

sub 10 Limited t/a *sub-10*

Terms of Business

Acceptance

These are the terms and conditions upon which sub 10 Limited supplies its commercial services to its business clients. If you want to make use of our services, you must check the box that indicates your acceptance of these terms and conditions on the webpage setting out your order. If you don't check that box, your order will not be submitted. If you do check that box and then submit your order, then once we accept your order (which we will do by sending you an email stating as much), there will be a binding contract between us.

To engage with us on a commercial basis, the individual submitting the order, must be a registered user of *sub-10*. The terms of that registration (our "EULA") will continue to apply as that individual (and any other individual to whom you subsequently give admin permissions) operates the dashboard that controls our commercial services, which will be delivered in accordance with these terms and conditions. If those individuals do not accept the terms of the EULA, they will not be able to engage with us on a commercial basis.

If you are an agency making use of the commercial services that *sub-10* provides on behalf of your client, just to be clear, it is you that is our client. That means you will enter into a contract with us in your own name. You are responsible for meeting our payments and for complying with these conditions. However, please bear in mind that you have, in registering as a user of *sub-10*, you will warrant or already have warranted that content you post to *sub-10* will not infringe the rights of any third party. That includes content you post while making use of our commercial services, so please make sure that you have your client's permission.

1) Interpretation

1.1 It makes things a lot easier if we define at the outset what certain words will mean when we use them in these terms and conditions. That means, for the words listed below, from this point on when you see them used in this document With Apparently Inappropriate Use of Capital Letters, the words will have the meanings you see in this section of our terms and conditions.

	means these Terms of Business that you are reading now, including the section
	at the top titled "Acceptance". Please bear in mind that we may change these

Conditions from time to time and if we do, we will let you know and the new version of the Conditions will apply to the Contract we have with you from that

moment onwards

Contract means the contract we have with you that is subject to these Conditions and

which together we have created through the process of your submission of an

Order and our acceptance of that Order.

sub-10 means the product provided by us, sub 10 Limited, a company incorporated in

England under registration number 11645027 and whose registered office is located at Studio 1.03, Proto, Abbott's Hill, Baltic Quarter, Gateshead, Tyne And Wear, England, NE8 3DF. When we use words like "we", "us" and "our" in these

Conditions, it is to sub 10 Limited that we refer.

Client means you, the organisation that is engaging our Services and which is named

in the Order or, depending on the context, other organisations doing likewise. When we make use of terms like "you" and "yours" in these Conditions then,

unless we specifically say otherwise, we mean you, our Client.

Account means the account that you create with us when you submit your Order and we

accept it.

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m App}$ means mobile applications that we provide to our Users from time to time

through which they can access the System.

Commencement Date means the date that your Order is accepted by us. This is the date upon which

these Conditions will come into effect and the date upon which we will start to

supply our Services to you.

Content means the workplace training and learning content that we post to the System.

Credentials means the username and password set up for or by your Operators and Users,

who will only be able to access the System by using Credentials that are current.



Database means the database lying at the heart of the System that is designed and maintained by us and which is made up of Content that we post to the System

together with User Content posted to the System by our Users and Clients.

Dashboard means the functionality provided in the Website for you to control the delivery of

the Services.

Fees means the charges (if any) that you pay to us for use of the Services. These

charges are either as set out in detail on the Website (in which case they are subject to change) or as otherwise agreed between us in writing. Unless we expressly agree with you to the contrary, when we change the Fees, we shall notify you in advance so that you have a chance to adapt your use of the Services, as you feel appropriate. The new Fees will take effect from the date specified in the notification, which will be not less than 14 days after the date that we send that notification to you. Unless otherwise stated, the Fees exclude value added tax (or any other applicable sales tax), which will be charged in addition at

the applicable rate from time to time.

