

COUNTERSPHERICS®

MERLENN



Counterspherics® MERLENN® Cyber Security & Use Agreement

By using the MERLENN® and or MERLENN® Learn Station Training and Assessment Portal, (hereinafter referred to as "System") you agree to this Cyber Security Agreement (hereinafter referred to as "Agreement") which shall become effective immediately.

WHEREAS, all MERLENN® and or MERLENN® Learn Station Company Subscribers and or Users are engaged in the use of the MERLENN® and or MERLENN® Learn Station System and are will abide by this agreement in its entirety and are responsible for self-governance regarding the terms and conditions hereinafter set forth. As stated, use of the system signifies acceptance of this agreement.

If not in agreement, individuals, employees, staff, and or any other company personnel are prohibited from using the System.



As a MERLENN® Emergency Operator and or MERLENN® Learn Station learner/user, you agree to the following:

Terms of the Agreement

1. Definitions

1. **All User Data is Company Data:** Company and or individual User Data is any and all data that the Company and or MERLENN® and or MERLENN® Learn Station Administrator(s) have entered into the System. For the purposes of this Agreement, Company Data does not cease to be Company Data solely because it is transferred or transmitted beyond the Company's immediate possession, custody, or control.
2. **Data Breach:** The unauthorized access and acquisition of computerized data that materially compromises the security of confidential and/or sensitive personal information maintained by the Company and or MERLENN® and or MERLENN® Learn Station Administrators as part of a fact base of distinctive information regarding a range of individuals and/or that leads to a breach and/or the Company has sufficient reason to believe has to lead to loss or injury to any Company's properties.
3. **System:** A range of equipment that assists operations or drives a specific goal. This may consist of a distinct set of knowledge resources such as a server, software, storage devices arranged for the assembly, processing, treatment, application, sharing, dissemination, or constitution of information.
4. **Change Management:** A formal process used to ensure that changes to a system are introduced in a controlled and coordinated manner. This reduces the possibility that unnecessary changes will be introduced to a system, that faults or vulnerabilities are introduced to the system, or that changes made by other users are undone.

4. Term of Service

This Agreement will be effective immediately and will continue for as long as you use the system ("Term") unless terminated early or extended through System use consent between the Parties or by the provisions of this Agreement.

5. Disclosure of Company User Data

Counterspherics MERLENN® and or MERLENN® Learn Station and or individual Company users of the System **shall not disclose Company User Data in any manner** that would lead to a violation of state or federal law or the terms of this Agreement including, without limitation, by means of distributing, retransfer, or access, to any individual or entity, except:

1. Employees or agents who actually and legitimately need to access or use Company User Data in the performance of duties for Counterspherics MERLENN® and or MERLENN® Learn Station.



2. Such external mediators, approved by Counterspherics in writing and in advance of any disclosure, but only to the extent of such approval.

6. Usage Policy

Counterspherics and or Company users shall only use, store, or access Company User Data in compliance with and only for the scope permissible under this Agreement. **Any transmission, transportation, or storage of Company User Data outside the system is prohibited** except on prior written authorization by the Counterspherics. The same shall apply to all and any MERLENN® and or MERLENN® Learn Station training materials which are the property of the Counterspherics MERLENN® and or MERLENN® Learn Station service. Users may download and use these materials at will as long as they are authorized MERLENN® and or MERLENN® Learn Station users.

6. Safeguarding User Account Data

1. Company and or each Individual concurs that it is their personal responsibility to safeguard their data, and not share access to their personal Company User Data which shall be executed with proficiency, care, and judgment in accordance with protecting the privacy of the data and follow general standards of quality adherence.
2. The Company and or Individual shall implement and maintain the integrity of the Company User Data.
3. The Company and or Individual shall also implement and maintain any safeguards required which may be applicable to state and federal laws and regulations.
4. The System shall use secure protocols and encryption to safeguard Company User Data in transit and when and where feasible...
5. The Company and or Individuals understand that the System may be placed on a public network and shall implement safeguards reasonably necessary to protect its System from compromises and attacks.
6. Counterspherics, the Company, and or MERLENN® and or MERLENN® Learn Station Administrators shall
 1. Limit administrative access to the System
 2. Limit remote access to the System
 3. Limit permit and benefits to the minimum unless necessary for the proper functioning of company operations to include following data security protection practices.
 4. Withdraw or dismantle applications and services that are not needed for the proper regulation of the system



5. Use official accounts and not shared accounts.
6. Use standard industry-compliant services for substantiation and authorization.
7. Facilitate an appropriate level of audit and log for the system and its applications.

