

Terms & Conditions of Use

1. Application

- 1.1. These Terms and Conditions shall apply to the provision of Services by the Service Provider to the Client.
- 1.2. In the event of conflict between these Terms and Conditions and any other terms and conditions (of the Client or otherwise), the former shall prevail unless expressly otherwise agreed by the Service Provider in writing.

2. Definitions & Interpretation

“Agreement”	means the agreement between the Service Provider and the Client in connection with the provision of the Services which shall comprise these Terms and Conditions, the Service Provider’s Service Level Agreement (‘SLA’) (set out at https://www.ihasco.co.uk/terms-and-policies) as updated from time to time together with the Service Provider’s order confirmation and, if also signed by the Parties, the accompanying Schedule together with the Statements and Policies referenced in the Schedule;
“Business Day”	means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
“Client”	means [] Limited (which expression shall, where the context so admits, include its successors and assigns) of [] (if this section not completed the Client is the business submitting the order by phone, email or online)
“Commencement Date”	means the commencement date for the Agreement as set out in the same;
“Confidential Information”	means information that one party discloses to the other party under this Agreement, and that is marked as confidential or could reasonably be considered confidential information under the circumstances. It does not include information that is independently developed by the recipient, is rightfully given to the recipient by a third party without confidentiality obligations, or becomes public through no fault of the recipient.
“Fees”	means the fees payable by the Client under Clause 4 in accordance with the Terms of Payment;



“Good Industry Practice”	means the degree of skill and care which would ordinarily and reasonably be expected of a service provider engaged in the business of providing services which are the same as or similar to the Services as provided by the Service Provider;
“Schedule” (if agreed and signed by the Parties as a document forming part of the Agreement)	means the schedule to be agreed and signed by the Parties and which sets out the Services to be provided, the Commencement Date, the Fees and the Terms of Payment which together with these Terms and Conditions forms the Agreement;
“Services”	means the services to be provided by the Service Provider to the Client as set out in the Schedule or the order confirmation;
“Service Provider”	means The Interactive Health & Safety Company Limited (Registered Company Number 6447099) ; and
“Terms of Payment”	means the terms of payment of Fees as set out in the Schedule (if any) or otherwise set out in the invoice.

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

2.2. Unless the context otherwise requires, each reference in these Terms and Conditions to:

2.2.1. "writing", and any cognate expression, includes a reference to any communication affected by electronic or facsimile transmission or similar means;

2.2.2. statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

2.2.3. "these Terms and Conditions" is a reference to these Terms and Conditions and any Schedules as amended or supplemented at the relevant time;

2.2.4. a Schedule is a schedule to these Terms and Conditions; and

2.2.5. Clause or paragraph is a reference to a Clause of these Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule.

2.2.6. a "Party" or the "Parties" refer to the parties to these Terms and Conditions.

2.3. The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.



2.4. Words imparting the singular number shall include the plural and vice versa.

2.5. References to any gender shall include the other gender.

3. The Services

3.1. With effect from the Commencement Date the Service Provider shall, in consideration of the Fees being paid in accordance with the Agreement, provide the Services to the Client.

3.2. The Service Provider will use reasonable care and skill to perform the Services.

3.3. The Service Provider shall use all reasonable endeavours to complete its obligations under the Agreement.

3.4. The Service Provider warrants that the Services shall be provided in accordance with Good Industry Practice. In the event that a material element of the Services is not provided in accordance with this Clause 3.4 the Service Provider's sole responsibility will be to re-perform the relevant Services to the required standard provided that the Service Provider will not be liable under this Clause 3.4 if the Client fails to give written notice within 10 Business Days of the original non-performance together with full written particulars.

3.5. The Service Provider shall ensure compliance with the Service Provider's Information Security Statement, Data Protection (GDPR) Policy ("Data Protection Policy") and Privacy Policy ("Privacy Policy") (set out at <https://www.ihasco.co.uk/terms-and-policies>) as updated from time to time.

4. Payment

4.1. Unless otherwise agreed in writing all payments required to be made pursuant to this Agreement by either Party shall be made within 30 days of the date of the relevant invoice in UK Sterling (£) in cleared funds to such bank as the Service Provider may from time to time nominate, without any set-off, withholding or deduction except such amount (if any) of tax as the Client is required to deduct or withhold by law.

4.2. The time of payment shall be of the essence. If the Client fails to make any payment on the due date then the Service Provider shall, without prejudice to any right which the Service Provider may have pursuant to any statutory provision in force from time to time, have the right to charge the Client interest on a daily basis at an



annual rate equal to the aggregate of 2% and the base rate of Santander from time to time on any sum due and not paid on the due date. Such interest shall be calculated cumulatively on a daily basis and shall run from day to day and accrue after as well as before any judgement.

