

# THE CPD CERTIFICATION SERVICE LIMITED – GENERAL MEMBERSHIP SERVICE TERMS AND CONDITIONS FOR CPD CERTIFICATION

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This document (together with any documents referred to in it) sets out the terms and conditions (Conditions) for the provision of the CPD certification services (Service(s)) operated by The CPD Certification Service Limited (Company, we,), where we impartially review CPD materials for certification. Upon approval, the submitted CPD materials then become "Certified Materials". By applying to receive the Services you accept that CPD Certification covers CPD materials only and not your organisation (unless we expressly agree otherwise in writing) and that you accept these Conditions and agree to abide by them.

## 1. APPLICATION

1.1 If you would like your organisation to receive the Services (a Member, you), you must complete our application form, which is your offer to us. If your application is accepted by us (at our sole discretion), you will receive confirmation from us, and a contractual agreement will be formed between both parties which incorporates these Conditions.

1.2 Please note that membership is available to businesses and organisations only. As we do not deal with consumers, there is no cooling off period in which you can cancel your application. This does not affect your statutory rights.

1.3 As all Services are particular to you as a Member organisation, you are not allowed to transfer, assign or otherwise deal with any or all of your rights and obligations under these Conditions without our prior written consent.

1.4 Information we hold about you as a Member, including any of your employee or sub-contractor information, is processed in accordance with our Privacy and Cookies Policy which can be found at <http://www.cpduk.co.uk/index.php/privacy-policy>.

## 2. DURATION OF SERVICES AND CERTIFICATION

2.1 Payment for Services is on an annual basis, subject to payment of an annual fee (Annual Fee). Payment may also be made for such one-off Service(s) as we shall agree in writing.

2.2 The Services are for an initial 12-month period and the Services shall automatically renew for further 12-month periods unless and until either party gives written notice to the other not later than three months before the end of the initial period or any anniversary thereof to terminate our agreement at the next renewal date. If you do not give us at least three months' written notice of your wish to terminate at the next renewal date, you will be liable to pay us the Annual Fee for the automatically renewed 12-month period. You and we may also terminate the Services earlier, in accordance with the provisions of clause 6.

2.3 Any one-off certification Service purchased on payment of a specific fee will allow you to use the CPD certified logo for a period of 12 months on the material submitted for certification only after it is approved by us. It does not confer any other rights. Upon the expiry of the then current 12-month period, you shall no longer be entitled to use any certification in relation to any certified materials unless you opt to renew your contract for such one-off Services.

2.5 Any other rights regarding cancellation and refunds will be at our sole discretion.

## 3. MEMBERSHIP FEES

3.1 Each Annual Fee shall be payable annually in advance (together with any applicable VAT or similar tax). The initial Annual Fee will be invoiced upon acceptance of your application, with full settlement due within 28 days. We reserve the right not to assess any material you may submit for certification until you have paid the relevant Annual Fee in full.

3.2 We will send you an invoice for the Annual Fee for subsequent years in advance of your next annual renewal date. If we propose to alter the Annual Fee and/or make significant changes to the Services we shall notify you in writing not less

than three months prior to your next annual renewal date.

3.3 If you fail to pay any Annual Fee on the due date (which is within 28 days of the invoice date), we may, without prejudice to any other remedies:

(a) suspend the provision of our Services until payment has been made in full; and/or  
(b) charge you interest on outstanding sums in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. If that Act does not apply for any reason, we shall charge you interest at the rate of 8% above the base lending rate of the Bank of England, accruing on a daily basis until the actual date of payment, whether before or after any judgment.

3.4 We offer Services in various categories, which may change from time to time, with Annual Fees that differ for each category. Please note that if you wish to upgrade the Services part-way through an annual period, you must pay an additional Annual Fee applicable to the enhanced Services.

3.5 If you change your membership category on renewal, the number of certifications carried forward for the renewal year will be in accordance with the new membership category you have chosen. If, on renewal, the number of certifications in your new membership category is lower than the previous year, you will have to select which of the previous year's materials to decertify.

## 4. TRADE MARKS

4.1 You acknowledge that all intellectual property rights in any trademarks used by us in the Services are owned by the Company, including (but not limited to): 'The CPD Certification Service', 'CPD Certified' and 'CPD Member' (Company Trade Marks).

4.2 We hereby grant you as a Member a non-exclusive and non-transferrable licence to use such Company Trade Marks solely during the term of this agreement in accordance with these Conditions. You may only use our Company Trade Marks on one website which is owned or controlled by you. If you wish to use the Company Trade Marks on other websites, you must seek our prior approval, to be given at our sole discretion.

