

**THE NATIONAL LEARNING CENTRE LIMITED**  
**TERMS AND CONDITIONS**

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## A. Fair Use Agreement

“We” and “us” refers to The National Learning Centre and “you” refers to anyone browsing our site or using our services.

We may change this policy from time to time by updating this page. You should check this page from time to time to ensure that you are happy with any changes. This policy is effective from May 25, 2018.

You are welcome to browse our site and to use it to received training but if you continue to use it you are agreeing to these terms and conditions of use.

Our site is provided for information only and is a means of accessing our learning management system for our clients and for those receiving training. It is subject to change without notice and we do not give any guarantee or warranty as to accuracy or as to its content, or that it will remain available. We exclude any liability for any inaccuracy or errors to the fullest extent allowable under the law.

All rights in the content of this website (including any trade marks) are owned or licenced to us and must not be copied or reproduced by any means or in any medium.

If you are provided with, a username and password, or any other piece of information as part of our registration procedures, you must treat such information as confidential. You must not disclose it to any third party. We have the right to disable any username or password, whether chosen by you or allocated by us, at any time, if in our reasonable opinion you have failed to comply with any of the provisions in this Fair Use Agreement. If you know or suspect that anyone other than you knows your username or password, you should promptly notify us at [support@nationallearningcentre.co.uk](mailto:support@nationallearningcentre.co.uk) and we would recommend that you change your password immediately.

When uploading content to this website, you must ensure that the content that you upload is accurate and up to date; not upload any content that is offensive, defamatory or likely to deceive any person; ensure that you have the right to use the content and not upload anything that may infringe the copyright, database right or trade mark of any other person; and ensure that you have permission to name or reference any third parties. We reserve the right to alter or remove any content that you upload to this Website, without notice to you, if in our opinion it does not comply with this agreement. We will not be responsible, or liable to any person, for the content or accuracy of any content posted by you or any other person to this website.

Unauthorised use of this website may give rise to a claim for damages. It may also amount to a criminal offence.

Our Cookie Policy is incorporated into this agreement and is set out [here](#).

This agreement is governed by the laws of England and Wales to which you agree to be bound and you agree to their exclusive jurisdiction by using this site.

## B. Terms and Conditions of Supply

This document sets out the terms and conditions under which The National Learning Centre Limited (“NLC”) provides training and access to its website to its Clients.

### 1. Definitions

“the website” means [www.nationallearningcentre.co.uk](http://www.nationallearningcentre.co.uk)

“Company Software” means any computer programs, scripts, applications or databases owned or controlled by NLC or licensed to it, and used for the purpose of delivering the Services.

“Data Processing Agreement” means the agreement referred to in Section 3 and Data shall have the meaning therein set out a copy of which can be below.

“Services” means the delivery of training programmes through the medium of the website and the collection, retention and management of data for the purposes of enabling Clients to manage and record training.

“Learning Management System” means that part of Company Software designed to facilitate the management, delivery and measurement of online learning provided as part of the Services.

“Client” means any person who pays for Services.

“Online Client” means a Client who purchases a Program on an ad hoc basis using the online payment option on the website.

“Managed Client” means all Clients who are not Online Clients, who make payment upon receipt of invoice on an agreed basis.

“Program” means any individual learning program provided by this website.

“Package” means a number of Programs provided for one composite price.

“User” means any person nominated by a Client to view a Program.

“Registered User” means any person nominated by a Client to view a Program with access to their own individual dashboard. “An Unregistered User” is a User who accesses a Program via the Training Room.

“Service Fee” means the fee payable under Clause 4 or 5.

“Training Room” means access on the website to a Program for viewing by Registered Users or Unregistered Users, either individually or in a group without a secure personal log in.

### 2. Provision of Services

Upon payment of the Service Fee, NLC will use all reasonable endeavours to deliver the Services. NLC does not guarantee that the website or its content will be available at all times, or that it will be

fully operational at all times. NLC will use reasonable endeavours to correct any defects or errors as soon as reasonably practicable following notice of a problem. NLC also reserves the right to suspend access to the website in whole or in part without notice either generally or to individual Users or Clients. NLC will not be liable for any costs or damages incurred by Clients as a result of the non-availability of the website or any defects in its Software. It is the Client's responsibility to ensure that they and their Users meet the technical standards required to access and use the website and view any of the Programs. In providing the Services, NLC will be collecting and storing Personal Data as defined in the General Data Protection Regulation. The relationship between NLC as processor and the Client as controller shall be governed by the Data Processing Agreement and Privacy Policy, a copy of which can be found on the website and is incorporated herein by reference.