5. Confidentiality

5.1. Both the Service Provider and the Client shall undertake that, except as provided by sub-Clause 5.2 or as authorised in writing by the other Party, it shall at all times during the continuance of the Agreement and for 5 years after its termination:

5.1.1. keep confidential all Confidential Information;

5.1.2. not disclose any Confidential Information to any other party;

5.1.3. not use any Confidential Information for any purpose other than as contemplated by these Terms and Conditions or the Agreement;

5.1.4. not make any copies of, record in any way or part with possession of any Confidential Information; and

5.1.5. ensure that (as applicable) none of its directors, officers, employees, contractors, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 5.1.1 to 5.1.4.

5.2. Subject to sub-Clause 5.3, either Party may disclose any Confidential Information to:

5.2.1. any of their subcontractors or suppliers or group companies

5.2.2. any governmental or other authority or regulatory body; or

5.2.3. any of their employees or officers or those of any party described in sub-Clauses 5.2.1 or 5.2.2;

5.3. Disclosure under sub-Clause 5.2 may be made only to the extent that is necessary for the purposes contemplated by these Terms and Conditions and the Agreement, or as required by law and provided that the recipients are aware of the obligations of confidentiality and (subject to any overriding requirement existing under statute) agree to keep the confidential information confidential and to use it only for the purposes for which the disclosure is made. In each case the disclosing Party must



first inform the recipient that the Confidential Information is confidential, unless such information would reasonably be understood, given the nature of the information, to be confidential.

- 5.4. Either Party may use any Confidential Information for any purpose, or disclose it to any other party, where that Confidential Information is or becomes public knowledge through no fault of the receiving Party.
- 5.5. When using or disclosing Confidential Information under sub-Clause 5.4, the receiving Party must ensure that it does not disclose any part of that Confidential Information which is not public knowledge.
- 5.6. The provisions of this Clause 5 shall continue in force in accordance with their terms, notwithstanding the termination of the Agreement for any reason.
- 5.7. Nothing in this Clause 5 shall negate the Parties' obligations pursuant to the Data Protection (GDPR) Policy and Privacy Policy.

6. Variation and Amendments

- 6.1. If the Client wishes to vary any details of the Schedule it must notify the Service Provider in writing as soon as possible. The Service Provider shall endeavour to make any required changes and any additional costs shall be agreed with the Client in writing in advance of any changes being carried out.
- 6.2. If, due to circumstances beyond the Service Provider's control, the Service Provider has to make any change in the arrangements relating to the provision of the Services, the Service Provider shall notify the Client immediately. The Service Provider shall endeavour to keep such changes to a minimum and shall seek to offer the Client arrangements as close to the original as is reasonably possible in the circumstances.

7. Termination

- 7.1. Either Party may terminate the Agreement by giving written notice to the other Party if:
 - 7.1.1. any sum owing to that Party by the other Party under any of the provisions of the Agreement (not being the subject of a genuine and reasonably notified dispute) is not paid within 30 days of the due date for payment;



- 7.1.2. the other Party commits any other breach of any of the provisions of the Agreement and, if the breach is capable of remedy, fails to remedy it within 14 days after being given written notice giving full particulars of the breach and requiring it to be remedied;
 - 7.1.3. an encumbrancer takes possession, or where the other Party is a company, a receiver is appointed, of any of the property or assets of that other Party;
 - 7.1.4. the other Party makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);
 - 7.1.5. the other Party, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or reconstruction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other Party under this Agreement);
 - 7.1.6. anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the other Party;
 - 7.1.7. the other Party ceases, or threatens to cease, to carry on business; or
 - 7.1.8. control of the other Party is acquired by any person or connected persons not having control of that other Party on the date of the Agreement. For the purposes of this Clause 7, "control" and "connected persons" shall have the meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010.
- 7.2. For the purposes of sub-Clause 7.1.2, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.
- 7.3. In the event of termination under sub-Clause 7.1 the Service Provider shall retain such sums due and already paid to it by the Client on a pro-rata basis for the services provided up to the date of termination (other than due to default or event affecting the Client under 7.1 in which case the Service provider shall be entitled to retain all such pre-paid fees) without prejudice to any other rights the Service Provider may have whether at law or otherwise.



- 7.4. If a term licence has been purchased by the Client a minimum of 30 days' written notice is required for termination. The Client shall not be entitled to a refund if the term licence is terminated part way through the contracted term (as shown in the Schedule, order confirmation or any renewal) or if the Client has outstanding credits (see Clause 14).
- 7.5. Termination of the Agreement is without prejudice to the rights, duties and liabilities of either Party accrued prior to termination. The Clauses in the Agreement which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination or expiry.