Intellectual Property Rights means all those intangible things that can be owned and controlled

notwithstanding the fact that they are not physical. This includes things like copyright, trade marks, domain names, database right and a host of other Intellectual Property Rights, wherever they might take effect in the world. It covers all such Intellectual Property Rights, whether they are registered or not, and whether they exist at the Commencement Date or come into existence some time later. This term also includes applications for registered Intellectual Property Rights that are pending as at the Commencement Date and Intellectual Property Rights whose term of protection has been renewed or extended

somehow.

Operators means the individuals named as operating the Services on behalf of the Client,

whether employed by you or not and whose details are provided by you via the

Dashboard from time to time.

Order means the order that you have placed with us via the Website, citing details

relating to the Client and the nature of the Services that you seek to use.

Package means the package of Services to which you have subscribed when placing your

Order (or subsequently amending your Order via the Dashboard).

Security Policy means any policy that we might adopt from time to time to ensure the safety

and security of the Users and clients, as amended from time to time and which,

when in in force, will be available for inspection on the Website.

Services means the commercial services that we offer to our clients and which are set out

in detail on the Website.

System means the service that we supply to Users.

User Content means information and/or posted to the System by Users and/or Operators or

which is generated by and posted to the System automatically as it is used by

Users and/or Operators, as the case may be.

Users means the workers who have signed up to and are making use of the System.

Term means the duration of the Contract, from the Commencement Date until the

Termination Date.

Termination Date means the effective date that this Contract is terminated.

Website means the website hosted at an IP address corresponding to the URL

http://www.sub-10.co.uk

1.2 When you see the words "includes" or "including" used in these Conditions, it means without limitation to what then follows.

- 1.3 When we refer to legislation, we are also referring to all subordinate legislation (rules and regulations) that are set down under or pursuant to that legislation. Those references also include instances where the original legislation we refer to is replaced by new legislation that does the job of the legislation to which we referred.
- 1.4 When we refer to something being "in writing" or "written", this includes emails or other forms of electronic communication, including messages sent to your account or notifications sent to you via any App that you might be using.



2. Service

- 2.1 Subject to your payment of the Fees, we grant you the right to make use of our Services in accordance with these Conditions.
- 2.2 You may decide to set up Operators who are not actually employed by you but who are operating on your behalf. In such a situation, you remain liable for the acts and omissions of your Operators as if they were your own employees and you will remove their Credentials as soon as they cease to act on your behalf.
- 2.3 We will provide the Services to you in accordance with these Conditions provided that you have paid the Fees when they were due and that you have complied with your obligations under the Conditions.
- 2.5 We hereby grant you a non-exclusive, non-transferable licence to use during the Term the Dashboard solely for the purpose of accessing and using the System in accordance with these Conditions and for no other purpose whatsoever.

3. Fees and Payment

- 3.1 In consideration of our supply of the Services, you will pay the Fees monthly or annually in advance. We will either collect them in full from the credit card that you have lodged with us for that purpose or via such other means as we may offer from time to time or we will send you an invoice at the outset and at each renewal (monthly or annual), which you will pay to the bank account recorded on the invoice within twenty-eight days of the date of each such invoice. You will pay the fees in pounds sterling. If you do not, the exchange rate applied will be the rate applied by our bank when processing the transaction and the amount you pay in your local currency will be whatever is necessary to leave us with full settlement of the Fees due after application of that exchange rate together with whatever administrative fees and commission as might apply.
- 3.2 We reserve the right to suspend your use of the Services or to terminate the Contract and delete your Account if you do not pay the Fees when they are due. We may, at our discretion, suspend the provision of the Services to you temporarily for the duration of any period in which the payment of Fees is overdue and we will not be obliged to repay any portion of the Fees paid in advance or to reduce the Fees chargeable for any period during which the Service has been suspended.
- 3.3 If, at your request, we provide any additional Services that are not specified as included within the Fees charged for the Services to which you have subscribed, we can charge you for those additional Services at our current rates, which will be collected in your next monthly payment. We will not provide additional Services where you have subscribed to a Package for which no Fees are charged (in other words a Package supplied "free" of charge).
- In the event of the termination of the Contract, we shall attempt to collect any outstanding fees on the date of the termination (or as soon as practicable thereafter). If we are unable to do so, we shall forward you an invoice in that amount, which will be payable no later than 14 days of the date of that invoice. If you fail to settle that invoice, we may pursue you for the recovery of that debt and if we do, we shall charge in addition interest on that debt at 8% above the Official Bank Rate of the Bank of England, together with any administrative fees permissible under the Late Payment of Commercial Debts (Interest) Act 1998. The interest chargeable will accrue on a daily basis from the date upon which payment was due until the date upon which payment is made, whether that is before or after judgment is given.

