

Subscription Terms and Conditions

Version dated 11th May 2018

1. Your Agreement with Pearson

1.1 When you buy a subscription or licence to our digital products or services (**Services**) there will be a legally binding agreement (**Agreement**) between you and Pearson which you must comply with. Details of who Pearson is are set out at the end of these terms and conditions. The Agreement includes:

- (a) these subscription terms and conditions (**Terms and Conditions**),
- (b) the Terms of Use which governs the use of the Services by you/your End Users ([the Terms of Use](#)),
- (c) the privacy notice which governs our use of your/your End Users' data ([Privacy Notice](#)).

1.2. You may be purchasing a subscription or licence to our Services for yourself, or you may be purchasing for use by multiple users in your school, your multi academy trust schools, your tuition centre, within a local educational authority or other educational organisation (**Institution**). We refer to every individual who is authorised to use our Services as an end user (**End User**). For Institutions this will include teachers, members of staff and contractors, pupils and their parents/guardians and such other individuals as may be appropriate from time to time, for whom you have purchased access.

1.3. For clarity, these Terms and Conditions will apply whenever you buy access to our Services. No terms or conditions contained or referred to in any correspondence, order, documentation submitted by you elsewhere or implied by custom, practice or course of dealing will apply.

2. Access to the Services

2.1 We will issue you with an ID and password(s) or other mechanism to enable you to access the Service.

2.2 If you buy access on behalf of an Institution, you are responsible for administering password access by your End Users to the Services in accordance with our guidelines, including appropriate access being given to different types of End Users such as pupils and teachers. Whether you buy individual End User licences or a site licence with a size band, your purchase is for a maximum number of End Users only and you may not exceed that number. If you wish to increase this number, you may be able to purchase additional End User licences/subscriptions for some products (but not others). In any case, you may not allow access by additional End Users without purchasing additional licences/subscriptions where available.

2.3 You must provide Pearson with accurate and complete information about the number of End Users when you place your order. It is your responsibility to update Pearson of any changes to that information by emailing digital.support@pearson.com

2.4 You are responsible for all hardware, software, network availability and Internet connectivity required to use the Services. We will provide you on request with a specification of the connectivity, server, other hardware and software required to access and use the Services.

3. Your Use of the Services

3.1 If you are purchasing for multiple End Users on behalf of an Institution, you must ensure that all your End Users comply with the Agreement. You are responsible for preventing unauthorised use of the Services by your End Users.

3.2 If you believe that there has been any breach of security (such as the disclosure, theft or unauthorised use of any ID or other passwords) or other unauthorised use of the Services you must notify us immediately by emailing digital.support@pearson.com or such other contact as we may specify from time to time.

3.3 If we believe or have reasonable grounds to suspect that the Services are being used by you or your End Users in any way which is not permitted in the Agreement, we may suspend your and your End Users' use of the Services and block access from your ID (this will not affect any other legal rights which we may also have under the Agreement or otherwise) and we may choose to terminate your use with immediate effect. We will not refund your Fees in that case.

4. Intellectual Property Rights

4.1 On payment of the applicable fee, we will grant you a non-exclusive non-transferable licence for the term of your Agreement (subject to clause 4.3 below) to retrieve and display materials delivered as part of the Services (**Content**) on a computer screen or other devices, print individual pages on paper and store such pages in electronic form for your internal educational non-commercial purposes only, and allow access only by you or, if you are purchasing for multiple End Users on behalf of an Institution, all End Users for whom you purchased access.

4.2 End Users may:

- Use the Content that has been purchased for the End User, for use within the Institution and home use either on individual computer screens, devices or on an interactive whiteboard and in each case for internal educational, non-commercial purposes only.
- edit / customise and print or download certain parts of the product(s) for classroom use, where expressly permitted to do so.