### **3. Payment of the Service Fee by Online Clients**

The Service Fee for Online Clients is that amount advertised on the website for each Program or Package purchased and will be paid online using a secure credit card payment management system managed via Paypal or such other provider as NLC shall nominate. The Service Fee is non-refundable if the Program or Package is not viewed. VAT will be payable on the Service Fee at standard rate, where applicable.

### **4. Payment of the Service Fee by Managed Clients**

The Service Fee payable by Managed Clients shall be paid immediately upon receipt of invoice. The amount payable by way of Service Fee will be set out in a Terms Sheet issued by NLC incorporating these terms and conditions. The Terms Sheet will reflect the Programs purchased, the number of credits required to view them and the sterling cost thereof as agreed. The Term Sheet will also set out the cost of additional viewing credits. Upon payment of the Service Fee, NLC will allocate to the Managed Client's account the number of viewing credits set out in the Terms Sheet. VAT will be payable on the Service Fee at standard rate, where applicable. Once allocated, viewing credits are fully transferrable between the Programs selected by the Managed Client but once expended, no further Programs will be available without the purchase of additional viewing credits. Credits will be deducted from the Managed Client's account as soon as a Program is allocated to a Registered User or immediately upon commencement of training in the Training Room per User present. The Terms Sheet will nominate the person(s) authorised to purchase additional Programs or additional viewing credits and NLC is authorised to accept orders made by such persons. No Services will be provided until payment has been received. NLC may from time to time increase the cost of individual Programs advertised on the website and such changes shall have effect in relation to all subsequent purchases of Services.

### **5. Confidentiality**

NLC and Clients shall keep confidential any confidential information relating to the business or affairs of the other of them, but so that NLC may disclose necessary information to sub-contractors who have signed an appropriate confidentiality undertaking.

### **6. Intellectual Property**

All intellectual property rights including copyright which are capable of existing in Company Software or any design, content, images, documents, computer software, information or other materials appearing in or forming part of a Program, the website or the Learning Management

System or created or provided in the delivery of the Services shall be and remain NLC's property or the property of any third party licensor. The Client shall not copy any part thereof, 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 relation thereto save that the materials referred to are supplied to the Client by way of non-exclusive licence for viewing only as set out in this agreement. Said licence shall forthwith terminate upon termination of this agreement.

The Client warrants that it has full right and authority to grant to NLC a license to use and reproduce throughout the world for the purposes envisaged by this agreement any materials provided by the Client for inclusion in any training Program or in any marketing materials issued by NLC to promote the Services, which licence will survive the termination of this agreement in respect of any materials already then in use by NLC in perpetuity.

## 7. Security

It is the Client's responsibility to ensure the confidentiality of all security password and log in details provided. NLC may disable any passwords or log in at its discretion if it is of the view that security of the Data is threatened or the log in is being misused. Passwords may only be recovered through the appropriate online means. The Client must immediately notify NLC if it becomes aware of, or suspects, misuse of passwords or the website.

## 8. Termination

This agreement will continue until terminated by three months' notice in writing by either party. NLC may forthwith terminate this agreement by notice in writing to the Client, if the Client is at fault, namely if the Client fails to make prompt payment of the Service Fee or upon the doing or permitting of any act by which NLC's rights in any intellectual property may be prejudiced, the security of the Data or the Computer Software is prejudiced, abused or put in jeopardy. The Client may terminate this agreement if NLC fails to remedy a material and continuing breach of its obligations within a reasonable time following written notice from the Client. In the event of termination of this agreement for any reason, NLC shall provide a copy of the Data to the Client in accordance with the Data Processing Agreement. The cost of any unallocated credits shall not be refundable unless NLC shall have given notice to terminate without fault on the part of the Client or the Client has terminated due to a continuing breach by NLC

## 9. Liability

To the fullest extent that is permitted by law, NLC excludes all warranties, conditions, representations or other terms which are not expressly contained herein and shall not be liable for any loss or damage, howsoever arising, including, without limitation, from any breach of this agreement, inaccuracy of any content on the website or in a Program. In particular, NLC is not liable for any interruption of business, any loss of reputation, goodwill or business opportunity, any consequential or indirect loss or damage or any loss of sales, business, profits, or revenue. NLC will not be liable for any loss or damage which is caused by an attack on NLC's system or for any virus, attack, or other material that is technologically harmful that may infect Client computer programs, computer equipment, data or other material arising out of use of the website or downloading any content from the website. NLC is not liable for the content of any websites which are linked on the website, or any reliance thereon, and neither does it endorse the same.