4. Security

- 4.1 You agree to take all measures necessary to ensure that you comply with any Security Policy that we have in place and you will ensure that your Operators do likewise, providing them at your expense with any training that is necessary for the purpose. In particular, you will ensure that all Credentials are stored securely and that passwords chosen are sufficiently strong to withstand social hacking techniques.
- 4.2 You will co-operate with any investigation relating to security that is carried out either by us or by some third party authorised to do so either by us or under applicable law.
- 4.3 In addition and without prejudice to the Security Policy, if we become aware that you are making deliberate use of the Services for any purpose that endangers the privacy, security or safety of our Users and Clients, we may, at our discretion, suspend the delivery of the Services or terminate the Contract with immediate effect and without notice.



You agree to remain alert to breaches of our Security Policy by other Clients or Users and to inform us if you become aware of the same. If you become any aware of any issue not covered by our Security Policy but which presents a clear danger to our Users, you agree to inform us of that issue immediately.

5. Client's Undertakings

- 5.1 This Clause sets out the various promises you make when forming this contract with us and defines your obligations under these Conditions. You will:
- 5.1.1 not attempt to replicate or reproduce the System or the Services whether during the Term or for a period of one calendar year from the Termination Date.
- 5.1.2 set up as Operators only those individuals with whom you have a contractual arrangement (whether as employees, agents, self-employed contractors or employees of contractors).
- 5.1.3 not remove, suppress or modify (or attempt to any of those things) any proprietary markings including any trade marks or legal notices concerning the ownership of Intellectual Property Rights that appear on the Website, the System or any App. You also agree not to post any Content to the System or create any material outside the System for the purpose of promoting your deployment of the Services that might confuse Users or third parties as to the ownership of the System and Website or that might affect the distinctiveness of our trade marks, trade dress or other indicia, whatever that might be.
- 5.1.4 be solely responsible for providing and maintaining any equipment or network connectivity that you use to access the Services. You acknowledge that we will not be liable for your failure to access the Services where that failure can be attributed in whole or in part to any hardware failure that is not within our ownership or control.
- also be solely responsible for the User Content and you accept that it is your responsibility to check that such User Content is accurate and calculations performed are correct. You will ensure that it complies with clause 5.2 of these Conditions and that such User Content is accurate and free from viruses or other malware. You are responsible for backing up your User Content and for maintaining procedures that will facilitate you to reconstruct User Content that is lost and you acknowledge and accept that we will not be liable under any circumstances for loss or damage you suffer following the loss or corruption of User Content that could have been recovered or reconstructed had you had appropriate procedures in place.
- 5.1.6 not resell, remarket or otherwise distribute the Services or any part of them, other than where you are an agency providing services to your own client (as referenced in the Introduction).
- 5.1.7 at your own cost, obtain and maintain all necessary permissions, consents and licences to enable your Operators to use the Services in the countries from which they seek to access the System.
- 5.1.8 at your own cost, comply with all applicable conventions and codes of practice and all applicable laws, regulations, and other similar forms of legislation and be responsible for obtaining all regulatory approvals (or relief from the need for regulatory approval) in all relevant jurisdictions that may relate to your use of the Services and access to the System.
- You warrant that the User Content posted by your Operators on your behalf and by your Users will not infringe the Intellectual Property Rights of any third party, nor will that User Content contain anything that is offensive, obscene, abusive, libellous, false, deliberately misleading, or is otherwise illegal, nor will you make use of the Services for the distribution of unsolicited commercial mailings (otherwise known as 'spam'). In order to mitigate the damage done by the posting of any such User Content (whether such User Content has been posted deliberately or accidentally) we shall, as soon as we become aware that there may be an issue, immediately suspend the User Content in question while we investigate. We may also, in more serious cases, at our discretion suspend your access to the Services or even terminate this Contract and delete your Account.