4.3 Except where permitted by applicable law, End Users may not (and where you are purchasing for multiple End Users on behalf of an Institution you shall ensure that they do not):

- commercially exploit all or any part of the Services or Content
- use, reproduce, deal with, modify, adapt, the whole or any part of the product and any Content, except as permitted in Clause 4.2
- reverse engineer, decompile or disassemble the whole or any part of the Services
- redistribute any Content (including by using it as part of any library, archive or similar service)
- sub-license, assign, transfer, loan, sell, lease, rent, charge or otherwise deal in or encumber the Content or make the Content available to a third party
- download any Content either in part or in its entirety, except as permitted/ facilitated by the product concerned
- remove any copyright, trademark or other notices on any product
- use the website to transmit any chain letters, spam or junk email
- interfere with or disrupt the website, any product or any servers or networks connected to it or introduce any viruses or other harmful properties into it or to any other users
- disclose your password to anyone or permit anyone else to use your password. Each End User is responsible for any use of his/her password.

4.4 The Content may contain content owned by third parties which is licensed to Pearson (**Third Party Content**) which will be marked with the copyright notice of those third parties. Some of the Third Party Content will be subject to additional restrictions - the relevant copyright notice will make it clear where that is the case. You are responsible for ensuring that all your End Users comply with these restrictions.

4.5 The Services may contain software owned by third parties which is made available as “plug-ins”, for download in order to allow End Users the ability to view Content (**Third Party Software**). The use of the Third Party Software by you and your End Users is governed by the terms of any licence agreement that may accompany or be included with that Third Party Software. You appoint us as your agent to accept the terms of such licences on your behalf. You are responsible for ensuring that End Users comply with such licence agreements.

4.6 You acknowledge that on occasion we may need to remove certain parts of the Content for legal or commercial reasons (for example, if our licence to use Third Party Content or Third Party Software expires or terminates for any reason) and where we require your assistance to affect such removal, you will on receipt of a notice from us immediately remove any part of the Content in accordance with our instructions. In the event that you have not removed such content within 24 hours despite our notice, you will indemnify us against all costs, claims and expenses resulting from such non-removal.

4.7 You acknowledge that all brands, logos and product names used on the Services are trade marks and that you may not use them without our prior written permission.

5. Fees

5.1 You agree to pay us the fees for the Services as set out in our invoice (**Fees**).

5.2 Except where we have agreed to provide you with credit terms, we will only make the Services available to you once we have received your payment (or your credit card payment has been authorized).

5.3 Where we have agreed to provide you with credit terms, we will issue an appropriate VAT invoice and you shall pay the Fees together with any VAT due at the applicable rate. Invoices are payable within 30 days of the date of the invoice. For annual subscriptions or licences, Pearson will issue invoices annually.

5.4 In the event that you order any additional products, content or services from us (where available), you agree to pay for these at our then current rates and they will be subject to this Agreement (as amended from time to time) or such other terms as we may provide from time to time.

5.5 We may suspend access by you and your End Users to all or part of the Services and/or terminate your subscription/licence if you are late with your payments.

5.6 We may charge you interest on overdue sums at the rate of four per cent (4%) per annum above the prevailing rate of HSBC Bank plc from the relevant due date until the date payment is made.

5.7 With regard to annual subscriptions or licences, we expressly reserve the right to increase any and all of the Fees from year to year. If in any year the Fees have been paid in advance but are subsequently increased, you shall pay the amount of any such increase within 30 days of the date of our invoice.

5.8 Any right of set off, deduction or withholding is hereby expressly excluded and all sums due from you shall be paid by you to us free from any deductions, withholdings or set off of any kind.

6. Confidentiality

6.1 Each party agree to keep all commercial, financial or other confidential information obtained from the other in connection with the Services confidential. Each party will only disclose the confidential information to those of its employees, and sub-contractors (or, in the case of Pearson, to its affiliate companies) who need to know it for the purposes of the Agreement and shall use all reasonable endeavours to procure that those employees, agents and sub-contractors comply with such restrictions.

6.2 The obligations of confidentiality set out above shall not apply to any information which a party can show:

6.2.1 at the time of its acquisition was in, or at a later date has come into, the public domain, other than as a result of a breach of its confidentiality obligations; or

6.2.2 it knew prior to first disclosure to it by the other party; or

6.2.3 it received independently from a third party with the full right to disclose; or

6.2.4 is obliged to disclose by applicable law, court order or rules of a stock exchange provided that it gives the other party sufficient notice in advance of such disclosure to take action against the order.