NLC'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 this agreement shall in all circumstances be limited to 125% of the amount actually paid by the Client to NLC in the 12 months preceding the date on which the claim arose and the refund of any unallocated credits as set out in paragraph 8.

Nothing in this clause excludes the liability of NLC for death or personal injury caused by NLC's negligence; or for fraud or fraudulent misrepresentation.

## **10. Miscellaneous**

This agreement does not confer any rights upon third parties. Neither party is liable if they are unable to perform their obligations for reasons beyond their reasonable control. This agreement constitutes the entire agreement between NLC and the Client and no representation or warranty is given which is not expressly contained herein. Any notice to the Client shall be to the last known address on record with NLC. Any notice sent to NLC shall be sent to its registered office, marked for the attention of the legal department together with a copy by email to [admin@nationallearningcentre.co.uk](mailto:admin@nationallearningcentre.co.uk). This agreement shall be governed by English law. The Client shall not be entitled to withhold payment of any sum by reason of any claim, set-off or for damages in relation hereto.

## C. Data Processing Agreement

This Data Processing Agreement is incorporated into the standard terms of engagement for the provision of training services between THE NATIONAL LEARNING CENTRE LIMITED and its Clients with effect from May 25, 2018.

### 1. Background:

- 1.1. On May 25, 2018, the General Data Protection Regulation (GDPR) comes into effect replacing prior data protection laws and imposing obligations on the Controllers and Processors of Personal Data
- 1.2. The Client is the Controller of Personal Data collected and processed in connection with its business activities, including data collected and processed on its behalf.
- 1.3. The Client has a legal obligation to provide training to its employees and it is in the Client's legitimate interest to provide training to certain others and has engaged the Company to provide a means for the delivery of online training as well as the training content by providing access to an online training portal created by the Company.
- 1.4. In the delivery of training, the Company will collect and process Personal Data on behalf of the Client consisting of the name, address and phone number of the trainee, their date of birth and email address, the training program viewed, the training date, the renewal date and the test result, plus such additional information as the Client shall request and the trainee shall consent to provide.
- 1.5. These written terms and conditions are intended to ensure that there are proper arrangements in place relating to Personal Data passed from the Client to the Company or processed by the Company on its behalf as required by the GDPR and, in particular, Article 28.

### 2. Definitions:

- 2.1. Capitalised expressions shall have the same meaning as set out in the GDPR.
- 2.2. "Company" means The National Learning Centre Limited
- 2.3. "Client" means any person who pays for Services.
- 2.4. "Online Client" means a Client who purchases a Program on an ad hoc basis using the online payment option on the website.
- 2.5. "Services" means the services provided by the Company to the Client as set out in the agreement for the supply of training services between the parties hereto, including the collection, storage and processing of Data.
- 2.6. "Training Portal" means the website sub domain operated by the Company to deliver training.
- 2.7. "Data" means the data collected and processed by the Company on behalf of the Client.

### 3. Data Processing:

- 3.1. The Client is the Data Controller for the Data and the Company is the Data Processor for the Data.
- 3.2. The Company agrees to process the Data only in accordance with GDPR and in particular on the following conditions.
- 3.3. The Company shall only process the Data:
  - 3.3.1. on the written instructions from the Client, including in accordance with this agreement
  - 3.3.2. only Process the Data for completing the Services and



- 3.3.3. only Process the Data in the UK with no transfer of the Data outside of the UK (Article 28, para 3(a) GDPR);
- 3.4. The Company will ensure that all employees and other representatives accessing the Data are:
  - 3.4.1. aware of the terms of this Agreement;
  - 3.4.2. have received comprehensive training on data protection and related good practice;
  - 3.4.3. are bound by a commitment of confidentiality (Article 28, para 3(b) GDPR)