8. Limitation of Liability

- 8.1. The following provisions set out the entire financial liability of the Parties (including any liability for the acts or omissions of their employees, agents and sub-contractors) in respect of:
- 8.1.1. any breach of the Agreement including these Terms and Conditions and any indemnity howsoever arising; and
 - 8.1.2. any representation, misrepresentation (whether innocent or negligent) statement or tortious act or omission (including without limitation negligence) arising under or in connection with Terms and Conditions.
- 8.2. Except as expressly and specifically provided in these Terms and Conditions, all warranties, conditions and other terms implied by statute, common law or otherwise are, to the fullest extent permitted by law, excluded from these Terms and Conditions.
- 8.3. Nothing in these Terms and Conditions excludes the liability of either Party :
- 8.3.1. for death or personal injury caused by a Parties' negligence; or
 - 8.3.2. for fraud or fraudulent misrepresentation.
- 8.4. Other than in relation to any liability under clause 8.3, the Parties shall not in any circumstances be liable, whether in tort (including for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for:
- 8.4.1. loss of profits; or



- 8.4.2. loss of business; or
 - 8.4.3. depletion of goodwill or similar losses; or
 - 8.4.4. loss of anticipated savings; or
 - 8.4.5. loss of goods; or
 - 8.4.6. loss of use; or
 - 8.4.7. loss or corruption of data or information; or
 - 8.4.8. any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 8.5. The Service Provider makes no representations and the Client acknowledges that the output of the Services will not automatically enable the Client to comply with applicable law (including intellectual property laws) as legal compliance depends on many other factors, which are the responsibility of and within the control of the Client. Accordingly, except for any breach of an express obligation in this Agreement by the Service Provider for which the Service Provider is held liable as being in breach of contract, the Service Provider will not be liable to the Client for any failure by the Client, its employees, agent or contractors to comply with applicable law.
- 8.6. Other than in relation to any liability under Clause 8.3, each Party's total aggregate liability in contract, tort (including without limitation negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of these Terms and Conditions shall in all circumstances be limited to 125% of the amount actually paid by the Client to the Service Provider under this Agreement in the 12 months preceding the date on which the claim arose.

9. Intellectual Property Rights

- 9.1. Unless otherwise agreed between the parties, all Intellectual Property Rights in and to the Services belong, and shall belong, to the Service Provider and/or its licensors.
- 9.2. The Client shall, at the expense of the Service Provider, take all such steps as the Service Provider may reasonably require to assist the Service Provider in



maintaining the validity and enforceability of the Intellectual Property Rights of the Service Provider during the term of this Agreement.

- 9.3. Without prejudice to the right of the Client or any third party to challenge the validity of any Intellectual Property Rights of the Service Provider, the Client shall not do or authorise any third party to do any act which would or might invalidate or be inconsistent with any Intellectual Property Rights of the Service Provider and shall not omit or authorise any third party to omit to do any act which, by its omission, would have that effect or character.
- 9.4. The Service Provider makes no representation or warranty as to the validity or enforceability of the Intellectual Property Rights in the Service Provider Services and the Trade Marks.
- 9.5. The Client shall not:
 - 9.5.1. copy the Service Provider's Services or any part of any of them;
 - 9.5.2. modify, adapt, develop, create any derivative work, reverse engineer, decompile, disassemble or carry out any act otherwise restricted by copyright or other Intellectual Property Rights in the Service Provider's Services. The Client is granted no rights under this Agreement except as expressly stated and the Service Provider expressly reserves all Intellectual Property Rights and its other rights in and to the Service Provider's Services.
- 9.6. The Client shall ensure that use of any of the Trade Marks shall be in the style and form available from the Service Provider on request, and shall be used in a manner approved from time to time by the Service Provider and accompanied by an acknowledgement in a form approved by the Service Provider.
- 9.7. The Client shall not:
 - 9.7.1. use any of the Trade Marks in any way which might prejudice their distinctiveness or validity or the goodwill of the Service Provider therein;
 - 9.7.2. use in relation to the Service Provider Services any trade marks other than the Trade Marks without obtaining the prior written consent of the Service Provider; or



