

Terms and definitions

1 Definitions

- 1.1 “Agreement” means these Terms of Use.
- 1.2 “Access Fee” means the monthly fee (excluding any taxes and duties) payable by the Client. The company will review the fees in line with market conditions and have the right to change the fee structure. Where fee structure is changed then the revised fee will come into effect one month after the Client has been informed of the fee changes.
- 1.3 “Company” means Synergy FTP Limited trading as tottrain (company registration number 06655960) with its registered office at 8 Ridley Mews, Norton, Stockton on Tees, TS20 1DW.
- 1.4 “Client” means a Client who has entered into the Agreement with the Company to use The Company Food Safety Management System Platform in order to allow their employees or workers to access training of food safety culture modules on a monthly payment schedule or as a one off payment. A client may be an individual entity, a company, firm or part of a group of companies.
- 1.5 “Confidential Information” includes all information exchanged between the parties to this Agreement, whether in writing, electronically or orally, including the Service but does not include information which is, or becomes, publicly available other than through unauthorised disclosure by the other party.
- 1.6 “Contract Period” means an initial 12 months after which the contract period shall be on a rolling monthly period until terminated in accordance with this Agreement.
- 1.7 “Data” means any data inputted by the Client or with client’s authority into the The Company Food Safety Management System Platform.
- 1.8 “Intellectual Property Right” means any patent, trademark, service mark, copyright, moral right, right in a design, know-how and any other intellectual or industrial property rights, anywhere in the world whether or not registered.
- 1.9 “Organisation” means a group of companies owned by a single company.
- 1.10 “Service” means the services made available by the Company (as may be changed or updated from time to time by the Company) via the The Company Food Safety Management Platform.
- 1.11 “The Company Food Safety Management Platform” means the Internet site at the domain or any other site operated by the Company.
- 1.12 “Invited User” means any employee or worker of the Client authorised by the Client to use the Company Food Safety Management Platform. Invited User also known as the User.

2 Use of Software

- 2.1 The Company grants the Client the right to access and use the Service via The Company Food Safety Management Platform with the particular user roles available to the Client according to the Client subscription type. This right is non-exclusive, non-transferable, and limited by and subject to this Agreement.

2.2 The Client determines who is an Invited User and what level of access they have to The Company Food Safety Management Platform:

- Only Invited Users employed by the Client are permitted to use the Service,
- The Client shall not allow their suppliers or customers access to the Service as Invited Users,
- the Client is responsible for all Invited Users' use of the Service,
- the Client controls each Invited User's level of access to the Service at all times and can revoke or change an Invited User's access, or level of access, at any time and for any reason, in which case that person will cease to be an Invited User or shall have that different level of access, as the case may be.
- if there is any dispute between a Client and an Invited User regarding access to the Service, the Client shall decide what access or level of access to the Company Food Safety Management Platform that Invited User shall have, if any.

3 Client Obligations

- 3.1 The Client will pay the Access Fee by Bank Direct Debit using the GoCardless Service or other system notified from time to time by the Company. The Company will continue to charge the Client the monthly Access Fee until this Agreement is terminated. The Client is responsible for payment of all taxes and duties in addition to the Access Fee.
- 3.2 Direct debit payments for Access Fees are generally provided free of charge. However, the Company reserves the right to pass on any charges related to the provision of bank direct debits on a case-by-case basis at the Company's sole discretion. The company will inform the Client via email to indicate what those charges are likely to be (as such charges may vary depending on the Client's bank). The Client use of automated bank direct debits enabled by the GoCardless service (GoCardless Service) from within the Service is subject to the GoCardless Terms of Service
- 3.3 The Client must only use the Service and The Company Food Safety Management Platform for the Client's own lawful internal business purposes, in accordance with these Terms and any notice sent by the Company or condition posted on The Company Food Safety Management Platform.
- 3.4 The Client must ensure that all usernames and passwords required to access The Company Food Safety Management Platform are kept secure and confidential. The Client must immediately notify the Company of any unauthorised use of the Client passwords, or any other breach of security and the Company will reset the Client password and the Client must take all other actions that the Company reasonably deems necessary to maintain or enhance the security of the Company's computing systems and networks and the Client's access to the Services.
- 3.5 When accessing and using the Services, the Client, their employees or workers must:

- (a) not attempt to undermine the security or integrity of the Company's computing systems or networks or, where the Services are hosted by a third party, that third party's computing systems and networks,
- (b) not use, or misuse, the Services in any way which may impair the functionality of the Services or The Company Food Safety Management Platform, or other systems used to deliver the Services or impair the ability of any other user to use the Services or The Company Food Safety Management Platform,
- (c) not attempt to gain unauthorised access to any materials other than those to which the Client has been given express permission to access or to the computer system on which the Services are hosted,
- (d) not transmit, or input into The Company Food Safety Management Platform, any files that may damage any other person's computing devices or software, content that may be offensive, or material or Data in violation of any law (including Data or other material protected by copyright or trade secrets which the Client does not have the right to use),
- (e) not attempt to modify, copy, adapt, reproduce, disassemble, decompile or reverse engineer any computer programs used to deliver the Services or to operate The Company Food Safety Management Platform except as is strictly necessary to use either of them for normal operation.

4 Communication Obligations

- 4.1 If the Client uses any communication tools available through The Company Food Safety Management Platform (such as any forum, chat room or message centre), the Client agrees only to use such communication tools for lawful and legitimate purposes. The Client must not use any such communication tool for posting or disseminating any material unrelated to the use of the Services, including (but not limited to): offers of goods or services for sale, unsolicited commercial e-mail, files that may damage any other person's computing devices or software, content that may be offensive to any other users of the Services or The Company Food Safety Management Platform, or material in violation of any law (including material that is protected by copyright or trade secrets which the Client do not have the right to use).
- 4.2 The Company reserves the right to remove any communication from the Company Food Safety Management Platform at any time in its sole discretion.

5 Indemnity

- 5.1 The Client will indemnify the Company against all claims, costs, damage and loss arising from the Client's breach of any of these Terms or any obligation. The Client is responsible for (but not limited to) any costs relating to the recovery of any Access Fees that are due but have not been paid by the Client.
- 5.2 Without prejudice to clause 5.1, the Client will indemnify the Company against any claims or loss relating to:
 - (a) The Company's refusal to provide any person access to Client information or Data in accordance with these Terms, the Company making available information or Data to any person with the Client's authorisation.

- (b) The provision of, access to, and use of, the Services is on an "as is" basis and at the Clients own risk.
- (c) It is the Client's sole responsibility to determine that the Services meet the needs of the Client's business and are suitable for the purposes for which they are used.

6 Confidentiality and Privacy

- 6.1 Unless the relevant party has the prior written consent of the other or unless required to do so by law, each party will preserve the confidentiality of all Confidential Information of the other obtained in connection with these Terms. Neither party will, without the prior written consent of the other, disclose or make any Confidential Information available to any person, or use the same for its own benefit, other than as contemplated by these Terms.
- 6.2 The Company maintains a privacy policy that sets out the parties' obligations in respect of personal information. The Client should read that policy at www.totrain.co.uk/privacy/ and the Client will be taken to have accepted that policy when the Client accept these Terms.

7 Acknowledgements

- 7.1 Where the Client has registered to use the Service on behalf of an Organisation, the Client have the authority to agree to these Terms on behalf of that Organisation and agree that by registering to use the Service the Client binds the organisation on whose behalf the Client acts to the performance of any and all obligations that the Client become subject to by virtue of these Terms, without limiting the Client's own personal obligations under these Terms.
- 7.2 The Client acknowledges that:
 - (a) The Client is authorised to use The Company Food Safety Management Platform and to access the information and Data that the Client input into The Company Food Safety Management Platform, including any information or Data input into The Company Food Safety Management Platform by any person the Client has authorised to use the Service.
 - (b) The Client is also authorised to access the processed information and Data that is made available to the Client through the Client's use of The Company Food Safety Management Platform and the Services (whether that information and Data is the Client's own or that of anyone else). The Company has no responsibility to any person other than the Client and nothing in this Agreement confers, or purports to confer, a benefit on any person other than the Client. If the Client accesses The Company Food Safety Management Platform on behalf of or for the benefit of anyone other than the Client (whether a body corporate or otherwise) the Client agrees that:
 - (c) The Client is responsible for authorising any person who is given access to information or Data, and the Client agrees that the Company has no obligation to provide any person access to such information or Data without the Client authorisation and may refer any requests for information to The Client to address.

