



# General Terms and Conditions

SoSafe GmbH

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## 1. Scope, Contracting Parties and Definitions

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- 1.1 SoSafe GmbH, Lichtstrasse 25a, 50825 Cologne, Germany (hereinafter referred to as "**SoSafe**"), offers companies, public authorities, and other organizations (hereinafter referred to as "**Customers**") the implementation of comprehensive awareness building in the area of cyber security.
- 1.2 These General Terms and Conditions including the Annexes apply to all contracts for the use of Awareness Building Services between SoSafe and the Customer.
- 1.3 The validity of general contractual or business conditions of the Customer is expressly excluded. This also applies if SoSafe has not expressly objected to the Customer's terms and conditions. Separate, bilateral agreements remain unaffected by this.
- 1.4 These General Terms and Conditions apply only to Entrepreneurs, legal entities under public law, and special funds under public law.
- 1.5 The following definitions apply to these General Terms and Conditions:

"**Awareness Building Services**" are the Service Modules offered by SoSafe and specifically defined in the respective Offer (Sec.2.1) to the Customer.

"**Confidential Information**" means all information and documents, irrespective of the way in which they are embodied or reproduced, including contractual documents, provided to one Party by the other Party, which are not publicly available or the contents of which indicate that they are obviously intended to be kept confidential. Confidential information is in particular technical, business, and other information, for example information relating to technologies, research and development, products, services, prices of products and services, customers, employees, subcontractors, marketing plans, and financial matters.

"**Customer Account**" means the account for the administration of the Platform, in particular the use of the SoSafe Manager, to be created by the Customer's employee in charge of the administration of the Platform.

"**Customer Content**" is the Customer's own content, such as PDFs, presentations, and the like, that the Customer uploads to the Platform.

"**Entrepreneurs**" are all natural or legal persons as well as partnerships with legal capacity who, when concluding a legal transaction, act in the exercise of their commercial or independent professional activity.

"**Feature Matrix**" means the description of services attached to the Proposal for the Awareness Building Services offered by SoSafe.

"**Force Majeure**" means events that could not be averted by SoSafe or Customer exercising due diligence, such as natural disasters of any kind, fire, traffic accidents, war, sabotage, strikes, and/or power outages.

"**GTC**" means these General Terms and Conditions.

"**User Account**" means the account to be created by employees of the Customer or other persons authorized under this License Agreement for the use of the Platform.

The "**License Agreement**" for the Awareness Building Services consists of the Offer, the Feature-Matrix, the Statement of Work as well as these GTC including all references. In the event of contradictions, the following order shall apply:

1. Offer
2. Annex 3 to the Offer: Feature Matrix
3. Annex 1 to the Offer: Statement of Work SoSafe GmbH
4. Annex 2 to the Offer: Data Processing Agreement

## 5. GTC

"Party/Parties" means SoSafe and/or the Customer.

"Platform" means the awareness building services offered at the URLs <https://elearning.sosafe.de> (access to the eLearning modules) and <https://manager.sosafe.de> (access to the admin and reporting dashboard).

## 2. Subject Matter and Conclusion of the License Agreement

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- 2.1 Awareness building is composed of four different building blocks (hereinafter referred to as "**Service Modules**"), some of which are supplemented by additional services and software tools. These include (i) phishing simulations, the provision of (ii) eLearning modules based on them, a (iii) phishing report button and the (iv) SoSafe Manager. Some of the Service Modules are provided as web-based software-as-a-service via the SoSafe Platform.
- 2.2 SoSafe offers the Service Modules in service packages according to the **Feature-Matrix** attached to the Offer (**Annex 3**) and the document **Statement of Work (Annex 1)**. SoSafe provides the Service Modules to the Customer to the extent of the selected service package as well as to the extent agreed in the Offer, number of Users and, if applicable, with other agreed additional services.
- 2.3 Unless otherwise agreed in the Offer, the License Agreement shall come into effect upon signature (text form is sufficient) of the Offer by the Customer.

## 3. Scope of Services

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- 3.1 During the term of the License Agreement, the Customer receives access to all functions of the booked Service Modules according to the Feature Matrix, the document Statement of Work (Annex 1 to the Offer) and to the extent as agreed in the Offer. Further services by SoSafe are not part of the License Agreement.
- 3.2 SoSafe provides the Platform, including the services to be provided thereon, on servers for use at the access point of SoSafe's data center ("**Delivery Point of Service**"). To use the Platform, it is necessary that the Customer has their own access to the Internet and accesses the Platform at the Delivery Point of Service via this access.

