



# Terms and Conditions for work undertaken by *Safety 4 HEd*

Date: 29 May 2020 – Version 4.6

## Introduction

These general terms and conditions apply to all work undertaken by *Safety 4 HEd*, unless they are overwritten by specific contract arrangements to deliver defined services.

This document will be revised from time to time and the version published on the *Safety 4 HEd* website will always be the current version.

This version is version 4. Please note that many section numbers have changed in this version.

*Safety 4 HEd* is the trading identity of *Safety 4 HEd LLP*, registered with Companies' House (number OC352672). For further details please refer to the legal pages on the *Safety 4 HEd* website at [safety4hed.co.uk](http://safety4hed.co.uk).

These revised terms and conditions come into force immediately on being published for all new contracts, and from the 31 August 2020 for all ongoing contracts.



# Contents

Introduction.....	1
A Services.....	3
A.1 General Advice.....	3
A.2 Audits and Inspections.....	4
A.3 Investigation Services.....	5
A.4 Training Services.....	6
A.5 Expert Witness Services.....	7
A.6 Company Safety Support Service.....	8
A.7 Confidentiality and Quality of Our Services.....	8
B Fees, Invoices and Payments.....	10
B.1 Fees.....	10
B.2 Expenses.....	10
B.3 Additional and Further Work.....	11
B.4 Payment of invoices.....	12
B.5 Discontinued work.....	13
C What you sign up to.....	15
C.1 Health and Safety Law.....	15
C.2 Data Protection and Freedom of Information.....	15
C.3 Documents and Contract Information.....	15
C.4 Not for Resale.....	16
C.5 Copyright.....	16
C.6 Photographic and Documentary Evidence.....	16
C.7 Disclosure.....	17
C.8 Threatening and offensive behaviour.....	17
D Details.....	18
D.1 Types of Contract.....	18
D.2 Terminating your contract.....	18
D.3 Disputes.....	18
D.4 Limitations.....	19
D.5 Notices.....	19
D.6 Force Majeure.....	19
D.7 Currency of Contract.....	20
D.8 Retention of ownership.....	20
D.9 Our Insurance.....	20
D.10 Subcontracting.....	21
D.11 Definitions.....	21



# A Services

This section defines the services that can be provided under our contracts. These services may be contracted individually or as part of a long-term service contract. In both cases the terms in this section are the same.

## A.1 General Advice

**General advice** includes advice on any health and safety\* issue by email or telephone (subject to availability\* and fair use\*). The details of the consultants used will be provided upon the Client's request. Details of our Partners' experience and qualifications are available from the **Safety 4 HEd** website.

\* See on for specification

General advice is limited to the information and advice that can be delivered without an on-site visit or advice that does not fall into the other specified classes of service laid out below. It specifically does not include authoring documents or representing clients or companies.

A contract for general advice can be made verbally (subject to confirmation by email) or via email or a web request form.

Charges for general advice services will only be made if the time required is significant or if the service is part of another contract. As a result many minor\* contracts are not subject to charges.

\* For work taking 45 minutes or less total

Having General Advice does not constitute us being your named competent person. See section A.6 for more details.

### A.1.1 Accident and Incident Reporting

*RIDDOR* require that certain types of accidents are reported to the *HSE* or the relevant *Local Authority*. The rules governing what to report and when reporting is not required are not always very clear and can require considerable interpretation. It is a criminal offence to fail to report an accident that should have been reported. It may also give a false impression of the company if accidents are reported that did not need to be reported.

**Safety 4 HEd** will assist you in undertaking reporting of accidents to the *HSE / Local Authority(s)*. The assistance will be in the form of advice on wording, contents of the report and whether the incident is really reportable. This type of information may also be useful when dealing with Insurance Companies (who need reasonably full and accurate reports but who are not always transparent about their requirements).

Please note that we cannot report incidents for you. Also note that the HSE reporting system no longer automatically provides PDF copies of reports so you will need to print to PDF and save your report as part of your reporting process.
--

If you are familiar with accident reporting and you just need quick clarification (which does not require on-site visiting or longer than 45 minutes), you can use the General Advice route, which is

free (see section above). If you require longer than 45 minutes, a charge will be incurred, see section B for details.

## A.2 Audits and Inspections

*Safety 4 HEd* can undertake a range of different types of inspections and audits to meet your specific needs.

Inspections are generally visits to site to look at and appraise specific health and safety matters. They are not investigations. They may also be a necessary part of the Audit process to enable validation of the management processes.

### A.2.1 General Safety Audits

Our default General Audit process follows the *HSE* published *HSG65* standard. Other standards can be accommodated (including the University *Hasmap* standard) on request if you also provide copies of the materials and standards you want used. If we should be required to purchase standards documents, these costs would be added to the cost of the audit.

