

## 1. Definitions

### “Agreement”

means these Terms of Use.

### “Access Fee”

means the monthly fee (excluding any taxes and duties) payable by You. tottrain 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 in to effect one month after the Client has been informed of the fee changes.

### “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.

### “Data”

means any data inputted by You or with Your authority into the enlighten Learning Management System.

### “Intellectual Property Right”

means any patent, trade mark, 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.

### “Service”

means the online training services made available (as may be changed or updated from time to time by enlighten) via the enlighten Learning Management System.

### “enlighten Learning Management System”

means the Internet site at the domain enlighten.team or any other site operated by enlighten.

### “enlighten”

means the service and or product provided by Synergy FTP Limited trading as tottrain (company registration number 06655960 registered office at 8 Ridley Mews, Norton, Stockton on Tees, TS20 1DW) and, where the context permits, Synergy FTP Limited.

### “Invited User”

means any person, other than the Subscriber, that uses the Service with the authorisation of the Subscriber from time to time.

### “Subscriber”

means the person who registers to use the Service, and, where the context permits, includes any entity on whose behalf that person registers to use the Service.

### “You”

means the Subscriber, and where the context permits, an Invited User. “Your” has a corresponding meaning.

## Use of Software

enlighten grants You the right to access and use the Service via the enlighten Learning Management System with the particular user roles available to You according to Your subscription type. This right is non-exclusive, non-transferable, and limited by and subject to this Agreement. You acknowledge and agree that, subject to any applicable written agreement between the Subscriber and the Invited Users, or any other applicable laws:

the Subscriber determines who is an Invited User and what level of user role access to the Service;  
Only Invited Users employed by the User or the User's Organisation are permitted to use the Service;  
The Subscriber shall not allow their suppliers or customers access to the Service as Invited Users;  
the Subscriber is responsible for all Invited Users' use of the Service;  
the Subscriber 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 Subscriber and an Invited User regarding access to the Service, the Subscriber shall decide what access or level of access to the Service that Invited User shall have, if any.

## 2. Your Obligations

### 2.1. Payment obligations:

You will pay the Access Fee by Bank Direct Debit using the GoCardless Service or other system notified from time to time by enlighten. enlighten will continue to charge You the Access Fee monthly until this Agreement is terminated in accordance with clause 8.

You are responsible for payment of all taxes and duties in addition to the Access Fee.

### 2.2. General obligations:

You must only use the Service and enlighten Learning Management System for Your own lawful internal business purposes, in accordance with these Terms and any notice sent by enlighten or condition posted on the enlighten Learning Management System. You may use the Service and enlighten Learning Management System on behalf of others in your organisation to provide services to them but if You do so you must ensure that You are authorised to do so and that all persons for whom or to whom services are provided comply with and accept all terms of this Agreement that apply to You.

### 2.3. Bank Direct Debit Payments:

Direct debit payments for Access Fees are generally provided free of charge. However, enlighten reserves the right to pass on any charges related to the provision of bank direct debits on a case-by-case basis at enlighten's sole discretion. enlighten will inform You via email to indicate what those charges are likely to be (as such charges may vary depending on Your bank).

Your 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.

Access conditions:

You must ensure that all usernames and passwords required to access the Service are kept secure and confidential. You must immediately notify enlighten of any unauthorised use of Your passwords or any other breach of security and enlighten will reset Your password and You must take all other actions that enlighten reasonably deems necessary to maintain or enhance the security of enlighten's computing systems and networks and Your access to the Services.

As a condition of these Terms, when accessing and using the Services, You must:

- i. not attempt to undermine the security or integrity of enlighten's computing systems or networks or, where the Services are hosted by a third party, that third party's computing systems and networks;
- ii. not use, or misuse, the Services in any way which may impair the functionality of the Services or enlighten Learning Management System, or other systems used to deliver the Services or impair the ability of any other user to use the Services or enlighten Learning Management System;
- iii. not attempt to gain unauthorised access to any materials other than those to which You have been given express permission to access or to the computer system on which the Services are hosted;
- iv. not transmit, or input into the enlighten Learning Management System, 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 You do not have the right to use); and
- v. not attempt to modify, copy, adapt, reproduce, disassemble, decompile or reverse engineer any computer programs used to deliver the Services or to operate the enlighten Learning Management System except as is strictly necessary to use either of them for normal operation.

### 3. Communication Conditions:

As a condition of these Terms, if You use any communication tools available through the enlighten Learning Management System (such as any forum, chat room or message centre), You agree only to use such communication tools for lawful and legitimate purposes. You 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 enlighten Learning Management System, or material in violation of any law (including material that is protected by copyright or trade secrets which You do not have the right to use).