## 4. Rights and Obligations of the Parties

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- 4.1 The Customer shall create the necessary requirements for use on the part of the Customer as described under <https://support.sosafe.de/en/support/solutions/articles/77000530531-statement-of-work-sosafe-gmbh>, in particular the system requirements and infrastructure, as well as for the telecommunication connection between the Customer and SoSafe up to the respective Delivery Point of the Service pursuant to Sec. 3.2, itself.
- 4.2 In the event of any disruption in the use of the Awareness Building Services, the Customer shall inform SoSafe thereof without undue delay and - to the extent possible - assist SoSafe to a reasonable extent in determining the disruption and its causes as well as in remedying the same.
- 4.3 The Customer shall provide SoSafe with all documents required for the implementation of the awareness building in full immediately after the conclusion of the License Agreement to enable a smooth implementation. This includes the transmission of the list of Users for whom phishing simulations are to be carried out and who are to be given access to the e-learning.
- 4.4 The Customer shall designate a contact person responsible for the implementation and use of the contractual Awareness Building Services who can answer any queries and make or coordinate all related

decisions. The Customer shall inform SoSafe of this contact person immediately after conclusion of the License Agreement.

- 4.5 The Customer shall ensure to the extent possible that emails from SoSafe are not prevented from being delivered; this includes "whitelisting" of the domains and servers operated by SoSafe. SoSafe will provide the Customer with information in this regard, which is to be observed as far as possible.
- 4.6 SoSafe reserves the right to extend, supplement or change individually offered services at any time, provided that this leads to an improvement of the service for the Customer or does not involve a (significant) impairment of the service.

## **5. Special Provisions for Web-Based Services (Platform and Services Provided via the Platform)**

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### **5.1 Right of Use and Conditions of Use**

- 5.1.1 The use of the Awareness Building Services provided online via the Platform requires the creation of a Customer Account at <https://manager.sosafe.de> by the Customer. The creation of the Customer Account requires the mandatory entry of the professional email address and the first and last name of the person entrusted with the management of the Awareness Building Services at the Customer ("**Administrator**") and the creation of a password. The Client Account may be created by the Administrator themselves or by another employee of the Client. This information must be accurate, current, and complete. Alternatively, SoSafe may create the account for the Customer at the Customer's request. In this case, the Customer is obliged to change the initial password immediately. In connection with the Platform and their Awareness Building Services, SoSafe will send product and service-related updates via email to the email address on file in the Customer Account, unless the Customer and/or the Administrator objects. Instructions on how to object can be found in each email as well as in the Privacy Policy.
- 5.1.2 In addition to the Customer, only the Users authorised by the Customer may use the Awareness Building Services made available via the Platform in accordance with the provisions and to the extent of this License Agreement. This requires the creation of a User Account by the respective User. The creation of the User Account requires the mandatory entry of the professional email address and the first and last name as well as the creation of a password. This information must be correct, current, and complete. Each User may only register once. The respective User Accounts are not transferable, not even to other employees of the Customer.
- 5.1.3 Registration as a User in accordance with Sec. 5.1.2 is only permitted to persons for whom the Customer has been granted a licence to use the Awareness Building Services. The simultaneous use of the same account via several end devices is not permitted. Unless expressly permitted by SoSafe (text form required), registration of Users with private email addresses, in particular freemail offers such as GMX, Web.de or Google Mail, is not permitted.
- 5.1.4 The Customer is also responsible for supervising their personnel and in particular the Users. The Customer is obliged to oblige them to comply with the provisions of the License Agreement applicable to them. The Awareness Building Services may only be used for the Client's own operational purposes and within the agreed scope of use.

### **5.2 Rights and Obligations of Use**

- 5.2.1 The Customer and their Users are obliged to keep access data secret, not to pass it on to unauthorised third parties (or other Users), and to log out again after each use. Logging out is not required in case of using single sign-on. The Customer shall inform SoSafe immediately if there is any suspicion that unauthorized access data have been made accessible and otherwise become known.

5.2.2 In case of a reasonable suspicion that access data have become known to unauthorized third parties, SoSafe is entitled, but not obliged, for security reasons to independently change the access data of the Customer or the relevant User without prior notice or to temporarily block the use of the Customer Account or the User Account at their sole discretion. SoSafe will inform the Customer and/or User about this immediately and will provide new access data within a reasonable period. The Customer and/or User has no right to claim that the original access data will be restored. In case of a login via single sign-on, only the access via this single sign-on with the previous access data will be blocked and the Customer and/or User can only login via the new access data. These new access data can in turn be integrated into a single sign-on.

