



## **Terms and Conditions: Controlled Solutions Group E-Learning Version 1.0 (October 2009)**

### **BACKGROUND**

- (a) CSG has developed a web-based electronic learning system to be used by Customers to facilitate the completion of online task specific educational courses relating to the provision of security and event control management.
- (b) You, as the Customer, agree to use the service provided by CSG upon these terms and conditions.

### **AGREED TERMS**

#### **1. INTERPRETATION**

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

**Agreement:** the agreement entered into between the Customer and CSG for CSG to supply the Services to the Customer upon these terms and conditions effected by the Customer accepting them by way of an online acceptance.

**Course:** The task-specific e-learning course, relating to the event management and security industry, that the Customer has purchased pursuant to the terms and conditions set out within this Agreement.

**CSG:** Controlled Event Solutions Limited, a company registered in England and Wales under company number 4480079 whose registered office at Unit 13A and 13B, United Trading Estate, Old Trafford, Manchester, M16 0RJ.

**Customer:** The person that has entered into this Agreement and to whom CSG provide the Services.

**Fees:** the Fees payable by the Customer to CSG, immediately upon entering into this Agreement, for providing the Services as determined from time to time by CSG.

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Services:** the electronic facilitation of the Course to the Customer via an online access portal.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.

1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.

1.4 Words in the singular shall include the plural and vice versa.

1.5 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.6 A reference to writing or written includes faxes but not e-mail.

1.7 Where the words include(s), including or in particular are used in this Agreement, they are deemed to have the words without limitation following them. Where the context permits, the words other and otherwise are illustrative and shall not limit the sense of the words preceding them.

1.8 Any obligation in this Agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.

1.9 References to clauses are to the clauses of this Agreement.

## **2. COMMENCEMENT AND DURATION**

2.1 In consideration of the agreement by the Customer to pay the Fees to CSG, CSG shall provide the Services to the Customer on the terms and conditions of this Agreement.

2.2 CSG shall provide the Services to the Customer from the date notified by email to the Customer by CSG upon them entering into this Agreement (Commencement Date).

2.3 The Services supplied under this Agreement shall continue to be supplied from the Commencement Date until the date 6 months after the Commencement Date upon which, the Agreement shall terminate and the Customer shall no longer have access to the Services, unless this Agreement is terminated earlier in accordance with clause 14.

## **3. SERVICE COMPLIANCE**

3.1 The provision of the Services is provided via the internet, and is therefore strictly subject to the Customer having working internet connections of no less than 1 megabits per second in speed and that are preferably ran on a broadband connected service and it is acknowledged that it shall be the responsibility of the Customer to ensure that the same are properly maintained at all times.

## **4. CSG'S OBLIGATIONS**

4.1 Subject to clauses 2 and 3 above, CSG shall use reasonable endeavours to manage and provide the Services to the Customer at all times during the currency of this Agreement.

4.2 CSG shall forward the Customer with a certificate confirming completion of the Course, within 28 days of the successful completion of the Course by the Customer.

## **5. CUSTOMER'S OBLIGATIONS**

5.1 The Customer must complete the Course within 6 months of the Commencement Date. If the Customer does not complete the Course within this timescale then the Agreement shall terminate as provided for by clause 2.3

5.2 If CSG's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Customer, CSG shall not be liable for any costs, charges, losses or expenses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay.

5.3 The Customer shall be liable to pay to CSG, on demand, all reasonable costs, charges, losses or expenses sustained or incurred by CSG (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this Agreement, subject to CSG confirming such costs, charges and losses to the Customer in writing.

5.4 CSG shall not be held liable by the Customer for the accuracy, completeness, fitness for purpose or legality of any information accessed, received or transmitted as part of the Course or in using the Services, or for transmitting or receiving, or failure to transmit or receive, any material as part of the Course or through the Services.

5.5 The Customer (or any party acting under their instruction or otherwise maliciously) is responsible for the way the Services are used and must not use them in a way that: (i) risks degradation of the Services to other users of CSG's Services; or (ii) puts the Services system at risk. If CSG believes that the Customer (or any party acting under their instruction or otherwise maliciously) is using the Services in any of these ways, CSG will be entitled to reduce, suspend, and/or terminate any or all of the Services immediately without giving the Customer notice.

5.6 CSG reserves the right to immediately remove any information relating to the Course or the Services that is the subject of legal objection, once notification of legal objection has been received.

5.7 CSG reserves the right to immediately remove any information presented as part of the Course or in the provision of the Services, that is considered to be putting CSG or the services or products that it offers at risk.