When You make any communication on the enlighten Learning Management System, You represent that You are permitted to make such communication. enlighten is under no obligation to ensure that the communications on the enlighten Learning Management System are legitimate or that they are related only to the use of the Services. As with any other web-based forum, You must exercise caution when using the communication tools available on the enlighten Learning Management System. However, enlighten does reserve the right to remove any communication at any time in its sole discretion.

### 4. Indemnity:

You indemnify enlighten against: all claims, costs, damage and loss arising from Your breach of any of these Terms or any obligation You may have to enlighten, including (but not limited to) any costs relating to the recovery of any Access Fees that are due but have not been paid by You.

## 5. Confidentiality and Privacy

### 5.1. Confidentiality:

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.

Each party's obligations under this clause will survive termination of these Terms.

The provisions of clauses 4.1.1 and 4.1.2 shall not apply to any information which:

is or becomes public knowledge other than by a breach of this clause;

is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

iii. is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party; or

is independently developed without access to the Confidential Information.

Privacy:

enlighten maintains a privacy policy that sets out the parties' obligations in respect of personal information. You should read that policy at [www.enlighten.team/privacy/](http://www.enlighten.team/privacy/) and You will be taken to have accepted that policy when You accept these Terms.

## 6. Intellectual Property

### 6.1. General:

Title to, and all Intellectual Property Rights in the Services, the enlighten Learning Management System and any documentation relating to the Services remain the property of enlighten (or its licensors).

### 6.2. Ownership of Data:

Title to, and all Intellectual Property Rights in, the Data remain Your property. However, Your access to the Data is contingent on full payment of the enlighten Access Fee when due. You grant enlighten a licence to use, copy, transmit, store, and back-up Your information and Data for the purposes of enabling You to access and use the Services and for any other purpose related to provision of services to You.

### 6.3. Backup of Data:

You must maintain copies of all Data inputted into the Service. enlighten adheres to its best practice policies and procedures to prevent data loss, including a system data back-up regime, but does not make any guarantees that there will be no loss of Data. enlighten expressly excludes liability for any loss of Data no matter how caused.

## 7. Warranties and Acknowledgements

### 7.1. Authority:

You warrant that where You have registered to use the Service on behalf of an organisation, You have the authority to agree to these Terms on behalf of that organisation and agree that by registering to use the Service You bind the organisation on whose behalf You act to the performance of any and all obligations that You become subject to by virtue of these Terms, without limiting Your own personal obligations under these Terms.

8. Acknowledgement:

8.1. You acknowledge that:

You are authorised to use the Services and the enlighten Learning Management System and to access the information and Data that You input into the enlighten Learning Management System, including any information or Data input into the enlighten Learning Management System by any person you have authorised to use the Service. You are also authorised to access the processed information and Data that is made available to You through Your use of the enlighten Learning Management System and the Services (whether that information and Data is Your own or that of anyone else).

enlighten has no responsibility to any person other than You and nothing in this Agreement confers, or purports to confer, a benefit on any person other than You. If You use the Services or access the enlighten Learning Management System on behalf of or for the benefit of anyone other than yourself (whether a body corporate or otherwise) you agree that:

You are responsible for ensuring that You have the right to do so;

You are responsible for authorising any person who is given access to information or Data, and you agree that enlighten has no obligation to provide any person access to such information or Data without Your authorisation and may refer any requests for information to You to address; and

iii. You will indemnify enlighten against any claims or loss relating to:

enlighten's refusal to provide any person access to Your information or Data in accordance with these Terms,

enlighten's making available information or Data to any person with Your authorisation.

The provision of, access to, and use of, the Services is on an "as is" basis and at Your own risk.

enlighten 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. enlighten is not in any way responsible for any such interference or prevention of Your access or use of the Services.

It is Your sole responsibility to determine that the Services meet the needs of Your business and are suitable for the purposes for which they are used.

No warranties:

enlighten gives no warranty about the Services or content. Without limiting the foregoing, enlighten does not warrant that the Services will meet Your 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 guarantees:

You warrant and represent that You are 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 enlighten Learning Management System or these Terms.

#### 10. Limitation of Liability

To the maximum extent permitted by law, enlighten excludes all liability and responsibility to You (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 enlighten Learning Management System. If You suffer loss or damage as a result of enlighten's negligence or failure to comply with these Terms, any claim by You against enlighten arising from enlighten's negligence or failure will be limited in respect of any one incident, or series of connected incidents, to the Access Fees paid by You in the previous 12 months. If You are not satisfied with the Service, Your sole and exclusive remedy is to terminate these Terms in accordance with Clause

enlighten excludes liability for any action taken by You based on the results of the Food Safety Culture Questionnaire and You are advised to seek advice from a food safety culture specialist before taking any action.