4.3 The licence in clause 4.2 ends when this agreement terminates or expires. On termination or expiry, you must immediately: destroy any printed or other material which features the Company Trade Mark(s); and remove all Company Trade Marks from any website where they appear.

4.4 You undertake to follow all our instructions given from time to time in respect of the permitted use of the Company Trade Marks and any of our other intellectual property rights. You will be provided with a copy of our current mandatory guidelines for use of the Company Trade Marks after we have accepted your application. We reserve the right to update such mandatory guidelines at any time.

4.5 We reserve the right to immediately terminate the licence granted in clause 4.2 by giving you written notice if, in our reasonable opinion, your continued use of the Company Trade Marks could be prejudicial to our reputation or interests and/or other Members.

## 5. CERTIFICATION SERVICES

5.1 When we review any CPD materials submitted, (CPD Materials) as part of the Services as being suitable to carry our 'CPD Certified' Company Trade Mark, you acknowledge that we are not reviewing the technical content, accuracy or completeness of such CPD Materials themselves: you are responsible absolutely for this. Our review is limited to assessing whether, in our opinion, such CPD Materials are suitable for further learning purposes and comply with our general guidelines on the use of CPD materials for further learning purposes. As such, we disclaim all liability for the content and use of any CPD Materials by you or by any third party, whether or not the CPD Materials bear any Company Trade Marks.

5.2 We may, at our discretion, refuse certification of CPD Materials where, in our opinion, the CPD Materials have been previously approved or certified by a governmental or other primary qualification awarding body.

5.3 You will not, in the case of all CPD Materials or Certified Materials, promote them in a manner that may confuse learners into considering them to be a regulated qualification as defined by United Kingdom devolved administrations.

5.4 You are not permitted to use the 'CPD Certified' Company Trade Mark in relation to any CPD Materials without our prior written agreement and such acceptance shall be in our sole discretion and subject to review by us at any time. Please note that you are only permitted to use the 'CPD Certified' Company Trade Mark in relation to the particular CPD Materials we have assessed and certified and not in relation to any other documents or materials.

5.5 By providing CPD Materials to us, you warrant that:

(a) the CPD Materials submitted: are owned or licensed by you; are original; and do not infringe the intellectual property rights or other rights of third parties;  
(b) if the CPD Materials are licensed, you warrant that you have the owner's permission to use the CPD Materials and will supply proof of the same if required by us without delay;  
(c) where training is to take place using the CPD Materials, you are competent and qualified to train in the topic;  
(d) You will not promote any material as being CPD Certified until you have received written confirmation of the final certification.

5.6 You (or the owner, if applicable) retain all intellectual property rights in your CPD Materials.

5.7 Members are required to ensure their Certified Materials are kept up to date. Where, in our reasonable opinion, they are not kept up to date, we reserve the right to withdraw certification on a case by case basis.

5.8 You grant us a licence to use submitted CPD Materials to the extent required to allow us to perform the Services under these Conditions, including, if you have given us prior written permission, to post details of your CPD events in our Course Directory; and/or publishing your organisation's details in the CPD Member Directory on our website at [www.cpduk.co.uk](http://www.cpduk.co.uk).

## 6. TERMINATION

6.1 We may terminate this agreement immediately by giving you written notice if:  
(a) you are in breach of these Conditions and (if such breach is remediable) you fail to remedy the

breach within 14 days of us requesting such remedy in writing;

(b) you are unable to pay your debts as they fall due, you propose (or enter into) any compromise with your creditors, any steps are taken for your winding up, on the appointment of an administrator, administrative receiver or receiver, or a creditor enforces any process against all or any part of your assets (or similar or equivalent circumstances arise in any other jurisdiction).

6.2 If you do not wish your Membership to automatically renew at the end of the current annual period, you must give us at least three month's written notice of your wish to terminate to ensure you do not incur the Annual Fee for the following Annual Period.

6.3 Subject to clause 6.2, you may terminate this agreement at any time by giving written notice, but the Annual Fee shall remain payable for the remainder of the then current annual period and you shall not be entitled to any refund of any Annual Fee already paid.

6.4 We may suspend or terminate our Services at any time if we have good reason. For example, where you and we no longer have trust and confidence in each other or where, in our opinion, continuance could have a detrimental impact on our business, its activities, reputation or goodwill.

6.5 Upon termination, all rights and licences granted to you under these Conditions automatically cease and you are immediately required to cease all use of the Company Trade Marks and other intellectual property rights owned or licensed by us. For the avoidance of doubt, you shall not be entitled to use any of the Company Trade Marks, including "CPD Certified", on any website, document or other materials following termination and must procure that any third parties who are marketing on your behalf also comply with this clause 6.5.

