



# STANDARD TERMS & CONDITIONS

2018 January



## 8 LIMITATION OF LIABILITY AND REMEDIES

8.1 Subject to clause 8.3 and notwithstanding Clause 8.2, Safetyform maximum total liability under or arising out of or in connection with the Contract will not exceed the sum which is the lesser of £1,000,000 (one million pounds) or twice the total value of the Charges paid by the Client in the year during which the claim arose or such pro-rated amount should the claim arise in the first year of trading.

8.2 Subject to Clause 8.3, Safetyform will not in any circumstances have any liability (whether direct or indirect) for (i) loss of business or business opportunity, (ii) loss of revenue, (iii) loss of profits, (iv) loss of anticipated savings, (v) loss of or damage to data, (vi) loss of goodwill or injury to reputation (vii) any third party claims (viii) loss which could have been avoided by the Client through reasonable conduct or by the Client taking reasonable precautions or (ix) any consequential or indirect loss. The Client is strongly advised to insure against all such potential loss, damage, expense or liability.

8.3 Nothing in this Contract seeks to exclude or limit any liability of Safetyform for death or personal injury caused by its negligence or for its fraudulent misrepresentation.

8.4 The Client hereby acknowledges and agrees that the limitations of liability referred to in clause 8.1 and 8.2 are fair and reasonable, reflected in the level of the Charges and the insurance cover carried by Safetyform and are just and equitable having full regards to the extent of Safetyform responsibility for any loss or damage suffered.

8.5 Save as required by law and save as may otherwise be set out in the Contract, Safetyform disclaims and the Client waives all other warranties, express or implied, with respect to the Services, arising by law or otherwise, including, without limitation, any implied warranty of satisfactory quality, fitness for a particular purpose and any obligation, liability, right, remedy or claim in tort.

8.6 Save as required by law, the Client's exclusive remedy for any default or defect in the performance of the Services or any other breach of the Contract by Safetyform shall be to correct and/or re-perform any such defective Services by Safetyform. If it is not economical or technically feasible for Safetyform to correct and/or re-perform the defect then the Client's exclusive remedy shall be a full or partial credit of sums paid for the defective Service(s) (subject always to the other provisions of this clause 8).

## 9 CONFIDENTIAL INFORMATION

9.1 Each party shall keep in strict confidence and treat the other parties Confidential Information as confidential and to use it only for the purposes of the Contract except in so far as may be necessary for the performance of any obligations of the Contract or to the extent that such information is generally available to the public or to the extent that disclosure of information is required to be made by law.

9.2 Each party agrees that this obligation shall continue in force without limitation in point of time notwithstanding the termination or expiry of any Contract for any reason but shall cease to apply to information from the point at which it enters into the public domain and shall also cease to apply to information which is received independently from another source without the imposition of any duty of confidence.

## 10 FORCE MAJEURE

Safetyform shall have no liability to the Client if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by any event(s) or combination of events where such event(s) arises from, or is attributable to acts, events, omissions or accidents beyond the reasonable control of the relevant party including, but not limited to, acts of God, terrorism, war or flood.

## 11 SUMMARY TERMINATION

11.1 Safetyform may terminate any Contract (or part thereof) by providing the Client with 30 days written notice.

11.2 The Client shall not be entitled to terminate any Contract (or part thereof) without cause. Safetyform reserves the right to charge the Client a cancellation fee if the Client terminates the Contract without cause.

11.3 Safetyform may terminate the Contract forthwith by notice to the Client without liability to the Client if:

11.3.1 the Client is in material breach of the Contract which breach is not capable of remedy or, if capable of remedy, is not remedied within 14 days of Safetyform specifying the breach and requiring its remedy; or

11.3.2 the Client has had a trustee, receiver, administrative receiver or similar official appointed over a material part of its business or assets; or an order has been made or a resolution passed for the Client's winding up (otherwise than for the purpose of a bona fide scheme of arrangement or solvent amalgamation or reconstruction) or an administration order has been made; or a proposal has been made in respect of the Client for a voluntary arrangement within Part 1 of the Insolvency Act 1986 or for any other composition scheme of arrangement with (or assignment for the benefit of) its creditors; or the Client ceases to trade or is unable to pay its debts as and when they fall due; or any other analogous event occurs in any other jurisdiction;

11.3.3 the Client ceases or threatens to cease trading; or

11.3.4 the Client fails to make any payment in accordance with the terms of the Contract.