### A.2.2 Specialist Audits and Inspections

We will undertake specialist audits and inspections, for example for Fire Risk Assessments, and for these we will follow appropriate guidance and standards. We will only contract to undertake an audit or inspection that is within our skills. If you require a specialist audit or inspection that we are not able to offer, then we will endeavour to find you a suitably competent contractor to fulfil your needs. You will need to appoint this contractor separately to your contract with us.

### A.2.3 Standards

Every effort will be made to comply with the latest (applicable) published audit standards when undertaking audits. However, *Safety 4 HEd* does not guarantee absolute compliance with any of the published standards documents, as professional judgement and experience are a large part of the audit process.

This means that in some instances our judgement may vary the interpretation of some audit clauses or the interpretation of some of the output conclusions.

For example:

- we will not provide “red” scores in audits where there is a clear and documented intent to demonstrate compliance but some paperwork is not present at the time of the audit;
- we would not absolutely apply escape distances in fire audits where there is a clear common sense reason not to do so (for example, the excess distance is relatively small).

## A.2.4 Stand Alone Inspections

These can be undertaken on request to give assurance that matters on-site are compliant with the management documentation and legal requirements, and if they were not, to identify actions that may be required to correct the workplace conditions. They can be undertaken for general health and safety matters or for many specific topics or issues (including: COSHH, Fire, Lab Safety, Manual Handling, and many other specific issues).

## A.2.5 Requesting an Audit or Inspection

All audits and inspections are required to be requested in writing (by email, web form or letter). In all cases the requesting person must have been provided with authority to make the service request. In the case of long-term clients, the request would normally be made by the lead contact person (or persons) listed on the contract form.

## A.2.6 Reports

Audit and Inspection reports come in several different types depending on the nature of the service request. In general there will be an offer for shorter or longer reports depending on your needs. The type of report requested should be considered and agreed prior to booking the service.

# A.3 Investigation Services

Investigation of incidents may be recommended by **Safety 4 HEd** on occasions and you as a client will be strongly recommended to undertake an investigation.

If you require your investigation to be covered by *Legal Privilege* you will also need to appoint a solicitor to instruct that the investigation is undertaken. We can advise you on the process if needed.

### A.3.0.1 Undertaking Your Own Investigation

We can advise you on undertaking your own investigation. We can also assist you with any reports that you need to file to the *HSE / Local Authority* as a result of your investigation. This assistance is able to be provided as part of the General Advice service. Whilst we will take every care and will provide you with optimal information to the best of our ability, in assisting you to undertake your own investigation **Safety 4 HEd** cannot be held responsible for the findings or interpretation as the investigation and report are your own.

### A.3.1 **Safety 4 HEd** Investigating for You

If you want **Safety 4 HEd** to provide you with an investigation into an incident (accident, complaint, dangerous occurrence etc.) or into a series of incidents that did not initially seem so important, then we can do this for you. This will be a specific contract to act on your behalf, and is different from the normal general advisory services. The contract will be limited to investigating the root causes and conditions that caused the incident(s) and providing guidance on the corrective actions needed to resolve the situation.

Occasionally other matters will be identified as part of the investigation process. These may be followed up (if you request so) as a General Advice or Inspection service. Additional charges would only apply if there was a significant element of additional work involved to do this for you.

### A.3.2 Appointment to Investigate

Investigations will only be undertaken following a specific instruction (and authority) to investigate. This may be provided by email or web form or in the form of a letter of request. In extremis, the appointment can also be made by video or audio recording, followed up by written confirmation.

### A.3.3 Permission to Obtain Evidence

Implicit in the request to investigate is permission to access all areas necessary for the investigation, to talk to all staff and contractors as needed, and to have access to all documentation that the investigator deems necessary. Failure to provide access to facilities, people or records will constitute a breach of contract and may result in the investigation being terminated with fees due (see part B.5 of this document).

Implicit to the contract to investigate is the permission to make any records (paper, electronic, photographic, audio, video or instrumental) as part of the investigation. It is understood that there may (in exceptional circumstances) be valid reasons for some equipment to not be able to be used in all areas (for example, in explosive atmospheres). All records are strictly confidential to **Safety 4 HEd** and may be disclosed to the client or destroyed at the discretion of **Safety 4 HEd**.

All photographs that are collected by **Safety 4 HEd** may be used by **Safety 4 HEd** for their purposes in any way deemed fit, provided that they do not reveal confidential matters or the identity of the client.