5.8 The Customer must provide (during the online registration process) CSG with a valid and current email account (address) so that the Customer can receive advance notification by email of the Commencement Date and log-in details. The accuracy of the email address provided will be entirely the responsibility of the Customer and it will remain liable for any requests of which notification has been sent to that email address. This will be regardless of whether or not the Customer accesses that email account and reads the relevant email, is disconnected from the email account (for any reason), or for any other reason (other than CSG's negligence) fails to read the relevant notification.

## **6. CHARGES AND PAYMENT**

6.1 In consideration of the provision of the Services by CSG, the Customer shall pay CSG the Fees. The Fees applicable on the commencement of this Agreement are set out in the registration process and shall be paid prior to CSG providing the Services.

6.2 CSG shall be under no obligation to provide the Services until the Fees are paid.

6.3 The Fees are non-refundable, irrespective of whether the Course is completed.

## **7. SERVICE MAINTENANCE**

7.1 It is acknowledged by the Customer that CSG will need to undertake maintenance work (remedial, upgrading, etc) to its system and to the servers upon which the Services run (Maintenance).

7.2 CSG shall use reasonable endeavours to minimise the frequency and the duration of the Maintenance and where reasonably practicable CSG shall carry out the Maintenance outside of normal working hours.

## **8. PROPRIETARY RIGHTS**

8.1 The Customer acknowledges and agrees that CSG and/or its licensors own all Intellectual Property Rights in the Services. Except as expressly stated herein, this Agreement does not grant the Customer any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services.

8.2 CSG confirms that it has all the rights in relation to the Services that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

## **9. INTELLECTUAL PROPERTY RIGHTS**

As between the Customer and CSG, all Intellectual Property Rights and all other rights in the Course and Services shall be owned by CSG. CSG licenses all such rights to the Customer free of any additional charge (other than those set out in this Agreement) and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Services. If this Agreement is terminated, this licence will automatically terminate.

## **10. CONFIDENTIALITY AND CSG'S PROPERTY**

10.1 The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by CSG and any other confidential information concerning CSG's business or its products which the Customer may obtain.

10.2 The Customer may disclose such information as may be required by law, court order or any governmental or regulatory authority.

10.3 The Customer shall not use any such information for any purpose other than to perform its obligations under this Agreement.

10.4 Should the Customer or any viewer of the CSG Services or related material respond with information, feedback, data, questions, comments, suggestions or the like regarding the content of the Course or the Services, any such response shall be deemed not to be confidential and CSG shall be free to reproduce, use, disclose and distribute the response to others without limitation. CSG shall be free to use any ideas, concepts or techniques contained in your response for any purpose whatsoever including, but not limited to, developing and marketing services incorporating such ideas, concepts or techniques.

10.5 Provided that it does not breach the Data Protection Act 1998 and unless otherwise requested in writing by the Customer, CSG will be entirely free to use the Customer's information and progress within the Course (in an anonymous manner) for marketing and other purposes. The identity of the Customer will not be revealed in these circumstances.

## **11. ACCOUNT SECURITY**

11.1 It is acknowledged by the Customer that it shall be solely responsible for the username and password that enables the Customer to log onto the Services and that CSG shall not be responsible for any breaches or subsequent damages arising from the Services being used for malicious intent by any particular party.

## **12. ATTACHMENTS AND ANTI-VIRUS POLICY**

The Customer shall be responsible for ensuring that any material sent through the Services is virus and worm free. It is acknowledged by the Customer that CSG will not be responsible whatsoever for any material it transmits containing viruses (or other malicious agents) introduced by the Customer, nor for any damage howsoever caused by the affected material.

## **13. LIMITATION OF LIABILITY**

13.1 This clause 14 sets out the entire financial liability of CSG (including any liability for the acts or omissions of its employees, agents, consultants and subcontractors) to the Customer in respect of:

- (a) any breach of this Agreement;
- (b) any use made by the Customer of the Services or any part of them; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

13.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

13.3 Nothing in this Agreement limits or excludes the liability of CSG for death or personal injury resulting from negligence or for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by CSG.

13.4 Subject to clause 13.2 and clause 13.3:

- (a) CSG shall not be liable for:
  - (i) loss of profits; or
  - (ii) loss of business; or
  - (iii) depletion of goodwill and/or similar losses; or

- (iv) loss of contract; or
  - (v) loss of use; or
  - (vi) loss of corruption of data or information; or
  - (vii) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and
- (b) CSG's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this Agreement shall be limited to the Fees paid by the Customer to CSG.

#### **14. TERMINATION**

14.1 Without prejudice to any other pre-existing rights or remedies which CSG may have, CSG may terminate this Agreement without liability to the Customer immediately, on giving notice, if:

- (a) the Customer commits a breach of any of the material terms of this Agreement or
- (b) the Customer repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement; or

CSG has reason to believe that the Customer (or any party acting under their instruction or otherwise maliciously) have provided false, inaccurate or misleading information either for the purpose of obtaining the Services or at any time during the provision of the Services.