7.3 The Client will indemnify the Company against any claims or loss relating to:

- (a) The Company's refusal to provide any person access to Client information or Data in accordance with these Terms, the Company making available information or Data to any person with the Clients authorisation.
- (b) The provision of, access to, and use of, the Services is on an "as is" basis and at the Clients own risk.
- (c) The Company does not warrant that the use of the Service will be uninterrupted or error free. Among other things, the operation and availability of the systems used for accessing the Service, including public telephone services, computer networks and the Internet, can be unpredictable and may from time to time interfere with or prevent access to the Services.
- (d) The Company is not in any way responsible for any such interference or prevention of The Client access or use of the Services.
- (e) It is the Client's sole responsibility to determine that the Services meet the needs of the Client's business and are suitable for the purposes for which they are used.

8 Warranties

8.1 The Company gives no warranty about the Services or content. Without limiting the foregoing, the Company does not warrant that the Services will meet the Client's requirements or that it will be suitable for any particular purpose. To avoid doubt, all implied conditions or warranties are excluded in so far as is permitted by law, including (without limitation) warranties of merchantability, fitness for purpose, title and non-infringement.

9 Consumer Rights

9.1 The Client warrants and represents that the Client is acquiring the right to access and use the Services for the purposes of a business and that, to the maximum extent permitted by law, any statutory consumer guarantees or legislation intended to protect non-business consumers in any jurisdiction does not apply to the supply of the Services, The Company Food Safety Management Platform or these Terms.

10 Limitation of Liability

10.1 To the maximum extent permitted by law, the Company excludes all liability and responsibility to the Client (or any other person) in contract, tort (including negligence), or otherwise, for any loss (including loss of information, Data, profits and savings) or damage resulting, directly or indirectly, from any use of, or reliance on, the Service or The Company Food Safety Management Platform.

10.2 If the Client suffers loss or damage as a result of The Company's negligence or failure to comply with these Terms, any claim by the Client against the Company arising from the Company's negligence or failure will be limited in respect of any one incident, or series of connected incidents, to the Access Fees paid by the Client in the previous 12 months.

10.3 If the Client is not satisfied with the Service, the Client's sole and exclusive remedy is to terminate this Agreement in accordance with its Terms. The Company excludes liability for any action taken by the Client based on the results of the Food Safety Culture Questionnaire and the Client is advised to seek advice from a food safety culture specialist before taking any action.

11 Termination

11.1 Free Trial policy

- (a) If the Client first signs up for the Free Trial access to the Services the Client can evaluate the Services for an initial period detailed in the offer, with no obligation to continue to use the Services. If the Client chooses to continue using the Services thereafter, the Client will be required to pay the Access Fee from the 31st day after the Client created the Client account. If the Client chooses not to continue using the Services beyond the Free Trial period, the Company will terminate the Client account.
- (b) If the Client continues to use the Services after the Free Trial period, the Client must pay the monthly Access Fees for a minimum period of 12 months. The Free Trial access can be used for the compliance package but has the following limitations:
 - 1-10 users,
 - The Client can view but not print training certificates

11.2 Prepaid Subscriptions

- (a) The Company will not provide any refund for any remaining prepaid period for a prepaid Access Fee subscription.

11.3 No-fault termination

Subject to Free Trial Policy this Agreement will continue for the Contract Period unless either party terminates by giving notice to the other party at least 30 days before the end of the relevant Contract Period, such notice not to be served within the first 11 months.