5.2.3 The Customer is entitled to upload their own Customer Content to the Platform within the scope of the technical possibilities and the offered storage capacity of the Platform. The Customer is responsible for ensuring that Customer Content is in accordance with the applicable legal regulations and does not infringe any third-party rights. The use of this Customer Content is exclusively available to Users of the Customer. After expiration of the License Agreement, SoSafe will delete the Customer Content from the Platform. The Customer is responsible for saving the respective Customer Content before the end of the License Agreement.

5.2.4 The Customer shall ensure that the Users refrain from:

- publishing or making available insulting, violence-glorifying, discriminatory, inhumane, or defamatory content on the Platform;
- publishing or making available pornographic or racist content on the Platform;
- publishing or making available content on the Platform that violates laws for the protection of minors or criminal laws;
- taking any action that could block, overload or impair the proper working or appearance of the Platform or the Service Modules (e.g., denial-of-service attacks);
- publishing or making available untrue or unobjective content on the Platform;
- publishing or making available on the Platform any commercial communication (such as spam) that has not been pre-approved by SoSafe;
- using automated mechanisms (such as bots, robots, spiders, or scrapers) to collect content or information from other Users or otherwise access the Platform or the Service Components, unless SoSafe's express prior permission has been obtained;
- operating illegal structural sales, such as snowball systems, on the Platform or in the Service Modules;
- uploading viruses or other malicious code;
- accessing other User Accounts;
- using legally protected content without being entitled to do so;
- collecting, using or processing data of other Users without being authorized to do so.

5.2.5 SoSafe is entitled to irretrievably delete contents that violate Sec. 5.2.4. In this respect, the Customer and User have no claim to reinstatement of already deleted content.

5.2.6 If the Customer or one of their Users violates Sec. 5.2.4 or legal regulations, SoSafe can

- modify or delete content;
- restrict the Customer or User Account for a limited period or block it permanently;
- prohibit the Customer or User from registering again under their or another name after the deletion of their account.

**SoSafe may impose these sanctions without prior notice and without consultation with the Customer, even against the Customer's or User's express will. SoSafe will inform the Customer and the User of the relevant sanctions by email.**

### 5.3 Rights of Use and Copyrights

- 5.3.1 SoSafe grants the Customer the locally unrestricted, temporary, revocable, non-exclusive, non-sublicensable, and non-transferable right to use the Platform and the Service Modules and additional services made available through it for their own operational purposes for the number of Users specified in the License Agreement on Awareness Building, to the agreed extent and for the term of the agreement.
- 5.3.2 The Customer is not entitled to (i) rent, lease, lend, reproduce, resell, or otherwise distribute or pass on the Platform or access to the Platform, including via the Internet or a downstream public or private data network; (ii) use the Platform to develop other services; (iii) activate or use components of the Platform for which the Customer has not been granted any rights of use; (iv) transfer the rights to use the Platform to any third party or grant any third party access to the Platform; (v) modify, translate, reproduce, decompile, or interfere with the functionality of the program code of the Platform, except to the extent permitted by mandatory copyright laws; and (vi) remove, obscure, or alter any legal notices, including but not limited to SoSafe's intellectual property rights.
- 5.3.3 If the Customer posts Customer Content on the Platform, the rights to the Customer Content remain with the Customer. The Customer grants SoSafe the unrestricted, temporary, revocable, non-exclusive, non-sublicensable, and non-transferable right to use the Customer Content on the Platform for the provision of the Awareness Building within the scope of the License Agreement for the term of the License Agreement.
- 5.3.4 SoSafe reserves the right to use the aforementioned individual materials (with the exception of all third-party protected trademarks or signs) and in particular the knowledge gained from them for their own purposes.

## 6. Contract Period and Termination

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- 6.1 The License Agreement is concluded for the period agreed in the Offer. The term of the contracted Awareness Building Services shall commence on the License Agreement start date stated in the Offer ("**Contract Term**").
- 6.2 The License Agreement shall be extended by one (1) further year in each case if the License Agreement is not terminated by either Party one (1) month before the end of the respective Contract Term.
- 6.3 Both the Customer and SoSafe have the right to terminate the License Agreement for cause without notice. In particular, cause for SoSafe includes
  - 6.3.1 a serious breach by the respective Customer of the provisions of this License Agreement, or
  - 6.3.2 the Customer failing to make due payments despite a reminder and the setting of a grace period.Any termination without notice requires that the other Party is given a written warning and is requested to eliminate the alleged reason for the termination without notice within a reasonable period.
- 6.4 Any notice of termination must be in text form.
- 6.5 After the end of the Contract Term, the Awareness Building Services will no longer be provided and the Customer's access rights to the Platform will be blocked.