### A.3.4 Reports

Investigation reports come in several different types depending on the nature of the service request. In general there will be an offer for shorter or longer reports depending on your needs. The content of the report can also be tailored to suit your needs, including legal analysis, incident costings, possible consequences, and many other specific elements. The type of report requested should be considered and agreed prior to booking the service.

## A.4 Training Services

Safety Training is an essential feature of any health and safety management system. **Safety 4 HEd** can provide training and assist you with identifying trainers where we are unable to provide courses for a specific need. We maintain a wide range of courses that are individually tailored to your needs, including train-the-trainer levels, and can assist you with developing in-house courses or support those in your institution who need to obtain safety qualifications.

## A.4.1 Training Records

It is a statutory requirement that you provide staff with all necessary safety training. Therefore you need to record the training you have provided in order to demonstrate that you have complied with your duties. *Safety 4 HEd* will keep records of the courses we have delivered. The length of time that records are kept is subject to our data retention policies. If you want us to maintain those records for a specific time (or delete them after a specific time) then you need to communicate that to us either when ordering the training, or by making a GDPR request.

## A.4.2 Course Assessments

Attendees on many of the *Safety 4 HEd* courses may be required to complete a course assessment (test, assignment or some other form of evaluation) before they are deemed to have successfully completed the course. These papers and evaluations are retained by *Safety 4 HEd* for a reasonable yet limited amount of time, but are not normally provided to the client. The outcomes will be provided as part of the certification process.

## A.4.3 Certificates

Electronic certificates will be provided on successful completion of the relevant courses (this may be delayed until payment has been received in full for the course). These will be issued free of charge in the first instance, and will be sent to the contact person (not directly to the attendees). Subsequent issue of duplicate certificates or requests for paper certificates will incur a charge.

## A.4.4 Ordering a Training Course

All courses need to be ordered in writing, by email, web form or letter. The nature of the course and other details will then be mutually agreed before a final proposal is provided to the client. It is often the case that clients may add further courses and request additional or changed dates under the agreement. These are subject to availability and it is strongly recommended that dates are provisionally booked using the availability web form prior to confirming the courses.

## A.5 Expert Witness Services

*Safety 4 HEd* provide expert witness services to solicitors and others on a wide range of issues. These are always required to be ordered in writing by a letter of appointment from the requesting solicitor. Where non-solicitor clients are requesting an expert opinion or report, a similar letter of appointment will still be required (we can provide you with suggested text). The letter will need to specify the issue for which the opinion is requested upon and to act as cover to the documentation involved in the case. If inspections or investigations are also required, then they will be undertaken as part of the expert service rather than as a separate service.

## A.5.1 Reports

Expert Witness reports come in different formats depending on the nature of the service request. The type of report requested should be considered and agreed prior to booking the service.

## A.6 Company Safety Support Service

Under the Management of Health and Safety at Work Regulations you are required to have a Competent Person to provide health and safety advice for your company. **Safety 4 HEd** can act as your *Safety Advisor* under the Management of Health and Safety at Work Regulations. This will require a specific additional contract that defines the services you are requesting within the context of being your Safety Advisor. As your Competent Person we do not take on your management responsibilities but help you to fulfil them yourself in compliance with legal and best practice standards.

Note: This is a separate service from the others identified in these general terms and conditions. This section (A.6) is provided for information only. Companies taking up this service will be automatically provided with substantial discounts when ordering from the other service elements detailed in this general terms and conditions document.

## A.7 Confidentiality and Quality of Our Services

### A.7.1 Confidentiality

**Safety 4 HEd** agrees that during the course of our work, while under our contracts, we are likely to obtain knowledge of trade secrets and also other *Confidential Information* with regard to the business and financial affairs of our Clients', specifically information which is not in the public domain, and accordingly we hereby undertake to and covenant that **Safety 4 HEd** shall not:

- use the *Confidential Information* other than during the continuance of our contract with the Client and in connection with the provision of the Services; nor
- at any time (save as required by law, for example for a police or HSE investigation) disclose or divulge to any person other than to officers or employees of the Client's any *Confidential Information*.

Although these restrictions formally cease to apply to information or knowledge which comes into the public domain, **Safety 4 HEd** will endeavour to act as if they were in force.

To help understand the difference:

Documents provided by clients, or about clients, are treated as *Confidential Information*.

Documents provided to clients from third parties (e.g. materials sourced from the web) are not *Confidential Information*.

### A.7.1.1 Permission

**Safety 4 HEd** may request permission to reveal the identity of clients to aid with marketing and to provide references for other projects. We will only release the information permitted under such a permission.