6. Data Processing

- Our approach to the processing of "Personal Data", as defined in the Data Protection Act 2018 ("DPA") and the General Data Protection Regulation (EU) 2016/679) ("GDPR") relating to our Users is set out in our Privacy Notice. We will never provide you with any data from which you will identify a User who is not otherwise known to you. All data to which you may have access (aside from data related to Users using the System to engage with you) will be aggregated and anonymised. However, Content that you create, such as details relating to the identities of your Operators and Users with whom you have an existing relationship, may contain Personal Data and we will process that Personal Data in accordance with this clause.
- 6.2 We will:



- 6.2.1 only process Personal Data and other information supplied by you solely to provide the Services under these Conditions and in accordance with your lawful and reasonable written instructions;
- 6.2.2 comply with our obligations under the DPA and the GDPR (as applicable) concerning the implementation of all appropriate organisation and technical security measures to safeguard the Personal Data supplied by you;
- 6.2.3 not disclose the Personal Data or other information supplied by you to any third party other than on your written instructions, as provided for within our Privacy Notice or as required by law;
- 6.2.4 maintain suitable for the Personal Data you provide at no cost to you; and
- 6.2.5 immediately forward to you communications from "Data Subjects" (as defined in the DPA and the GDPR), regulatory bodies and other third parties concerning the Personal Data that you have supplied and not respond to or act on such communications without your prior agreement.
- 6.3 The DPA and the GDPR offer a number of rights to Data Subjects which are outlined in detail in our Privacy Notice. As outlined in clause 6.2.5 we will, where permitted by law, inform you of any request made by a Data Subject in relation to their Personal Data held by us. All requests will be handled in accordance with our Privacy Notice and our internal data protection policies.

7. Term & Termination

- 7.1 This Contract will commence on the Commencement Date and will continue thereafter from month to month indefinitely until terminated in accordance with these Conditions.
- 7.2 You may terminate the Contract at any time after the expiry of any minimum term applicable to the Package you have purchased. You can terminate the contract by following the instructions on the Website. Your subscription will end at the end of any period for which you have already paid fees.
- 7.3 We may terminate the Contract if you are in material persistent breach of your obligations under these Conditions and either that breach or those breaches are not capable of remedy or, if they are capable of remedy, you have failed to remedy that breach within twenty-one days of our notifying you of the same.
- 7.4 We may terminate the Contract if you are unable to pay your debts (within the meaning of section 123 of the Insolvency Act 1986 or you become insolvent or an order is made or a resolution passed for your administration, winding-up or dissolution (otherwise that for the purposes of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, liquidator, administrator, trustee or similar officer is appointed over all or any substantial part of your assets or you enter into or propose any composition or arrangement with your creditors generally of anything analogous to any of the above occurs in any applicable jurisdiction within which you operate.
- 7.5 We may terminate the Contract if you use the System to post User Content that breaches clause 5.2 of these Conditions.
- 7.6 We will delete your Account following termination, however it comes about. You will remain liable for any and all sums accrued and which are due prior to, on or after the effective date of termination. If you have cancelled your credit card mandate when we attempt to make collection, we will forward you an invoice for the outstanding sum, payable within 14 days.

8. Intellectual Property Rights

- 8.1 You warrant that all Intellectual Property Rights in the User Content that you upload to the System (or which is uploaded by your Users or your Operators on your behalf) belong to you (or them, as the case may be) or that you (or they) have permission from those that do own the Intellectual Property Rights in that User Content to use those Intellectual Property Rights for the purpose of our delivery of the Services.
- 8.2 You hereby grant to us a non-exclusive licence to use, edit, create databases from, copy and store all User Content posted to the System both during the Term and following the Termination Date for the purpose of delivering and recording the delivery of the Services (and any issues arising from that) only and only until the sixth anniversary of the Terminate Date.



