's internal business operations.

3.2 In relation to the Authorised Users, the Customer undertakes that:

3.2.1 it will not allow any Authorised User's account to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services;

3.2.2 each Authorised User has permission from the Customer to access the Services; and

3.2.3 it shall maintain a written, up to date list of current Authorised Users and provide such list to BSI within 5 Business Days of BSI's written request.

3.3 The Customer shall not:

3.3.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under these Terms and Conditions:

(a) attempt to copy, scan, modify, duplicate, create derivative works from, frame, mirror, publish, republish, download, license, sell, lease, give, disseminate, assign (directly or indirectly), display, transmit, or distribute all or any portion of Client Learning Portal in any form or media or by any means; or

(b) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of Client Learning Portal; or

3.3.2 access all or any part of the Services in order to build a product or service which competes with the Services; or

3.3.3 use the Services to provide services to third parties; or

3.3.4 subject to clause 16.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services or the Documents available to any third party except the Authorised Users; or

3.3.5 remove any proprietary legends or markings, including, but not limited to, copyright notices, electronically encoded information, watermarks or any specific markings of BSI; or

3.3.6 attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause 3; and

3.4 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify BSI.

3.5 The Customer acknowledges that neither they nor any Authorised Users have any ownership rights conferred upon them whatsoever in respect of Client Learning Portal, or the Documents.

4. SERVICES

4.1 BSI shall, during the Term, provide the Services to the Customer on and subject to these Terms and Conditions.

4.2 BSI shall use commercially reasonable endeavours to make the Services available

24 hours a day, seven days a week, except for:

4.2.1 planned maintenance; and

4.2.2 unscheduled maintenance performed outside Normal Business Hours.

5. CUSTOMER DATA

5.1 As between the parties, the Customer shall own all right, title and interest in and to all of the Customer Data.

5.2 The Customer grants BSI an irrevocable, unlimited and royalty-free licence to use any Customer Data provided.

5.3 Each party warrants that for the purposes of these Terms and Conditions it:

5.3.1 shall comply with the provisions of the Data Protection Legislation, including without limitation that it:

(a) shall use Personal Data in accordance with the permissions or consents obtained from the data subjects (as defined in the Data Protection Legislation) or otherwise in accordance with the Data Protection Legislation;

(b) shall communicate to the other party the terms of any permissions or consents obtained from the data subjects;

(c) shall have in place appropriate technical and organisational security measures against unauthorised or unlawful Processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data and shall take all reasonable steps to ensure the reliability of its personnel who have access to such Personal Data and to impose obligations of confidentiality upon such personnel and to ensure that such personnel are aware of their responsibilities under the Data Protection Legislation;

(d) shall not transfer Personal Data outside the European Economic Area save in accordance with the Data Protection Legislation;

(e) shall comply with any request or notice it receives from a data subject in its capacity as a data controller;

5.3.2 shall upon request provide such assistance as is reasonably necessary to the other party to enable that party to comply with its obligations as a data controller (as defined in the Data Protection Legislation);

5.3.3 shall inform the other party as soon as reasonably practicable of the discovery of any actual or suspected data-breach relating to the Processing of Personal Data in connection with these Terms and Conditions;

5.3.4 shall, except to the extent prohibited by applicable law, inform the other party upon receipt of a complaint from a data subject or if approached by any regulatory body in connection with its compliance with the Data Protection Legislation in connection with these Terms and Conditions;

5.3.5 shall, except to the extent prohibited by applicable law, consult the other party in good faith as to the timing, manner and content of any response to a complaint from a data subject or approach by any Regulatory Body in connection with compliance with the Data Protection Legislation in connection with these Terms and Conditions.