### A.7.1.2 Photographs

All photographs that are collected by **Safety 4 HEd** may be used by **Safety 4 HEd** for their purposes in any way deemed fit, provided that they do not reveal *Confidential Information*, nor the identity of the client.

To help understand the difference:

Photographs taken by **Safety 4 HEd** which do not show identifying features (such as company names or addresses) are not *Confidential Information*, whilst any that do show *Confidential Information* or company identifications are *Confidential Information*.

## A.7.2 Quality and Competency of our provision

When undertaking the provision of services to the Client, **Safety 4 HEd** shall maintain the following basic standards:

- We shall carry out the Services in an expert and diligent manner and provide our services to the best of our commercial, technical and creative skill.
- To the best of our ability, **Safety 4 HEd** will fulfil all lawful and proper requests made to us by the Client.
- **Safety 4 HEd** may decide to delegate performance of our Services to suitably qualified and experienced personnel, as we may from time to time deem appropriate, if we are unable to perform the services due to circumstances beyond our control. [The delegation will be subject to the Client's consent, which will not be unreasonably withheld]. This is subject to the Force Majeure clause.
- We will keep the Client informed of progress on the Services for which **Safety 4 HEd** are engaged.



## B Fees, Invoices and Payments

### B.1 Fees

The fees will be agreed in advance and any additional work priced separately. The fee includes all the work listed in the contract, but does not include expenses.

All fees fall due on the day after completion of the work or the stage of work (depending on the contract), and are invoiced and paid in arrears. There may be a few days' delay sending invoices to assist with covering annual holidays (such as New Year) or weekends.

#### B.1.1 Service

The invoice will specify the service/s that have been provided, the service fee/s and the means of provision. If clients want highly itemised invoices, they can request this but will need to do so before the service is commenced.

Time spent travelling (after the first hour) solely for the purpose of delivering the contracted service is chargeable at the general advice rate (which is generally lower than the special service rates).

#### B.1.2 Documents Provided by *Safety 4 HEd*

For services where documents are provided (except certificates) by *Safety 4 HEd*, PDF files are free of charge and one paper copy will be provided for free on request. Subsequent copies will be charged for. If any such documents are requested in other formats (including editable formats) charges may be made (to be agreed at the time of request).

If subsequent requests for files (including PDF files) are made, *Safety 4 HEd* reserves the right to charge for their provision. Editing of copies is not included. A new order will be required for any previously issued documents requiring editing.

For current printing rates please refer to the information below. These rates may be subject to change separately from this contract document and are provided as a guide only.

- Documents at 20p per page, minimum £2.00 per document.
- Postage at cost.

### B.2 Expenses

These are charges that arise from matters that do not fall into the general time tariffs. These include (but are not exclusively limited to):

- travel and subsistence; and
- other fees incurred on behalf of the client.

Travel and subsistence expenses will be charged in accordance with standard rates whilst all other expenses will be fully itemised (and only incurred with prior agreement with the client).

## B.2.1 Travel Charges

Travel is measured from *Safety 4 HEd's* office to the Client's location and back using the AA website. This distance will be used regardless of the real distances involved (which may be considerably longer).

The current mileage rate is 45p/mile (as specified by the HMRC website).
--

## B.2.2 Subsistence Charges

Subsistence charges are only made when the travel requires an estimated start time before 0600Hrs or an estimated return to base time after 2000Hrs. In this case the overnight charge will become relevant (for the night before or after the work as appropriate). This will apply unless another arrangement is specifically agreed in advance. There are no other charges for accommodation or subsistence.

The current overnight rate is £120 per night.
---

## B.2.3 Permission

Expenses will not be incurred without permission from the Client, which may be verbal (as in the cases of a request to attend site in an emergency) but will normally take the form of an email or written request / agreement. These may be for any additional expense, including items such as purchase of books or other materials, contracting an external specialist, and arranging access to other systems or services.

Generally, expenses are charged without a mark-up, but *Safety 4 HEd* reserves the right to add a mark-up where the provision of the additional materials becomes time consuming or involves significant outlay of capital. Such mark-ups will require advance permission and will not exceed 20% of the value of the items procured.

## B.3 Additional and Further Work

Sometimes undertaking work exposes the need for more services to be provided. This comes in two broad classes: Additional work, which is when more of the same is needed; and Further work, when a different type of work is required.

### B.3.1 Additional Work

In principle, 'Additional work' will attract any discounts already agreed for the main project and will carry forwards the same fee agreed with the main contract. 'Additional work' may simply be added to the planned invoice, or if the additional work significantly extends the period of the project, a separate invoice, or staged payments, will be raised.

## B.3.2 Further Work

Further work of a different type (for example training that results from an inspection or investigation) will be raised as a new project, but will not be 'Additional work'.