- 8.3 Save for the User Content, you acknowledge that all Intellectual Property Rights in the Services including the Database, Content, Dashboard, System and Website are and shall at all times belong to us or our licensors. No rights to or property in the Services or any of these things shall pass to you and you are not permitted to modify, adapt or create derivative works from the Services or any part of them. We grant to you a licence to use the Database, Dashboard and System only to the extent required to enable you to benefit from the Services according to these Conditions and we warrant that we are entitled to grant that access.
- 8.4 If any action or proceeding is brought by a third party
- (a) against you in respect of any alleged infringement of any Intellectual Property Right arising as a result of your use of the Services, or
- (b) against us in respect of any alleged infringement or any Intellectual Property Right in respect of the User Content,

then the threatened party shall be indemnified by the other party from and against all costs, damages, liabilities, and losses agreed to be paid by way of settlement or compromise by, or finally awarded against the threatened party as a result of or in connection with such claims of infringement provided that:

- 8.4.1 the indemnified party shall notify the indemnifying party in writing of any such allegation or claim within seven days of becoming aware of the same;
- 8.4.2 the indemnified party shall make no verbal or written admission relating to the claim without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed; and
- 8.4.3 the indemnifying party (or any person nominated by it) shall at its own expense be entitled to conduct and/or settle all negotiations and litigation so arising and the indemnified party shall at the other party's expense give to the other party (or any person nominated by it) such reasonable assistance in connection therewith as the indemnifying party from time to time may reasonably request.
- 8.5 The exclusions and limitations under condition 10 shall not apply to the indemnity under condition 8.4.
- 8.6 In the event of any claim or allegation in respect of breach of any Intellectual Property Rights being made in respect of the delivery of the Services or the use of the System, we may:
- 8.6.1 obtain the right for you to continue using the Services and/or System in the manner permitted under these Conditions; or
- 8.6.2 modify the Content, Services and/or System so as to avoid the alleged infringement provided that such modification shall not materially detract from the overall performance of the Service; or
- 8.6.3 terminate the Contract with immediate effect.

9. Our Warranties & Undertakings

- 9.1 We warrant that the Services will comprise of the facilities and functionality described in relation to each Package on the Website. Should you come across an element of functionality that is not operating correctly, you may inform us of this by contacting us by email addressed to support@sub-10.co.uk, pointing out the nature of the error and the time and date at which it was encountered. We shall try to replicate the error and, should we be able to isolate and identify the cause of the error, we will fix it as soon as reasonably practicable.
- 9.2 We will not be liable for any deficiency in the Services attributable to operator error, deficiencies or errors relating to any third party component not provided by us or third part connectivity needed by you to connect to the System and access the Services, nor shall we have any obligation under this condition where difficulties you have encountered are as a result of your use of the Services and the System for a purpose for which they are not intended or in a manner that is not consistent with these Conditions or as a result of the negligence or wilful misconduct either of yourself or your Operators.

10. Liability

- 10.1 Where any of the obligations relating to the delivery of the Services are sub-contracted by us to a third party, we will remain liable for the acts and omissions of those contractors as if they were our own.
- 10.2 OUR LIABILITY TO YOU IN RESPECT OF ALL OTHER CLAIMS, LOSSES OR DAMAGES, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE UNDER OR IN CONNECTION WITH THESE CONDITIONS ARISING IN ANY CALENDAR YEAR COMMENCING ON THE COMMENCEMENT DATE OR AN ANNIVERSARY THEREOF (WHERE, FOR A SERIES OF CONNECTED CLAIMS, THE CALENDAR YEAR IN QUESTION SHALL BE THE FIRST SUCH YEAR OF THE FIRST EVENT GIVING RISE TO A CLAIM), SHALL IN NO



EVENT EXCEED THE AGGREGATE OF ALL FEES PAID OR PAYABLE BY YOU IN RESPECT OF SERVICES PROVIDED TO YOU DURING THAT CALENDAR YEAR.