## 4. Rights of Data Subjects:

- 4.1. The Company will immediately notify the Client in the event of any request received from individuals exercising their rights laid down in Chapter III of GDPR and will give notice to the individual making the request that it has done so, providing the name and contract details of the Client (Article 28, para 3(e) GDPR).
- 4.2. The Company will at the Client's direction as soon as reasonably practicable:
  - 4.2.1. correct, update and amend Data
  - 4.2.2. safely delete or return the Data at any time, keeping only such information as may be required to demonstrate compliance
  - 4.2.3. provide a copy of the Data
  - 4.2.4. maintain the integrity of the Data, without undocumented alteration, ensuring that the Data can be separated from any other information created

## 5. Cooperation:

- 5.1. The Company will make available as soon as reasonably practicable all information necessary to demonstrate compliance with the obligations laid down under this Agreement and allow for and contribute to any audits, inspections or other verification exercises required by the Client from time to time (Article 28, para 3(h) GDPR)
- 5.2. The Company will immediately contact the Client if there is any personal data breach or incident where the Data may have been compromised and will assist the Client in ensuring compliance with the obligations pursuant to Articles 32 to 36 of GDPR – security, notification of data breaches, communication of data breaches to individuals, data protection impact assessments and when necessary consultation with the ICO etc, taking into account the nature of processing and the information available to the Processor (Article 28, para 3(f) GDPR).

## 6. Subcontracting:

The Company shall not subcontract the processing of the Data without the consent of the Client. Such consent shall not be unreasonably withheld and the Client understands and agrees that data processed on the Training Portal is stored externally on servers owned and operated by third parties. If consent is given a further processing agreement will be required (Article 28, para 3(d) GDPR).

## 7. Termination:

- 7.1. The Client and the Company may each terminate its agreement for the provision of Services as set out in the agreement for supply of training services. Upon termination of that agreement this agreement will automatically come to an end unless otherwise agreed in writing.
- 7.2. Upon termination and payment of all outstanding Service Fees, the Company will provide a complete copy of all Data held on behalf of the Client in a pdf, excel or csv format.

- 7.3. The Company will continue to store the Data, but not otherwise process it, for a period of three years following the date of termination (but so that additional copies can be provided to the Client at the Client's request) and shall thereafter delete the Data.

## **8. Deletion:**

Where the Company is to delete the Data, deletion shall include destruction of all existing copies unless the Company shall otherwise have a legal obligation to retain the Data. Where there is a legal obligation to retain data, the Processor will confirm such an obligation in writing to the Client. Upon request by the Client the Processor shall provide certification of destruction of all Data (Article 28, para 3(g) GDPR).

## **9. Preservation of Rights:**

Nothing in this agreement shall restrict the right of the Company to provide Data to third parties where legally obliged to do so, or as necessary in the defence or pursuance of legal claims.

## **10. Security of Processing:**

- 10.1. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the Company shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including inter alia as the Company shall deem appropriate:
  - 10.1.1. the pseudonymisation and encryption of Personal Data;
  - 10.1.2. the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
  - 10.1.3. the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident;
  - 10.1.4. a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.
- 10.2. In assessing the appropriate level of security, account shall be taken in particular of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed.
- 10.3. The Company shall take steps to ensure that any natural person acting under the authority of the Company who has access to Personal Data does not process them except on instructions from the Controller or in accordance with this agreement, unless he or she is required to do so by Union or Member State law.
- 10.4. The Company will not transfer Personal Data to a third country outside of the European Union unless required to do so by Union or Member State law but so that in such a case, the Company shall inform the Client of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest
- 10.5. Data on the Training portal may be copied periodically to the Client in pdf, excel or csv format sent, including transmittal by email, to the Principal, if the Client is a sole trader, to any Director or Partner or to any person authorised by the Client to receive such Data including the person nominated as the Company's point of contact.

- 10.6. Data on the Training Portal will be made available for transfer to the Client by viewing online or printing or downloading directly from the database maintained by the Company. It shall be the responsibility of the Client to ensure that confidentiality is maintained when viewing the Data and that only authorised individuals have access to the Training Portal to view.
- 10.7. Once printed or downloaded or copied to the Client, it shall be the responsibility of the Client to maintain the integrity and confidentiality of the Data.

## **11. General:**

- 11.1. This Agreement may only be varied with the written consent of both parties.
- 11.2. This Agreement represents the entire understanding of the parties relating to necessary legal protections arising out of their data controller/processor relationship under GDPR and related Data Protection Laws.
- 11.3. This Agreement is subject to English law and the exclusive jurisdiction of the English Courts.