- 9.7.3. use any trademarks or trade names so resembling any trademark or trade names of the Service Provider as to be likely to cause confusion or deception.
- 9.7.4. use or display any accrediting body marks that may be used by a Client who has utilised a Service Provider Product without the express permission of Service Provider in writing. Client agrees to indemnify the Service Provider on a defend and settle basis against any and all direct losses suffered by Service Provider through any misuse by Client utilising an accrediting body mark in contravention to this clause 9.7.4
- 9.8. Other than the licences expressly granted under this Agreement, neither party grants any licence of, right in or makes any assignment of any of its Intellectual Property Rights. In particular, except as expressly provided in this Agreement, the Client shall have no rights in respect of any trade names or trademarks used by the Service Provider in relation to the Service Provider Services or their associated goodwill, and the Client hereby acknowledges that all such rights and goodwill shall inure for the benefit of and are (and shall remain) vested in, the Service Provider provided that this Clause shall not apply in relation to the use by the Service Provider of the Client's logo or branding which the Client permits the Service Provider to use to personalise the Services solely for the Client..
- 9.9. At the reasonable request of the Service Provider, the Client shall do or procure to be done (at the Service Provider's cost), all such further acts and things (including the execution of documents) as the Service Provider shall reasonably require to give the Service Provider the full benefit of this Agreement.
- 9.10. The Client shall as soon as reasonably possible give notice in writing to Service Provider in the event that it becomes aware of:
- 9.10.1. any infringement or suspected infringement of the Trade Marks or any other Intellectual Property Rights in or relating to the Services; and
- 9.10.2. any claim that the receipt of the Services by the Client , whether or not under the Trade Marks, infringes the rights of any third party.
- 9.11. In the case of any matter falling within clause 9.10.1:
- 9.11.1. the Service Provider shall, in its absolute discretion, determine what action if any shall be taken in respect of the matter; and



9.11.2. the Service Provider shall have sole control over and shall conduct any consequent action as it shall deem necessary; and the Service Provider shall pay all costs in connection with that action and shall be entitled to all damages and other sums which may be paid or awarded as a result of any such action;

9.12. In the case of any matter falling within clause 9.10.2:

9.12.1. the Service Provider shall defend or settle on behalf of the Client, its officers, directors and employees against any claims that the marketing, advertising or distribution of the Services in accordance with this Agreement infringes any Intellectual Property Right and shall defend the Client for and against any direct damages, losses, costs and expenses (including reasonable legal costs and expenses awarded against the Client in judgment or settlement of such claims, provided that: (i) the Service Provider is given such notice of such claim as is reasonable in the circumstances; (ii) the Client provides reasonable co-operation to the Service Provider in the defence and settlement of such claim, at the Service Provider's expense; and the Service Provider is given sole authority to defend or settle the claim.

9.12.2. In the defence or settlement of the claim, the Service Provider may obtain for the Client the right to continue using Services in the manner contemplated by this Agreement, replace or modify the Services so that it becomes non-infringing or, if such remedies are not reasonably available, terminate this Agreement forthwith by notice in writing and without liability to the Client other than for a refund of any Fees paid in advance for Services which the Client has been unable to receive. For the avoidance of doubt, nothing in this clause 10.12 shall negate the Client's obligation to mitigate its costs. The Service Provider shall not in any circumstances have any liability if the alleged infringement is based on: (i) a modification of the Services by anyone other than the Service Provider; or (ii) the Client's marketing, advertising, distribution or use of the Services in a manner contrary to the instructions given to the Client by the Service Provider; or (iii) the Client's marketing, advertising, distribution or use of the Services after notice of the alleged or actual infringement from the Service Provider or any appropriate authority; or (iv) use or combination of the Services with any other product in circumstances where, but for such combination, no infringement would have occurred.



9.12.3. The foregoing states the Client's sole and exclusive rights and remedies, and the Service Provider's entire obligations and liability, in the case of any matter falling under clause 9.10.2.

9.13. Each party shall, at the request and expense of the other, provide all reasonable assistance to the other (including, but not limited to, the use of its name in, or being joined as a party to, proceedings) in connection with any action to be taken by the other party, provided that that party is given such indemnity as it may reasonably require against any damage to its name.

10. Force Majeure

Neither the Client nor the Service Provider shall be liable for any failure or delay in performing their obligations under these Terms and Conditions where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question provided that the Party affected (a) promptly notifies the other in writing of the nature and extent of the cause, (b) could not have avoided the effect of the cause by taking precautions which it ought reasonably to have taken but did not; and (c) uses all reasonable efforts to mitigate the effects of the delay or failure in the performance of the obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.

11. Waiver

11.1. No waiver by either party of any breach of this Agreement shall be considered as a waiver of any subsequent breach of the same or any other provision. A waiver of any term, provision or condition of this Agreement shall be effective only if given in writing and signed by the waiving Party and then only in the instance and for the purpose for which the waiver is given.