## **7. Remuneration, Terms of Payment**

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- 7.1 For the provision of the Awareness Building Services, the Customer shall pay the remuneration agreed in the License Agreement. The remuneration is independent of use and shall also be due if the Customer does not (fully) use all Awareness Building Services and/or fewer than the agreed maximum number of Users register on the Platform and/or do not use the Platform.
- 7.2 Unless otherwise agreed, the remuneration for the entire Contract Term is payable in advance within 14 calendar days after receipt of the invoice and without deduction. Invoicing by SoSafe takes place immediately after conclusion of the License Agreement. In the event of a License Agreement extension, the invoice will be issued in full for the entire extension period at the beginning of the respective extension period.
- 7.3 All amounts are subject to the applicable value added tax (VAT).

## **8. Warranty**

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- 8.1 With regard to the use of the Platform and the Service Modules and additional services provided via the Platform, the statutory provisions on rent as well as the following Sec. 8.2 to 8.5 shall generally apply in the event of defects:
- 8.2 The Customer is not entitled to claim damages due to a defect in the contractual services existing at the time of the conclusion of the License Agreement or occurring later due to a circumstance for which SoSafe is not responsible.
- 8.3 A defect shall be deemed to exist if the suitability for the contractual use is nullified or not insignificantly reduced. If the suitability for the contractual use is completely nullified, the Customer is exempt from the payment of the remuneration according to number 7 of these General Terms and Conditions until the defect has been remedied. In the event of partial unsuitability, the remuneration shall be reduced to an appropriate level for the period until the defect is remedied.
- 8.4 The Customer shall immediately notify SoSafe in text form of any defects that have occurred.
- 8.5 In remedying the defects, the Customer shall support SoSafe free of charge to the extent possible and reasonable and provide SoSafe with all necessary documents, data, etc., available to the Customer and required by SoSafe to analyze and remedy the defects.

## **9. Liability, Limitation of Liability**

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- 9.1 SoSafe is liable without limitation for damages resulting from injury to life, limb, or health caused by a breach of duty by SoSafe, a legal representative, or vicarious agent of SoSafe, as well as for damages caused by the absence of a quality guaranteed by SoSafe or in case of fraudulent conduct by SoSafe. SoSafe is further liable without limitation for damages caused by SoSafe or a legal representative or vicarious agent of SoSafe intentionally or by gross negligence.
- 9.2 SoSafe is not liable in case of simple negligence of their organs, legal representatives, employees, or other vicarious agents, as far as it does not concern a breach of essential contractual obligations. Essential contractual obligations are the obligation to provide the Services in a timely manner, their freedom from defects that impair their functionality or usability more than insignificantly, as well as any consulting, protection, and custody obligations that are intended to enable the Customer to use the Services in accordance with the License Agreement or are intended to protect the life and limb of the Customer's personnel or to protect the Customer's property from significant damage. In case of a slightly negligent



violation of essential contractual obligations, SoSafe's liability is limited to the amount of the foreseeable damage typical for this kind of contract, except for the cases of Sec. 9.1.

- 9.3 SoSafe is not liable for the loss of data insofar as the damage arose because the Customer failed to carry out data backups prior to the transmission of the data and/or later - insofar as it was technically possible for them - and thus to ensure that lost data can be restored with reasonable effort.
- 9.4 The liability according to the German Act on Liability for Defective Products<sup>1</sup> remains unaffected.
- 9.5 The classification of an email when using Phish Assist is merely a mapping of a probability calculation based on an automatic comparison of the reported email with defined properties of typical phishing emails. SoSafe does not guarantee that the defined characteristics are complete, nor that they have been evaluated correctly in their entirety. Therefore, SoSafe is neither liable for the correctness of the evaluation nor for any damage that may result from it.
- 9.6 Apart from that, any liability of SoSafe is excluded. In particular, SoSafe is not liable in case of Force Majeure.
- 9.7 The limitation period for Customer's claims for damages against SoSafe shall be one (1) year, except in the cases of Sec. 9.1 and 9.4.