14.2 CSG shall be entitled to terminate this Agreement by giving not less than 48 hours notice to the Customer in such circumstances where CSG (acting reasonably) decide that they are unable to provide the Services in accordance with the terms of this Agreement.

14.3 On termination of this Agreement for any reason the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

14.4 On termination of this Agreement (however arising) the following clauses shall survive and continue in full force and effect:

- (a) clause 8;
- (b) clause 9;
- (c) clause 10;
- (d) clause 15 and;
- (e) clause 16;

#### **15. DATA, ARCHIVING AND RECOVERY**

15.1 CSG shall use reasonable endeavours to undertake weekly full back-ups and daily incremental back-ups. In the event of data loss, CSG shall provide wherever possible (and at a potential charge to the Customer) recovery services in an attempt to restore the most recent back-up if reasonable and subject to the provision of clauses 15.2 and 15.3. In any event, CSG will NOT be liable for any data loss or corruption and consequential damages while in transit or storage in the provision of the Services, regardless of the cause or the party causing it.

15.2 CSG will use reasonable endeavours to protect the data inputted as part of the Course on behalf of the Customer. Any data inputted by the Customer will be stored until at least the completion of the Course (or termination of this Agreement if sooner) and then it may be permanently discarded by CSG at their own absolute discretion.

15.3 CSG may store transactional data (i.e. details relating to results of Courses) for a period of 7 years for potential auditing and other regulatory purposes. However, CSG will not be held responsible for the availability, accuracy or completeness of this data if subsequently called upon by the Customer in a dispute resolution situation.

15.4 It is acknowledged that it is the full responsibility of the Customer to store their own data and keep archives of the data sent to and received from CSG as part of the Services in the event of any future disputes between them.

#### **16. WAIVER**

16.1 Failure to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law shall not constitute a waiver of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy.

16.2 No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of any such right or remedy.

16.3 A waiver (which may be given subject to conditions) of any right or remedy provided under this Agreement or by law shall only be effective if it is in writing and shall apply only to the party to whom it is addressed and for the specific circumstances for which it is given. It shall not prevent the party who has given the waiver from subsequently relying on the right or remedy in other circumstances.

16.4 A party that waives a right or remedy provided under this Agreement or by law in relation to another party, or takes or fails to take any action against that party, does not affect its rights in relation to any other party.

16.5 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

## **17. SEVERANCE**

17.1 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.

17.2 If a provision of this Agreement (or part of any provision) is found illegal, invalid or unenforceable, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

## **18. ENTIRE AGREEMENT**

18.1 This Agreement constitutes the whole agreement between the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of this Agreement.

18.2 Each party acknowledges that, in entering into this Agreement, it does not rely on any statement, representation, assurance or warranty (Representation) of any person (whether a party to this Agreement or not) other than as expressly set out in this Agreement. Each party agrees that the only remedies available to it arising out of or in connection with a Representation shall be for breach of contract as provided in this Agreement.

18.3 Nothing in this clause shall limit or exclude any liability for fraud.

## **19. ASSIGNMENT**

19.1 The Customer shall not assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights or obligations under this Agreement.

19.2 CSG may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights or obligations under this Agreement.

19.3 Each party that has rights under this Agreement is acting on its own behalf and not for the benefit of another person.

## **20. RIGHTS OF THIRD PARTIES**

A person who is not a party to this Agreement shall not have any rights under or in connection with it.

## **21. COMMUNICATIONS**

Any written, verbal or electronic communication in accordance with this Agreement shall be in shall be communicated within the English language.

## **22. ACCEPTANCE**

22.1 This Agreement has been entered into by the method of online acceptance. An acknowledgement will be sent to the Customer by email only. This email will confirm that CSG has received the acceptance from the Customer. The Agreement shall be deemed to be legally binding from the time that the acknowledgement email is sent by CSG to the Customer, even if the email is subsequently never read by the Customer due to any reason as listed in clause 5.5. CSG shall send a copy of this Agreement with the acknowledgement email (as an email attachment in Adobe Acrobat PDF format).

22.2 The Customer shall be responsible for ensuring that they store a copy of this Agreement for their records. CSG shall retain an electronic dated record of their acknowledgment of the Customer's acceptance of this Agreement as evidence of the contract.

## **23. GOVERNING LAW AND JURISDICTION**

23.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.

23.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter.

This Agreement has been entered into by the Customer by accepting the terms and conditions contained within by way of an online acceptance and acknowledgement that the contents have been read and understood.