6. CUSTOMER'S OBLIGATIONS

6.1 The customer shall:

6.1.1 provide BSI with:

(a) all necessary co-operation in relation to these Terms and Conditions; and

(b) all necessary access to such information as may be required by BSI; in order for BSI to provide the Services, including but not limited to Customer Data, security access information and configuration services;

6.1.2 without affecting its other obligations under these Terms and Conditions, comply with all applicable laws and regulations with respect to its activities under these Terms and Conditions;

6.1.3 carry out all Customer responsibilities set out in these Terms and Conditions in a timely and efficient manner;

6.1.4 ensure that the Authorised Users use the Services in accordance with these Terms and Conditions and shall be responsible for any Authorised User's breach of these Terms and Conditions;

6.1.5 obtain and shall maintain all necessary licences, consents, and permissions necessary for BSI, its contractors and agents to perform their obligations under these Terms and Conditions, including without limitation the Services; and

6.1.6 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to BSI's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

7. PROPRIETARY RIGHTS

7.1 The Customer acknowledges and agrees that BSI and/or its licensors own all intellectual property rights in the Services and the Documents. Except as expressly stated herein, these Terms and Conditions do not grant the Customer any rights to,

under or in, any patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Services or Documents.

7.2 BSI may impose whatsoever security measures it reasonably deems appropriate to ensure compliance with the Terms and Conditions, including but not limited to covert and overt copy-detection; licence awareness technology and encoding of requestor/user information in printed and electronic formats. Any attempt to circumvent such access restrictions or any other of BSIs' security measures will be considered a material breach of these Terms and Conditions.

The Customer acknowledges that the Customer is not authorised to transmit the Documents electronically or by any other means in any form to any party who is not an Authorised User.

7.3 BSI will hold the Documents and associated data until expiry or earlier termination of these Terms and Conditions; and after which they will be removed from Client Learning Portal and will no longer be available through the Services.

7.4 The Customer may make a reasonable number of copies of the User Guide, provided all such copies include all legends, copyright and other proprietary notices that appear on the original User Guide.

8. CONFIDENTIALITY

8.1 Each party may be given access to confidential information from the other party in order to perform its obligations under these Terms and Conditions. A party's confidential information shall not be deemed to include information that:

8.1.1 is or becomes publicly known other than through any act or omission of the receiving party;

8.1.2 was in the other party's lawful possession before the disclosure;

8.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or

8.1.4 is independently developed by the other party, which independent development can be shown by written evidence.

8.2 Subject to clause 8.3, each party shall hold the other's confidential information in confidence and not make the other's confidential information available to any third party or use the other's confidential information for any purpose other than the implementation of these Terms and Conditions.

8.3 A party may disclose confidential information to the extent such confidential information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 8.3, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

8.4 The Customer acknowledges that its information may be used by BSI on an anonymous basis without limitation including to compile and publish reports.

8.5 The above provisions of this clause 8 shall continue in full force and effect for a period of 5 years from the termination of these Terms and Conditions.

9. LIMITATION OF LIABILITY

9.1 Except as expressly and specifically provided in these Terms and Conditions:

9.1.1 the Customer assumes sole responsibility in connection with its use of the Services, Documents, and for conclusions drawn from such use;

9.1.2 BSI shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to BSI by the Customer in connection with the Services, Documents, or any actions taken by BSI at the Customer's direction;

9.1.3 BSI will not assume any responsibility or liability for the accuracy, completeness or investigate or confirm the truth of any of the information made available via the Services, which includes the Documents, and will not be liable for any expenses incurred as a result of any inaccuracies, including, but not limited to, costs incurred as a result of any preparations made erroneously in respect of Services;

9.1.4 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these Terms and Conditions; and

9.1.5 the Services and Documents are provided to the Customer on an "as is" basis.

9.2 Nothing in these Terms and Conditions limits any liability which cannot legally be limited, including, but not limited to, liability for:

9.2.1 for death or personal injury caused by negligence;

9.2.2 for fraud or fraudulent misrepresentation; or

9.2.3 any liabilities which cannot be excluded by statute.

9.3 Subject to clauses 9.1 and 9.2:

9.3.1 BSI shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising; and

9.3.2 BSI's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with these Terms and Conditions shall be limited to £1,000.

9.4 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 and 4 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from these Terms and Conditions.