Further work requested after the end of a contract will be raised under a new contract and will not qualify as 'additional work'.

## B.4 Payment of invoices

All work is undertaken under the terms of a contract, which will include a fee and the terms for paying that fee. Several payment options will normally also be available. Any client requests for specific terms or arrangements need to be agreed and in place prior to the contract being commenced, or the following requirements will apply.

Invoices are normally generated the day after completion of the project, or after the completion of a stage of the project. **All invoices are in arrears.** Additional work and all expenses will be included in the itemised invoice. It is noted that for payment of invoices *time is of the essence* and that there are penalties for unauthorised late payment or failure to pay.

### B.4.1 Payment Terms

Invoices are required to be paid within 32 calendar days. Failure to pay within 32 calendar days may result in the loss of any discounts provided. The 32-day term was set to enable smaller companies to run monthly cheque runs. On request, you can opt for payment by card via our secure third-party portal. In these instances the payment terms will be 14 calendar days.

### B.4.2 Card Payments

Clients may request to pay via our secure third-party card payment portal. The additional costs of this will not be added to the client's invoice unless they fail to pay in the 14 calendar days provided. If a reminder invoice is required, an administration fee of 10% will be added to the invoice.

### B.4.3 Staged Payments

Sometimes it is agreed (for longer projects) to make staged payments for work as the project proceeds. These may be on completion of a specific sub-task or monthly, for the time worked during that month. These arrangements will be part of the specific contract for the work. Conditions for payment of invoices under staged payments are identical to any other invoice.

### B.4.4 Capping

We are committed to sending you as few invoices as we can (so far as practicable) and because of our generous arrangements, it is possible for payments to be substantially delayed. Therefore we maintain the option to require payment prior to further work being undertaken should outstanding invoices exceed £2000.

## B.4.5 Late payments

Unauthorised late payments (those not settled in full within 32 calendar days from the date of invoice) **will have discounts removed**. If you anticipate problems in achieving the 32-day terms, please contact us in advance and some flexibility may be agreed. Failure to make an agreed variation in advance will result in the loss of discounts.

If a Client fails to pay within the 32 calendar days stipulated, a reminder invoice is raised. This new invoice adds the value of the lost discounts and has a different term of payment, needing to be paid in full within 14 calendar days.

Should a Client fail to pay a reminder invoice within the 14 days stated, then a Second reminder will be issued with an additional **late payment charge** of £40 added. Late payments may become subject to interest in accordance with the Late Payment of Commercial Debts legislation, (interest at bank base rate plus 8%, calculated using the [payontime.co.uk/late-payment-legislation-interest-calculators](http://payontime.co.uk/late-payment-legislation-interest-calculators) calculator).

Extensions for payment may be agreed. Any requests must be made in writing to a Director of *Safety 4 HEd*.

Any costs incurred in pursuing late payments will be added to the invoice in full.

## B.4.6 Discounts

Discounts on fees may be provided, at the sole discretion of *Safety 4 HEd*. Discounts do not apply to special rates agreed for non-tariff work.

Late payment of invoices will result in loss of the discounts provided.

## B.4.7 Communication for invoices

All invoices are issued as PDF documents provided by email to the address on the contract document. If the Client requires additional people to be included in the communications for invoices and receipts, then they are required to inform *Safety 4 HEd* in writing so that this can be added to the invoicing documentation systems.



## B.5 Discontinued work

### B.5.1 General Consultancy Projects

In the very unlikely event that it is decided (by either side) that once an order has been placed, work on a project should be discontinued, the client will be required to pay for work undertaken in accordance with the following chart. In addition, the Client will be required to pay all expenses and project costs to that date (even if materials or equipment ordered have not yet been used).

Amount of project undertaken	% due to <i>Safety 4 HEd</i>
No work yet undertaken	40% of fee
0% to 25% of project undertaken	50% of fee
26% to 50% of project undertaken	75% of fee
51% to 75% of project undertaken	90% of fee
76% to 100% of project undertaken	100% off fee

This fee will be based on the value of the project with **no discounts applied**.

### B.5.2 Training Projects

In the very unlikely event that it is decided (by either side) that once an order has been placed, work on a training course should be discontinued, the client will be required to pay the costs of the course in accordance with the following table, along with any expenses already incurred (such as purchase of specific books or materials that are required for the course concerned).

Time before course due	% due to <i>Safety 4 HEd</i>
Over six weeks notice	No charges will be made
More than four weeks notice	25% of the fee
More than two weeks notice	50% of the fee
Less than two weeks notice	100% of the fee

This fee will be based on the value of the project with **no discounts applied**.