7. Oversight

The Company reserves the right to request security information reasonably necessary to ascertain the Company's own compliance with state and federal data privacy laws. Upon the Company's request.

8. Data Breach

1. If Counterspherics becomes aware that Company User Data may have been accessed by unauthorized personnel or through unauthorized means, where data has been disclosed, or acquired without proper authorization and contrary to the terms of this Agreement, Counterspherics shall bring this to the Company's and or Individual's attention ASAP, and shall process measures to preserve forensic evidence and eliminate the cause of the Data Breach.
2. Counterspherics shall give the highest priority to immediately correcting any Data Breach and shall devote such resources as may be required to accomplish that goal.
3. Counterspherics shall provide the Company information necessary to enable the Company to fully understand the nature and scope of the Data Breach.
4. Upon request, Counterspherics shall provide Company information about actions Counterspherics has taken or plans to take to mitigate any deleterious effect of the unauthorized use or disclosure of, or access to, Company User Data.
5. In the event that a Data Breach requires Counterspherics' assistance in reinstalling user data and security access measures, such assistance shall be provided at no cost to the Company.
6. The Company may discontinue any services or products provided by Counterspherics until the Company, in its sole discretion, determines that the cause of the Data Breach has been sufficiently mitigated.

9. No Surreptitious Code And Or Use

1. Counterspherics agrees that, to the best of its knowledge, the System does not contain any code or mechanism that collects personal information or maintains control of the System without the Company's permission or such action which may restrict the Company's access to or use of Company User Data.
2. Counterspherics further warrants that it will not knowingly introduce, via any means, spyware, adware, ransomware, rootkit, keylogger, virus, trojan, worm, or other code or mechanism designed to permit unauthorized access to Company User Data, or which may restrict Company's access to or use of Company User Data.
3. Client agrees to Counterspherics System Terms of Use in that Client will not use in part or in whole, any aspect of its MERLENN® system other than the safety or emergency management use for which it was intended. Client understands that use for any other purpose constitutes a violation of this agreement and will result in system inactivation and recall, and could include any punitive levy on Client by state and federal agencies according to applicable laws for noncompliance /violation of such laws.
4. Counterspherics agrees that, in the case of Counterspherics' violation of this clause, Counterspherics will take immediate and corrective action to correct the violation and hereby indemnifies and shall hold Client harmless from any and all actions, punitive or otherwise, resulting from Counterspherics' Terms of Use breach; which will include but not be limited to:
 1. Manual or Automatic use for Text or Voice Marketing.
 2. Manual or Automatic use for Campaign Fund Raising.
 3. Manual or Automatic use for Donations, Contributions, or Payments of any type.
 4. Manual or Automatic use for Solicitation of any type.
 5. Use for any non-Emergency and or Safety related activity.
5. Client agrees that, in the case of Counterspherics' determination of a violation of this clause, Client will take immediate and corrective action to correct the violation and hereby indemnifies and shall hold Counterspherics harmless from any and all actions, punitive or otherwise, resulting from Client's Terms of Use breach; which will include but not limited be to:
 1. Manual or Automatic use for Text or Voice Marketing.
 2. Manual or Automatic use for Campaign Fund Raising.
 3. Manual or Automatic use for Donations, Contributions, or Payments of any type.
 4. Manual or Automatic use for Solicitation of any type.
 5. Use for any non-Emergency and or Safety related activity.



10. Warranties

Counterspherics warrants that the service hereunder are free and clear of any major defects from the date of first use. Counterspherics shall abide by this warranty and fix any issue which may arise from maintenance updates, security updates, operational updates.