- 10.3 SUBJECT TO CONDITIONS 10.2 AND 10.4, WE WILL NOT BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE; OR ANY LOSS OF PROFITS, TURNOVER, DATA, BUSINESS OPPORTUNITIES, ANTICIPATED SAVINGS OR DAMAGE TO GOODWILL (WHETHER DIRECT OR INDIRECT).
- 10.4 Nothing in these Conditions shall act or be construed so as to act in any way to limit our liability for
- (a) death or personal injury caused by our negligence, or the negligence of our employees, agents or sub-contractors (as applicable); or
- (b) fraud or fraudulent misrepresentation by us or our employees, agents or sub-contractors (as applicable).

11. General

- 11.1 We will treat as confidential all User Content that you do not intend to make public, such as information relating to your Account or method of payment or information to be accessed by your Operators and/or Users for the purpose of making use of the Services.
- 11.2 We will not be liable to you for our failure to deliver the Services for any reason that is beyond our reasonable control.
- 11.3 We are satisfied that our delivery of the Services will comply with English law. You will ensure that when making use of the Services, you (and your Operators) will comply with all applicable laws and regulations whether under English law or the law of your own jurisdiction, wherever that happens to be. We will not be liable should you (or your Operators) fail, whether directly or indirectly, deliberately or accidentally, to comply with those laws and regulations and you will indemnify us for any loss or expense we incur as a result of dealing with any investigations, claims or other regulatory or civil action that occurs as a result of that failure.
- 11.4 You (our Client) and us (sub 10 Limited) are independent businesses and we are not operating in partnership or in any kind of principal/agent or employer/employee relationship, nor in any other relationship of trust to each other.
- 11.5 In order to have the effect intended for them, some of the provisions of these Conditions will survive the termination of the Contract, howsoever that comes about.
- 11.6 The unenforceability of any part of these Conditions will not affect the enforceability of any other part.
- 11.7 Just because we do not insist on your compliance with any one or more of your obligations under these Conditions does not mean that we waive our right to insist on that compliance at some later date.
- 11.8 There may be occasions when the law requires information that we give you or communications you wish to send us have to be in writing. Where that is the case, you agree that such communications and information may be transmitted electronically. Nevertheless, if you wish to write to us in hard copy, you may address your letter to our registered office address given above. For the purpose of these Conditions, you may deem that we have received that letter seven days after the date you have posted it (to give us the chance to collect it, if that address is not our trading address at the time).
- 11.9 You recognise that your breach (or threatened breach) of these Conditions may cause irreparable harm to us and that in such a situation, we are entitled to seek an injunction or other equitable relief to prevent that breach or further occurrences of that breach in future.
- 11.10 With regard to any indemnity given by you to us or us to you under these Conditions, the party with the benefit of that indemnity will take all reasonable steps to reduce or mitigate the loss covered by that indemnity.
- 11.11 No person who is not a party to our Contract with you shall have any rights under the Contracts (Rights of Third parties) Act 1999 to rely upon or enforce any of the provisions of these Conditions. However, this does not affect any right or remedy of the third party which exists or is available apart from that Act.
- 11.12 The Contract between us incorporates these Conditions to the exclusion of all others, together with the Order and our Privacy Notice, which constitutes the entire agreement and understanding between us and you in respect of the matters dealt with in it and supersedes, cancels and nullifies any previous agreement between us in relation to such matters. You agree that in entering into the Contract, you do not rely upon, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in these Conditions and any document referred



to in them. The only remedy available to you in respect of any such statements, representation, warranty or understanding shall be for breach of contract under the terms of these Conditions.

11.13 These Conditions and the Contract are governed by the law of England and Wales and are subject to the exclusive jurisdiction of the English Courts.