## C What you sign up to

### C.1 Health and Safety Law

Under the Management of Health and Safety at Work Regulations you are required to have a Competent Person to provide health and safety advice for your company. **Safety 4 HEd** does **not** act as that competent advisor unless you have contracted the Company Support Service (under a separate contract).

In general, and with regards to all other contracts considered in these Terms and Conditions, **Safety 4 HEd** limit our responsibility to the provision of relevant advice (when requested) and to the provision of the specific ancillary services. This does not extend to enacting advice or any direct management role. All duties under the “Health and Safety at Work etc. Act 1974” and all relevant statutory provisions remain the sole responsibility of the Client company.

### C.2 Data Protection and Freedom of Information

**Safety 4 HEd** is registered with the Information Commissioners Office to hold data on our Clients and on individual people for the purposes of providing a Health and Safety consultancy service. In signing one of our contracts, you will be agreeing to provide the necessary personal data to us so that we can perform the services, and we agree not to disclose the data to other persons except as required under statute, or with prior authorisation.

As a private company, **Safety 4 HEd** are not subject to the majority of Freedom of Information disclosure requirements. However, if your company is subject to these requirements, we will regard ourselves as bound by those arrangements and will assist you to answer any questions put to you.

### C.3 Documents and Contract Information

All clients are required to provide **Safety 4 HEd** with any health and safety-related documents that are requested. In addition, all clients are required to provide the following documents and any amendments to them as they are made:

- Health and safety policy
- Health and safety management procedures
- Critical Risk Assessments

## C.4 Not for Resale

None of the services or materials provided by *Safety 4 HEd* as part of our contracts are to be re-sold to third parties without the express advance written permission of *Safety 4 Hed*.

If this term is breached, we reserve the right to charge at premium rates for the goods or services involved and for any additional time.

## C.5 Copyright

The copyright of all authored documents remains the sole property of *Safety 4 HEd* unless otherwise explicitly stated in the document, or under any of the exceptions listed below. This includes all photographs taken by *Safety 4 HEd* during the course of their work.

Exceptions to *Safety 4 HEd* copyright:

- Clients' own materials.
- Documents published by Government or other bodies (these will have the appropriate copyright statements provided, along with the appropriate citation or in a separate reference list).

## C.6 Photographic and Documentary Evidence

Copies of all documents and photographs collected during an investigation may be kept on file at the discretion of *Safety 4 HEd* for up to five years from the date that the investigation was last referenced. We reserve the right to delete materials earlier. These include all statements, images (photographs, sketches, including text descriptions of images etc.), documents, records, and any other type of materials.

We do this so that, if we are called to act as witnesses in future cases, we will have our own independent records of what was looked at, evaluated, and used in the investigation. This is not to be relied upon as a source of information for the client (you should also have your own records), but you may find it very helpful in a civil or criminal case.

Maintaining these files is an additional benefit to you and **not** a part of the contractual service, and so we are under no obligation to maintain this as a part of the service. **This is clearly stated to remind you that your documents are your responsibility and we are not providing a document storage service.**

If a client cancels a contract before completion, the documents held on file may be deleted before the normal time.

## C.7 Disclosure

### C.7.1 Legal Breaches discovered

In the event of the discovery of general legal breaches, **Safety 4 HEd** will inform the Client that they have an issue that needs to be resolved. We will often also provide some limited guidance on the possible solutions.

For all serious and imminent breaches, we will endeavour to find an immediate solution so that the site is left in a safe state. However, this is not always possible (especially when investigating out of hours or in very remote locations).

In the event of a very serious breach of law that puts people at serious risk, **Safety 4 HEd** reserves the right to directly contact the relevant enforcing authorities on behalf of the Client or in our own name. In such cases, we will always inform the Client that we have done this, why, and to whom we provided the information.

We also provide guidance on managing staff and passing-on of sensitive information to minimise the impact of any situations on your organisation and its reputation.

### C.7.2 Disclosure of Reports

All reports made for organisations are liable to be provided to the HSE or any other relevant enforcing authority, should they request such information using their various legal powers. **Safety 4 HEd** does not undertake, or have the legal authority to undertake, to provide client confidentiality in the face of a legal demand for documentation from enforcing authorities.

The only exception to this is for reports made under *legal privilege* to a solicitor (typically Expert Witness reports), which will only be released if permission is provided by the relevant lawyer. See *section A.3* above.

## C.8 Threatening and offensive behaviour

**Safety 4 HEd** will not tolerate threatening or offensive behaviour towards its staff or agents. In the event of serious breaches of this clause, the contract may be cancelled with full costs due to be paid by the Client.