11.4 Upon termination of any Contract howsoever occurring:-

11.4.1 Safetyform shall be entitled to repossess any of the Equipment and Safetyform and/or its agents and/or representatives shall be entitled at any time and without notice to enter upon any premises in which the Equipment is stored or kept or reasonably believed so to be;

11.4.2 the Client's right to access and/or use the System shall cease immediately;

11.4.3 the Client shall return or dispose any of Safetyform Confidential Information and all copies thereof in accordance with Safetyform instructions; and

11.4.4 the Client shall remain liable to pay Safetyform any Charges outstanding and for any Services already performed prior to the date of termination.

11.5 Termination of this Contract for any reason shall be without prejudice to any rights of either party which may have accrued up to the date of termination.

11.6 Clauses 5, 6.2, 7, 8, 9, 11.2 and 12 shall survive termination.

## 12 MISCELLANEOUS

12.1 This Contract contains the entire understanding between the parties in connection with the matters herein contained and supersedes any previous agreements or undertakings (whether written, oral or implied) relating to the subject matter of this Contract. The parties acknowledge that in entering into any Contract neither has relied on any oral or written representation or undertaking by the other except as expressly incorporated in any Contract.

12.2 A waiver by Safetyform of any right under this Contract or of any failure to perform or breach hereof by the Client shall not constitute or be deemed to be a waiver of any other or future right hereunder or of any other failure to perform or breach hereof by the Client, whether of a similar or dissimilar nature.

12.3 No variation of the Contract shall be valid unless it is in writing and signed by or on behalf of a duly authorised representative of each of the parties.

12.4 For the purposes of this Contract, Safetyform shall be an independent contractor, and neither Safetyform nor its sub-contractors nor its directors or employees nor any one of them, shall be deemed to be an employee or agent of or a partner with the Client.

12.5 The Client shall not assign the Contract in whole or in part without the prior approval of Safetyform (such approval not to be unreasonably withheld or delayed).

12.6 A person who is not a party to the Contract shall not have any rights under or in connection with it.

12.7 The Client shall comply, and shall ensure that each of its subcontractors, agents and personnel comply with any relevant and applicable anti-bribery and corruption laws, regulations and/or directives related to the provision and receipt of the Services.

12.8 The Client warrants and represents to Safetyform that it has not and shall not, in connection with the Services contemplated by any Contract or in connection with any other business transactions involving Safetyform, make, promise or offer to make any payment or transfer of anything of value, directly or indirectly: (i) to any government official (as defined below) or to an intermediary for payment to any government official, or (ii) to any political party for the purpose of influencing any act or decision of such official or securing an improper advantage to assist Safetyform in obtaining or retaining business. It is the intent of the parties that no payments or transfers of value shall be made which have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining business. "Government official" is defined as any employee or officer of a government of a country, including any regional or local department, company or business owned or controlled by such government, any official of a political party, any official or employee of a public international organisation, any person acting in an official capacity for, or on behalf of, such entities, and any candidate for political office. Failure by the Client to comply with this Clause shall constitute a material breach of the Contract.

12.9 The Client agrees that it will not at any time during the Term or for 6 months thereafter, without the prior written consent of Safetyform, directly or indirectly solicit, induce or entice away from Safetyform or employ, engage or appoint in any way cause to be employed, engaged or appointed any employee, agent or sub-contractor of Safetyform to perform services substantially similar to the Services.

12.10 Any notice under the Contract must be given in writing to the addresses set out in the Quotation and if no address is given, the registered office of such party. Any such notices shall be effective if delivered by hand, at the time of delivery, if sent by fax, on the first Working Day after sending and if sent by post, 2 days after the date of posting.

12.11 Each provision of this Contract is severable and distinct from the others and if any provision is or at any time becomes to any extent or in any circumstances invalid, illegal or unenforceable for any reason, it shall to that extent or in those circumstances be deemed not to form part of this Contract, but the validity, legality and enforceability of all other provision of this Contract shall not otherwise be affected or impaired, it being the parties intention that every provision of this Contract shall be and remain valid and enforceable to the fullest extent permitted by law.

12.12 This Contract shall be governed by and construed in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the English and Welsh courts.