## 7. OUR LIABILITY

7.1 To the fullest extent permitted by law, the Company, and any third parties connected to us: (a) shall only be liable to you as a Member for the losses we cause directly arising from your exercise of any rights granted to you under these Conditions. We are not liable for any Member loss of profit or other indirect loss. We are not liable for matters outside our control;

(b) hereby expressly exclude all conditions, warranties and other terms which might otherwise be implied by statute, common law or equity.

7.2 Where you or others contribute to your loss, then we will be liable only for a fair proportion of your loss (subject always to the maximum specified in clause 7.3), taking into account your own actions and those taken by others.

7.3 Subject to clauses 7.1 and 7.2 our aggregate liability to you as a Member in respect of claims arising out of or in connection with these Conditions or any collateral contract, whether in contract or tort (including negligence) or otherwise, shall in no circumstances exceed 200% of the total Annual Fee paid by you, the Member, in the year in which the claim arises.

7.4 Nothing in these Conditions shall have the effect of excluding or limiting any liability for death or personal injury caused by negligence or for fraud.

## 8. INDEMNITY

8.1 You as a Member, shall indemnify us, the Company, against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation, and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by us arising out of or in connection with any breach of these

Conditions or applicable law by you including (but not limited to) any breach of any provisions relating to the licensing of the Company Trade Marks or other intellectual property to the you or out of our use, review and certification of any CPD Materials.

## 9. CONFIDENTIALITY

9.1 Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 9.2.

9.2 Each party may disclose the other party's confidential information: (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information will comply with this clause; and (b) as may be required by law, court order or any governmental or regulatory authority.

9.3 No party shall use any other party's confidential information for any purpose other than to perform its obligations under these Conditions.

## 10. DATA PROTECTION

10.1 In this clause 10, Data Protection Legislation means the General Data Protection Regulation (EU 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK including the Data Protection Act 2018.

10.2. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

10.3. The parties acknowledge that for the purposes of the Data Protection Legislation, in relation to any course delegate Personal Data ("Delegate Personal Data") that is processed by the Company, the Member is the data controller and the Company is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

10.4 Without prejudice to the generality of clause 10.2, the Member will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Delegate Personal Data to the Company for the duration and purposes of this agreement.

10.5. Without prejudice to the generality of clause 10.2, the Company shall, in relation to any Delegate Personal Data processed in connection with the performance by the Company of its obligations under this agreement: (a) process that Delegate Personal Data only on the written instructions of the Member unless the Company is required by law to process Delegate Personal Data (Applicable Data Processing Laws). Where the Company is relying on Applicable Data Processing Laws as the basis for processing Personal Data, the Company shall promptly notify the Member of this before performing the processing required by the Applicable Data Processing Laws unless those Applicable Data Processing Laws prohibit the Company from so notifying the Member; (b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Delegate Personal Data and against accidental loss or destruction of, or damage to, Delegate Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or

accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Delegate Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it); (c) ensure that all personnel who have access to and/or process Delegate Personal Data are obliged to keep the Personal Data confidential; and (d) not transfer any Delegate Personal Data outside the European Economic Area. (e) destroy any submitted Delegate Personal Data after it has been processed for the purposes of issuing delegate attendance certificates at events run by you that have been previously CPD Certified.

## 11. GENERAL

11.1 These Conditions and the documents referred to in them constitute the whole agreement between the Company and the Member and supersede all previous agreements between us and you relating to their subject matter.

11.2 You acknowledge that, on applying to be a Member, you have not relied on and shall have no right or remedy for any statement, representation or warranty other than as expressly set out in these Conditions. Nothing in this clause shall limit or exclude any liability for fraud.

11.3 We may vary these Conditions at any time. The publication date of this version is specified in the heading. Variations take effect on the next automatic renewal of your membership, following the publication date. No variation of these Conditions by you shall be effective unless it is agreed in writing and signed by both parties.

11.4 No person other than we, the Company or you, the Member shall have the right to enforce these Conditions.

11.5 Nothing in these Conditions establishes any partnership or joint venture between the parties, constitutes either party the agent of another party, nor authorises either party to make or enter into any commitments on behalf of the other.

11.6 No failure or delay by us in exercising (or partial exercise of) any right or remedy available to us under these Conditions or at law shall constitute a waiver of that right or remedy or restrict its further exercise.

11.7 If any court or competent authority finds any provision of Conditions to be invalid, illegal or unenforceable, that provision shall, to the extent required, be deemed to be deleted, and the remaining provisions of these Conditions shall not be affected. If any relevant provision would become valid, enforceable or legal if part of it were deleted, it shall apply with the minimum modification necessary to make it legal, valid and enforceable.

11.8 These Conditions (and any related disputes or claims) shall be governed by and construed in accordance with English law and the parties hereby irrevocably agree to the exclusive jurisdiction of the English courts.