## 10. Confidentiality

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- 10.1 The Parties shall treat all Confidential Information disclosed by one Party to the other Party under the License Agreement or received from the other Party as confidential and shall use it solely for the purpose of providing the respective services.
- 10.2 The Parties will protect Confidential Information from unauthorized access and treat it with the same care that they apply to their own equally Confidential Information, but at least with the care of a prudent businessperson.
- 10.3 The above confidentiality obligations do not apply to information that
  - a. was known to the receiving Party before they received them from the other Party under the License Agreement, or
  - b. the receiving Party has developed independently without recourse to Confidential Information of the other Party, or
  - c. the receiving Party has obtained from a third party who is not bound by any restrictions on the use and disclosure of that information, or
  - d. is or becomes generally known through no fault or action of the receiving Party, or
  - e. which a Party has exempted from confidentiality by written declaration to the receiving Party.
- 10.4 To protect Confidential Information, technical and organizational measures are taken that are appropriate under the circumstances. At SoSafe, these include the physical restriction of access to the premises including video surveillance, the restriction of access rights to Customer-specific notes, memos, etc., only for individual employees and only if they need to know about them for the provision of services (need-to-know principle), and a comprehensive confidentiality agreement signed by all SoSafe employees.
- 10.5 The obligations under Sec.10.1 shall apply for five (5) years beyond the end of the respective License Agreement.

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<sup>1</sup> Available at: [https://www.gesetze-im-internet.de/englisch\\_prodhftg/index.html](https://www.gesetze-im-internet.de/englisch_prodhftg/index.html).

## 11. Data Protection

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- 11.1 The Parties shall process personal data only in accordance with the applicable data protection regulations and the **Data Processing Agreement** (Annex 2 to the Offer). To the extent the Customer requests specific processing by SoSafe, the Customer shall ensure that they are also authorized to process the personal data. More detailed information on the data processed during the simulated phishing campaigns, e-learning, etc., can be found in the Data Processing Agreement. Details of the processing of personal data that SoSafe processes as a data controller can be found in the Privacy Policy, which is non-contractual and may be amended from time to time, available at: <https://sosafe-awareness.com/privacy-policy/>.
- 11.2 Company-related information of the Customer is stored anonymously to enable a comparison of the achieved results in case of a possible repetition of the awareness building or other solutions.

## 12. General

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- 12.1 The place of performance for all obligations arising from the License Agreement, including the Customer's payment obligations, is the registered office of SoSafe.
- 12.2 The exclusive place of jurisdiction for all disputes arising from or in connection with the License Agreement is the registered office of SoSafe. However, SoSafe is also entitled to sue the Customer at the Customer's place of business.
- 12.3 The contractual relationship shall be governed solely by the laws of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 4/11/1980 (UN Sales Convention).
- 12.4 SoSafe is entitled to name the Customer as a reference Customer. The Customer grants SoSafe the right to use the Customer's logo and name in electronic, printed, or other form for internal or external marketing activities, e.g., on the Internet, in brochures, offers, presentations or press releases, free of charge, unlimited in terms of space and content and limited in time to the duration of the Customer relationship.
- 12.5 SoSafe reserves the right to modify the Awareness Building Services offered as well as these GTC to the extent that the respective modification is necessary to reflect changes which could not have been foreseen at the time of the conclusion of the respective License Agreement and the non-observance of which would affect the contractual balance between SoSafe and the Customer, in particular to the extent that SoSafe (i) is obliged to bring the Awareness Building Services into compliance with the law applicable thereto, in particular if the applicable legal situation changes, (ii) thereby complies with a court judgment or a decision of a public authority directed against SoSafe, and/or (iii) has to adjust the Awareness Building Services due to compelling security-related aspects. At no time will the change in services limit SoSafe's performance of their primary contractual obligations.
- 12.6 In cases other than the Sec. 12.5 SoSafe shall notify the Customer in advance of the changes to the GTC. If the Customer does not object to their application within four (4) weeks after notification, the amendments shall be deemed accepted with effect for the future. If the Customer objects to the changes, the contractual relationship will continue in its previous form. SoSafe will point out the effect of silence in the notification.
- 12.7 Subject to Sec. 12.5 and 12.6, any amendments and supplements to the License Agreement, including these GTC, shall, must be made in writing (a simple electronic signature, e.g., using a signature tool, is sufficient for this purpose). The same shall apply to any waiver of this written form requirement.
- 12.8 Should individual provisions of the License Agreement be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions of the License Agreement. The invalid or unenforceable

provision shall be replaced by a provision that comes as close as possible to the economic purpose of the invalid or unenforceable provision. The same shall apply if the Parties subsequently determine that the License Agreement is incomplete.



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