## D Details

This section provides numerous details that do not readily fit into the other sections. These details are still part of the contract and often form the definition to interpret the other parts of this document.

### D.1 Types of Contract

*Safety 4 HEd* make many contracts but they tend to fall into two groups. Long-term contracts to deliver (often unspecified) services over a long time, potentially many years, and single-issue contracts to deliver one specific service.

Any contract may have variations in the terms and conditions if agreed in advance, and those variations will remain regardless of changes in this general terms and conditions document. Anything that is not bespoke to the contract (agreed in advance) is to operate under these general terms and conditions.

### D.2 Terminating your contract

#### D.2.1 Client's decision

Clients may terminate a contract at any time by giving **at least two weeks' notice** in writing to *Safety 4 HEd*. The fees that are due for short notice cancellation are specified in *section B.5*.

If the company engaging *Safety 4 HEd* enters into administration, becomes bankrupt or is closed for any other reason, this will be treated as a Client's decision to end the contract as detailed above.

#### D.2.2 *Safety 4 HEd's* decision

*Safety 4 HEd* may decide to terminate a contract for any reason we see fit. If we decide this, then we will provide **at least two weeks' notice** in writing and will not charge any fees from the date of notice. If we are required to cancel training sessions or other attendances at short notice (for example due to illness) we will endeavour to provide alternate arrangements or will make restitution as per *section D.3.1*.

## D.3 Disputes

Any complaints about our service are to be raised as soon as is reasonable (complaints are only considered during the three months immediately following the date of the alleged failing that the complaint is about) so that we have the best opportunity to correct any issues and reach an amicable solution. If we are unable to find a suitable solution, then our internal dispute-resolution procedure

will apply (copies available on request). Should this be insufficient, then mediation will be sought via a civil claims professional or ultimately the civil courts. The costs of any external mediation or court action will be added to the fees for the project.

### D.3.1 Limitation of liabilities

In the event of any claim against **Safety 4 HEd** (for us cancelling a contract or training session) our liabilities shall be limited to the cost of the basic service that was contracted (less any discounts offered).

## D.4 Limitations

The Services of **Safety 4 HEd** are services **to assist you in undertaking your statutory duties**. **Safety 4 HEd does not become responsible or liable for the duties or tasks involved** by means of our contract.

## D.5 Notices

All notices shall be in writing and shall be deemed to have been duly given when delivered by hand, or by first class post to the intended recipient at the address stated in the contract, or by email to the relevant address specified in the contract.

## D.6 Force Majeure

If either party to our contract is prevented or delayed in the performance of any of its respective obligations under the contract by “force majeure”, then such party shall be excused the performance for so long as such cause of prevention or delay shall continue.

For the purpose of this contract ‘force majeure’ shall be deemed to be any cause affecting the performance of the contract arising from or attributable to acts, events, omissions or accidents beyond the reasonable control of such party and inter alia including, but not limited to the following:

- strikes, lockouts or other industrial action;
- civil commotion, riot, invasion, war threat or preparation for war;
- fire, explosion, storm, flood, earthquake, subsidence, epidemic, extreme bad weather or other natural physical disaster;
- inability to use railways, shipping, aircraft, motor transport or other means of public or private transport; and
- political interference with the normal operations.

## D.7 Currency of Contract

*Safety 4 HEd* reserves the right to vary the terms and conditions from time to time. Variations will be notified **at least two weeks in advance** of the changes.

### D.7.1 Law and Jurisdiction

Our contracts are governed by the laws of England and Wales and the parties submit to the exclusive jurisdiction of the Courts of England and Wales.

### D.7.2 Severability

If any provision of our contracts is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the contract shall continue in full force and effect as if this contract had been executed with the illegal or unenforceable provision eliminated.

### D.7.3 Waiver

Failure of any party to insist upon strict performance of any provision of a contract, or the failure of any party to exercise any right or remedy to which he or she is entitled under the contract, shall not constitute a waiver of the conditions and shall not cause a diminution of the obligations under this contract.

No waiver of any of the provisions of the contract shall be effective unless it is expressly stated in writing and agreed to by both *Safety 4 HEd* and the Client.

## D.8 Retention of ownership

All materials, goods and documents remain the property of *Safety 4 HEd* until such time as they have been paid for in full (and a receipt issued). The copyright of all *Safety 4 HEd* documents will be retained by *Safety 4 HEd* unless specifically stated in the provision contract. The intellectual property rights for all other materials will belong to the specific owners and are not affected by this provision.

Rights under the Sale and Supply of Goods Act 1982 (as amended) are not affected by this contract.