11. Compelled Disclosure

If Counterspherics is served with any subpoena, discovery request, court order, or other legal request or command that calls for disclosure of any Company User Data, Counterspherics shall promptly notify the Company in writing and provide the Company sufficient time to obtain a court order or take any other action the Company deems necessary to prevent the disclosure or otherwise protect Company User Data.

12. Termination

1. Upon expiration or termination of this MERLENN® and or MERLENN® Learn Station Cyber Security Use Agreement, Counterspherics shall ensure that no Data Breach occurs and shall follow the Company's instructions as to the preservation, transfer, or destruction of Company User Data.
2. Upon request by the Company, Counterspherics shall certify in writing to Company that return or destruction of data has been completed.
1. Counterspherics shall continue to protect Company User Data in accordance with this Agreement till the time it is mutually nullified.
4. Upon termination of this Agreement, the Counterspherics shall cease reproducing, advertising, marketing, and distributing any material or information pertaining to the Company immediately.

13. Indemnification

Both Parties agree to indemnify, defend and hold the other Party harmless from any actions, suits, claims, damages (actual and consequential), judgments, levies, executions, liabilities, losses, expenses, and other costs incurred in connection with this Agreement whether by an act or omission to act by the Parties except for gross negligence, willful misconduct or bad faith. This agreement may be updated at Counterspherics' will with or without notice as long as it is accessible via the MERLENN Learn Station Portal.

14. Arbitration

In the event of any dispute arising in and out of this Agreement between the Parties, it shall be resolved by Arbitration. There shall be one or more Arbitrators which shall be appointed by Counterspherics. The venue of Arbitration shall be Claremont and the seat shall be California. The Arbitrators' decision shall be final and will be binding on both the Parties.

15 Miscellaneous

- **Assignability:** Neither Party may assign this Agreement or the rights and obligations thereunder to any third party without the prior express written approval of the other Party which shall not be unreasonably withheld.
- **Notices:** Any notice required to be given to the Company shall be delivered by certified mail, personal delivery, or overnight delivery paid for by the Contractor.
- **Force Majeure:** Neither Party shall be liable for any failure in performance of the obligation under this Agreement due to cause beyond that party's reasonable control (including and not limited to any pandemic, fire, strike, act or order of public authority, and other acts of God) during the pendency of such event.
- **Modification:** No modification of this Agreement shall be made unless in writing, signed by both Parties.
- **Severability:** If any term, clause, or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, all other terms will remain in full force and effect until the Agreement termination.
- **Governing Law and Jurisdiction:** This Agreement shall be governed following the laws of the state of California, Los Angeles County, city of Claremont. If the disputes under this Agreement cannot be resolved by Arbitration, they shall be resolved by litigation in the courts of the state of California, Los Angeles County, city of Claremont including the federal courts therein, and the Parties all consent to the jurisdiction of such courts, agree to accept service of process by mail and hereby waive any jurisdictional or venue defenses otherwise available to it.
- **Legal and Binding Agreement:** This Agreement is legal and binding between the Parties as stated above. This Agreement may be entered into and is legal and binding in the state of California, Los Angeles County, city of Claremont. The Parties each represent that they have the authority to enter into this Agreement.
- **Entire Agreement:** This Agreement constitutes the entire understanding of the Parties, and revokes and supersedes all prior agreements between the Parties and is intended as a final expression of their Agreement. It shall not be modified or amended except in writing signed by the Parties hereto and specifically referring to this Agreement. This Agreement shall take precedence over any other documents which may conflict with this Agreement.

DISCLAIMER: *The content provided herein is for general information purposes only, and shall not constitute legal advice. Counterspherics and its partners make no representation or warranty of any kind, express or implied, regarding the accuracy, adequacy, validity, reliability, availability, or completeness of any information mentioned hereunder. The use or reliance of any information contained herein is solely at your own risk. You are advised to obtain independent legal advice before taking or refraining from any action on the basis of the content provided here.*