9.5 This clause 9 shall survive termination of these Terms and Conditions.

10. TERM AND TERMINATION

10.1 These Terms and Conditions shall, unless otherwise terminated as provided in this clause 10, or otherwise agreed between the parties, commence on the Effective Date and shall continue until terminated by BSI or the Customer.

10.2 Without affecting any other right or remedy available to it, either party to these terms and conditions may terminate them with immediate effect by giving written notice to the other party if:

10.2.1 the other party commits a material breach of any term of these Terms and Conditions which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

10.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation, bankruptcy or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

10.2.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

10.2.4 in the event of any governmental prohibition or required alteration to the Services.

10.3 BSI may immediately terminate or suspend any or all of the Services without notice if:

10.3.1 BSI has reasonable evidence of the Customer's fraudulent or illegal use of the Services or Documents; or

10.3.2 the Client Learning Portal is no longer made available by BSI; or

10.3.3 it is required to do so by any legal or regulatory authority.

10.4 BSI may terminate or suspend any or all of the Services for convenience on 30 days' written notice to the Customer.

10.5 Notwithstanding any termination or suspension of the Training Services in

relation to all or any part of the Services, all of these Terms and Conditions will continue to apply to any Services not so terminated.

10.6 On termination of these Terms and Conditions:

10.6.1 all licences granted under these Terms and Conditions shall immediately terminate and the Customer shall immediately cease all use of the Services;

10.6.2 BSI may destroy or otherwise dispose of any of the Customer Data in its possession; and

10.6.3 any provision of these Terms and Conditions that expressly or by implication is intended to come into or continue in force on or after termination of these Terms and Conditions shall remain in full force and effect.

10.7 Termination of these Terms and Conditions shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of these Terms and Conditions which existed at or before the date of termination.

10.8 The termination of the Services under these Terms and Conditions does not affect the Customer's right to Certification or Testing Services under any other contract with BSI, which must be terminated separately.

10.9 In addition to any of the remedies available to BSI at law or in equity, if BSI determines that the Customer has allowed or permitted access to the Services in violation of these Terms and Conditions, it may terminate, suspend, restrict or limit access to the Services, and/or Documents or require additional user registration or authentication information.

11. **FORCE MAJEURE**

BSI shall have no liability to the Customer under these Terms and Conditions if it is prevented from or delayed in performing its obligations under these Terms and Conditions, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of BSI or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of BSI's suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

12. **VARIATION**

BSI may vary these Terms and Conditions at any time on notice to the Customer.

13. **WAIVER**

No failure or delay by a party to exercise any right or remedy provided under these Terms and Conditions or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

14. **SEVERANCE**

If any provision or part-provision of these Terms and Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Terms and Conditions.

15. ENTIRE AGREEMENT

15.1 These Terms and Conditions constitute the entire agreement between the parties in relation to the Client Learning Portal and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

15.2 Each party acknowledges that in entering into these Terms and Conditions it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms and Conditions.

16. ASSIGNMENT

16.1 The Customer shall not, without the prior written consent of BSI, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Terms and Conditions, such consent may be withheld in BSI's sole discretion.

16.2 The Customer shall not grant affiliates, subsidiaries or successors-in-interest any right to use the Services and/or Documents without the prior written consent of BSI, which may be withheld in BSI's sole discretion.

16.3 BSI may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Terms and Conditions.

17. NO PARTNERSHIP OR AGENCY

Nothing in these Terms and Conditions is intended to or shall operate to create a

partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

18. THIRD PARTY RIGHTS

These Terms and Conditions do not confer any rights on any person or party (other than the parties to these Terms and Conditions and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

19. NOTICES

19.1 Any notice required to be given under these Terms and Conditions shall be in writing and shall be delivered by hand or sent by post or email to the other party at its address set out in these Terms and Conditions, or such other address as may have been notified by that party for such purposes during the Term.

19.2 A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent email shall be deemed to have been received at the time of transmission (as shown by the time sent in respect of an email).

20. GOVERNING LAW

These Terms and Conditions 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 the law of England and Wales.

21. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms and Conditions or its subject matter or formation (including non-contractual disputes or claims).