#### 11. Termination

##### 11.1. Free Trial policy

If You first sign up for the Free Trial access to the Services You can evaluate the Services for an initial period detailed in the offer, with no obligation to continue to use the Services. If You choose to continue using the Services thereafter, You will be required to pay the Access Fee from the 31st day after You created Your enlighten account. If You choose not to continue using the Services beyond the Free Trial period, You must terminate Your enlighten account in the Your account section of the enlighten Learning Management System within 30 days of creating Your account. If You continue to use the Services after the Free Trial period You must pay the monthly Access Fees for a minimum period of 12 months. The Free Trial access can be used for any package but has the following limitations;

1-20 users,

You can view but not print training certificates

#### 12. Prepaid Subscriptions

enlighten will not provide any refund for any remaining prepaid period for a prepaid Access Fee subscription.

#### 13. No-fault termination:

Subject to clause 8.1 (Free Trial Policy) these Terms will continue for the period covered by the Access Fee paid or payable under clause 3.1. At the end of each billing period these Terms will automatically continue for another period of the same duration as that period, provided You continue to pay the prescribed Access Fee when due, unless either party terminates these Terms by

giving notice to the other party at least 30 days before the end of the relevant payment period, such notice not to be served within the first 11 months.

Breach:

If You:

breach any of these Terms (including, without limitation, by non-payment of any Access Fees) and do not remedy the breach within 14 days after receiving notice of the breach if the breach is capable of being remedied;

breach any of these Terms and the breach is not capable of being remedied (which includes (without limitation) any breach of clause 3.4 or any payment of Access Fees that are more than 30 days overdue); or

You or Your business become insolvent or Your business goes into liquidation or has a receiver or manager appointed of any of its assets or if You become insolvent, or make any arrangement with Your creditors, or become subject to any similar insolvency event in any jurisdiction, enlighten may take any or all of the following actions, at its sole discretion:

Terminate this Agreement and Your use of the Services and the enlighten Learning Management System;

Suspend for any definite or indefinite period of time, Your use of the Services and the enlighten Learning Management System;

Suspend or terminate access to all or any Data.

Take either of the actions in sub-clauses (a), (b) and (c) of this clause 8(4) in respect of any or all other persons whom You have authorised to have access to Your information or Data.

Accrued Rights:

Termination of these Terms 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 You 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 enlighten Learning Management System.

Expiry or termination:

Clauses 3.1, 4, 5, 6, 7, 8 and 10 survive the expiry or termination of these Terms.

## 14. Help Desk

### 14.1. Technical Problems:

In the case of technical problems You must make all reasonable efforts to investigate and diagnose problems before contacting enlighten. If You still need technical help, please check the support provided online by enlighten or failing that raise a support ticket on the enlighten Learning Management System.

### 14.2. Service availability:

Whilst enlighten intends that the Services should be available 24 hours a day, seven days a week, it is possible that on occasions the Services or enlighten Learning Management System may be unavailable to permit maintenance or other development activity to take place.

If for any reason enlighten has to interrupt the Services for longer periods than enlighten would normally expect, enlighten will use reasonable endeavours to publish in advance details of such activity on the enlighten Learning Management System.

## 15. General

### 15.1. Entire agreement:

These Terms, together with the enlighten Privacy Policy and the terms of any other notices or instructions given to You under these Terms of Use, supersede and extinguish all prior agreements, representations (whether oral or written), and understandings and constitute the entire agreement between You and enlighten relating to the Services and the other matters dealt with in these Terms.

### 15.2. Waiver:

If either party waives any breach of these Terms, this will not constitute a waiver of any other breach. No waiver will be effective unless made in writing.

### 15.3. Delays:

Neither party will be liable for any delay or failure in performance of its obligations under these Terms 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.

### 15.4. No Assignment:

You may not assign or transfer any rights to any other person without enlighten's prior written consent.

### 15.5. Governing law and jurisdiction:

This Agreement is governed by the laws of England and Wales and You hereby submit to the exclusive jurisdiction of the courts of England and Wales for all disputes arising out of or in connection with this Agreement.

### 15.6. Severability:

If any part or provision of these Terms 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.

### 15.7. Notices:

Any notice to terminate this Agreement shall be given through Your enlighten enlighten Learning Management System account and will be deemed to have been given on transmission. Any other notice given under these Terms 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](mailto:enquiries@totrain.co.uk) or to any other email address notified by email to You by enlighten. Notices to You will be sent to the email address which You provided when setting up Your access to the Service.

### 15.8. Rights of Third Parties:

A person who is not a party to these Terms has no right to benefit under or to enforce any term of these Terms.

## 16. Limitations of Liability

totrain shall not be liable for loss in respect of any breach of its obligations under this agreement however arising except that in the event of an unrecoverable failure of the System in which case totrain's liability shall be to refund to the Client pro rata the un-expired portion of any Fees.

We do not, to the extent permitted by law, accept any liability (whether in contract, negligence or otherwise) for any virus infection and/or external compromise of security and/or confidentiality in relation to use of the Online Food Safety Platform.

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