11.2. No failure or delay on the part of any Party in exercising any right, power or privilege under this Agreement shall operate as a waiver of, nor shall any single or partial exercise of any such right, power or privilege preclude, any other or further exercise of any other right, power or privilege.



12. Severance

The Parties agree that, in the event that one or more of the provisions of this Agreement are found to be unlawful, invalid or otherwise unenforceable, that those provisions shall be deemed severed from the remainder of this Agreement. The remainder of this Agreement shall be valid and enforceable.

13. Notices

- 13.1. All notices under this Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 13.2. Notices shall be deemed to have been duly given:
 - 13.2.1. when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
 - 13.2.2. (except for the service of proceedings) when sent, if transmitted by email and a return receipt is generated; or
 - 13.2.3. on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or
 - 13.2.4. on the tenth business day following mailing, if mailed by airmail, postage prepaid in each case addressed to the most recent address, email address, or facsimile number notified to the other Party.
- 13.3. Service of any document for the purposes of any legal proceedings concerning or arising out of this Agreement shall be effected by either Party by causing such document to be delivered to the other Party at its registered or principal office, or to such other address as may be notified to one Party by the other Party in writing from time to time.

14. Licence Agreement for Online Clients

- 14.1. A term licence is specified for the Term specified in the Schedule or order confirmation (as appropriate) and is to be paid annually in advance and any anniversary if for more than 12 months. The year starts from the Commencement Date. The Service Provider will issue an invoice and all terms and conditions of the Agreement apply.



- 14.2. Usage of the products supplied is restricted to employees and contractors directly employed or engaged by the Client up to the credit limit set and agreed at the time of ordering unless a commercial licence has been purchased separately.
- 14.3. In addition to the perpetual licence, credits must be purchased and allocated against each of the courses for which a licence has been arranged. Credits are defined as one unique use of the training programme in question.
- 14.4. If the limit of credits is exceeded the Service Provider will invoice the Client for the full RRP amount published on the day the limit is passed. Additional credits may be purchased at any time.
- 14.5. 14 Day Trial Accounts are designed to allow single users access to a specific course for the purpose of assessing the suitability of programme content.
- 14.6. Unless otherwise agreed all credits purchased expire within 12 months from date of purchase or on the annual the renewal date for the relevant course, whichever is the earliest.

15. Law and Jurisdiction

- 15.1. This Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England.
- 15.2. Any dispute, controversy, proceedings or claim between the Parties relating to this Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the exclusive jurisdiction of the courts of England.

16. No Partnership or Agency

- 16.1. Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute either Party the agent of the other Party, or authorise either Party to make or enter into any commitments for or on behalf of the other Party.
- 16.2. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

17. Technical Support



- 17.1. If you experience problems in deploying our web based application we will work with you to resolve the problem in accordance with the SLA. This includes, within Business Hours, telephone and email support, support via a remote desktop session and liaison with your IT department/provider as we deem necessary.
- 17.2. In situations where it is deemed that the configuration of your computer or IT infrastructure is having a detrimental effect on the performance of our application (for example you may use an unsupported device/browser, a thin client, have a proxy or firewall which is blocking access to programme resources) we cannot continue to provide inclusive technical support.
- 17.3. In such a scenario we can pass you on to our recommended IT support partner (hourly rates available on request) who will be able to work directly with you to rectify any issues with your system. Alternatively you can consult with your own IT support partner for a resolution.

18. Website Services and Availability

- 18.1. From time to time down-time, either scheduled or unscheduled, may occur. Service Provider will work within reason to ensure this amount of down-time is limited. Service Provider will not be held liable for the consequences of any down-time. Details of upcoming scheduled maintenance will be viewable at: www.ihasco.co.uk/blog/category/status-updates. A record of historic application service levels are viewable at: synthetics.newrelic.com/report/DktpO.
- 18.2. Service Provider cannot guarantee that any file or program available for download and/or execution from or via the Services is free from viruses or other conditions which could damage or interfere with data, hardware or software with which it might be used. You assume all risk of use of all programs and files associated with the Services, and you release Service Provider entirely of all responsibility for any consequences of its use.

19. Discount/Promotional Codes

- 19.1. Discount codes are strictly for use by the intended recipient and are non-transferable. Each code may only be redeemed by a user once within a twelve month period up to a maximum value of 75% off (unless otherwise specified in writing by the Service Provider Customer Support or Marketing Manager.) One discount code per transaction. Discount codes may be redeemed either over the phone or (if specified) on the Service Provider website at the checkout stage.



Discount codes are offered entirely at the discretion of Service Provider, and Service Provider reserves the right to refuse their redemption at any time.