12 Breach

12.1 Where the Client is:

- (a) In breach of any of these Terms (including, without limitation, by non-payment of any Access Fees) and does not remedy the breach within 14 days after receiving notice of the breach if the breach is capable of being remedied,
- (b) In breach any of these Terms and the breach is not capable of being remedied (which includes (without limitation) any breach of the agreement or any payment of Access Fees that are more than 30 days overdue),
- (c) insolvent or the Client business goes into liquidation or has a receiver or manager appointed of any of its assets or if the Client become insolvent,

or make any arrangement with the Client creditors, or become subject to any similar insolvency event in any jurisdiction,

The Company may take any or all of the following actions, at its sole discretion:

- (i) Terminate this Agreement and the Client's use of the Services and The Company Food Safety Management Platform,
- (ii) Suspend for any definite or indefinite period of time, the Client use of the Services and The Company Food Safety Management Platform,
- (iii) Suspend or terminate access to all or any Data.

13 Accrued Rights

Termination of this Agreement is without prejudice to any rights and obligations of the parties accrued up to and including the date of termination. On termination of this Agreement, the Client will remain liable for any accrued charges and amounts which become due for payment before or after termination; and immediately cease to use the Services and The Company Food Safety Management Platform.

14 Help Desk

- 14.1 In the case of technical problems, the Client must make all reasonable efforts to investigate and diagnose problems before contacting the Company. If the Client still needs technical help, please check the support provided online by the Company or failing that raise a support ticket on The Company Food Safety Management Platform.
- 14.2 Whilst the Company intends that the Services should be available 24 hours a day, seven days a week, it is possible that on occasions the Services or The Company Food Safety Management Platform may be unavailable to permit maintenance or other development activity to take place.
- 14.3 If for any reason the Company has to interrupt the Services for longer periods than the Company would normally expect, the Company will use reasonable endeavours to publish in advance details of such activity on The Company Food Safety Management Platform.

15 General

- 15.1 These Terms, together with The Company Privacy Policy and the terms of any other notices or instructions given to the Client under these Terms of Use, supersede and extinguish all prior agreements, representations (whether oral or written), and understandings and constitute the entire agreement between the Client and the Company relating to the Services and the other matters dealt with in this Agreement.
- 15.2 The Company may vary these terms and conditions from time to time on giving the Client at least 30 days' notice in writing. If the Client does not accept the variation, the Client may, within 30 days of being notified of the variation by the Company (Review Period), terminate this Agreement on written notice to the Company. The Client's continued use of the Services after the Review Period will constitute the Client's acceptance of the variation.

- 15.3 If either party waives any breach of the Terms of this Agreement, this will not constitute a waiver of any other breach. No waiver will be effective unless made in writing.
- 15.4 Neither party will be liable for any delay or failure in performance of its obligations under this Agreement if the delay or failure is due to any cause outside its reasonable control. This clause does not apply to any obligation to pay money.
- 15.5 The Client may not assign or transfer any rights to any other person without the Company's prior written consent.
- 15.6 This Agreement is governed by the laws of England and Wales and the Client hereby submits to the exclusive jurisdiction of the courts of England and Wales for all disputes arising out of or in connection with this Agreement.
- 15.7 If any part or provision of this Agreement is invalid, unenforceable or in conflict with the law, that part or provision is replaced with a provision which, as far as possible, accomplishes the original purpose of that part or provision. The remainder of this Agreement will be binding on the parties.
- 15.8 Any notice to terminate this Agreement shall be given through the Client's The Company Food Safety Management Platform account and will be deemed to have been given on transmission. Any other notice given under this Agreement by either party to the other must be in writing by email and will be deemed to have been given on transmission such notice must be sent to enquiries@totrain.co.uk or to any other email address notified by email to the Client by the Company from time to time. Notices to the Client will be sent to the email address which the Client provided when setting up the Client access to the Service.
- 15.9 A person who is not a party to this Agreement has no right to benefit under or to enforce any term of these Terms.

Issued: 01.10.2023

Version 5 draft

For a copy of our T&C's in PDF format please [click here](#).