[See [www.legislation.gov.uk/ukpga/1982/29](http://www.legislation.gov.uk/ukpga/1982/29) for the full text of the Act, as amended.]

## D.9 Our Insurance

*Safety 4 HEd* carries insurance for all our activities including Professional Indemnity insurance and Public Liability insurances. Copies of the insurance documents can be made available on request.

## D.10 Subcontracting

Normally *Safety 4 HEd* does not use subcontractors but may make referrals to other service providers.

### D.10.1 Subcontractors

*Safety 4 HEd* reserve the right to use carefully selected subcontractors. These are working directly for *Safety 4 HEd* and under our terms and conditions, so your tariffs and arrangements will be maintained with minimal or no disruption. Any subcontractors will have suitable qualifications and experience, as well as the professional indemnity and public liability insurances legally required to undertake the work for which they are engaged. Only the data necessary for them to perform their function will be disclosed to them, and all contractual contact will be via *Safety 4 HEd* and under our rules (including confidentiality).

### D.10.2 Referrals

*Safety 4 HEd* may provide suitable referrals for some services. These are made so that our clients can have a one-stop-shop service. However, *Safety 4 HEd* is not directly contractually involved in the provision of any further service once the referral is made.

Under some circumstances *Safety 4 HEd* may offer discounts and may be in receipt of referral fees for making referrals. We will always be open and honest about any such arrangements and will happily explain the processes involved in specific cases on enquiry.

## D.11 Definitions

### D.11.1 Client

Unless the context demands otherwise, the term Client will only refer to the person / company or organisation identified on the final page of this document. The terms “you”, “your” and similar words, refer to the Client unless the specific context demands otherwise.

### D.11.2 Contract

This means any formal tender or order that is accepted, any email offer that is accepted, and any other formal or informal agreement for *Safety 4 HEd* to provide specified services to a specified client for a specified sum, which has been written on paper or in an email. There is no requirement for documents sent by email to be signed provided that they are sent from a named 'personal' work email account (i.e. not an account to which a group of people have or may have access).

### D.11.3 “Health and safety”

Health and safety services are defined as those that relate to the “Health and Safety at Work etc. Act 1974” or the “relevant statutory provisions” made (or taken) under the Act. They do not include matters wholly under the Environmental Protection Act or any other legislation.

### D.11.4 “Availability”

*Safety 4 HEd* will endeavour to provide support services at any reasonable time to its contracted clients. However, there will inevitably be some occasions when the telephone support is unavailable due to other demands on our time or when the email communications will be answered more slowly than normal. This is inevitable whilst providing a service to a range of clients, especially in an area of work where prompt response to accident and other unplanned incidents is required. Overall we need to provide the same high-quality service to all our clients, and so may need to limit support, though only in the case of clients who make excessive demands on our resources.

### D.11.5 Web forms and web space

We make use of web forms on our website and may also provide access to files via our dedicated web space. Some forms may require password access. It is your responsibility to ensure that the data provided on the web forms is accurate and that your passwords are not shared (other than where it is stated that they can be). Passwords and web-forms are to protect your data and so it is paramount to your company privacy that you respect these features.

We reserve the right to change the forms and any interfaces to databases from time to time, as we continue to develop and improve our services to you.

### D.11.6 Dates

#### D.11.6.1 Commencement Date

This is the date for the service to be provided or commenced on, as stated on the contract document.

#### D.11.6.2 Termination Date

This is the date on which the contract is terminated, being at the end of the period of notice after a notice of termination is served by either the Client or *Safety 4 HEd*, in accordance with *section D.2* of this contract.

#### D.11.6.3 End of Contract Date

This is the date for the service to end (where specified) as defined on the original contract, or any agreed extensions to the contract.

If an end of contract date is not specified in your contract, this would be the date of the final invoice.

## D.11.7 Service

This is the totality of the provision as defined in the contract document.

## D.11.8 Confidential Information

This is information that we may have access to, which comprises trade secrets, information with regard to the business and financial affairs of the Client's, and those of the Client's clients, customers and suppliers, details of which are not in the public domain.

## D.11.9 In Writing

“In writing” means communications made on paper and posted to the address specified in the contract document, or communications by email sent to the relevant email addresses specified in the contract documentation.

Text messages will be accepted for urgent matters but must be followed-up with letters or emails to qualify as “in writing”.

## D.11.10 Proof of delivery

The delivery of written documents will be assumed 7 days after they have been sent to the contract address (or email). Should proof of delivery be required, then any of the following will be accepted:

- a reply to the communication;
- a Post Office or courier proof of delivery / receipt document (or e-document);
- an automatic email proof of delivery message.