7. Data Protection

7.1 Scope and Definitions

a. This Data Protection clause does not apply if you are a consumer who purchased access to the Services, in which case please refer to our [Privacy Notice](#).

b. For the purposes of this Data Protection clause the following definitions will apply:

“**Audit Report**” means a report certified by Pearson’s Chief Information Security Officer identifying the technical and security measures that apply in relation to the products or services in question, in an equivalent level of detail to a SOC type 3 report.

“**Customer**” means the party to this Agreement that purchased access to the Services and is not an individual consumer.

"**Customer Personal Data**" means personal data processed by Pearson as a processor or sub-processor for and on behalf of Customer;

"**Data Protection Laws**" means:

a. prior to 25 May 2018, Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data; and

b. on and after 25 May 2018, the GDPR (as defined below),

including implementing and supplemental legislation;

“**GDPR**” means Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

"**Security Incident**" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to Customer Personal Data. Security Incidents do not include unsuccessful attempts or activities that do not compromise the security of encrypted Customer Personal Data;

"controller", "data subject", "personal data", "processor" and "processing" all have the meaning given under the Data Protection Laws;

7.2 Processing Instructions

7.2.1 Subject to the immediately following paragraph, the Parties acknowledge and agree that: (i) for the purposes of this Agreement and as between them, the Customer is, or shall be regarded as a controller of Customer Personal Data and Pearson is, or shall be regarded as, a processor of Customer Personal Data; and (ii) Customer will comply with its obligations as a controller under the Data Protection Laws and Pearson will comply with its obligations as a processor set out in the Agreement.

7.2.2 If Customer is a processor, Customer warrants to Pearson that Customer's instructions and actions with respect to Customer Personal Data, including its appointment of Pearson as another processor, have been authorised by the relevant controller.

7.2.3 Customer instructs Pearson and Pearson agrees to process the Customer Personal Data in order to supply products and services as set out in this Agreement.

7.3 Confidentiality of processing

Pearson shall ensure that all persons it authorises to process Customer Personal Data are subject to a duty of confidentiality (whether a contractual duty or a statutory duty); and process Customer Personal Data only as set out in this Agreement.

7.4 Data Subject rights

7.4.1 Pearson shall provide reasonable assistance to Customer (at Customer's expense) to enable Customer to respond to:

- a. any request relating to Customer Personal Data from a data subject to exercise any of its rights under Data Protection Laws;
- b. any other correspondence, enquiry or complaint received from a data subject or regulator in connection with the processing of Customer Personal Data by Pearson.

In providing assistance under this clause, Pearson will not assess the contents of Customer Personal Data in order to identify information subject to any specific legal requirements.

7.4.2 If any such request, correspondence, enquiry or complaint is made directly to Pearson, Pearson will advise the person making the request to submit their request to Customer and Customer will be responsible for responding to any such request.

7.4.3 Pearson shall not disclose any Customer Personal Data in response to a request for access or disclosure from any third party without Customer's prior written consent, save where compelled to do so in accordance with applicable law or as otherwise allowed under the Agreement.

7.5 Data protection impact assessments

If requested by Customer, Pearson shall provide Customer, at Customer's expense, with reasonable assistance in order for Customer to (i) conduct a data protection impact assessment and, (ii) if necessary, consult with its relevant data protection authority.

7.6 Notification of Information to the Data Protection Authorities

Customer will provide Pearson with the name and contact details of the Customer's local representative and/or data protection officer and will ensure that such information is kept accurate and up to date. Where requested by the regulatory authorities, Pearson is entitled to provide this information to them.

7.7 Security

7.7.1 Pearson shall put in place and maintain an information security program reasonably appropriate for the Customer Personal Data, which shall include implementing and maintaining all appropriate technical, security and organisational measures to protect Customer Personal Data against accidental or unlawful destruction, loss, alteration, unauthorised disclosure, or access.

7.7.2 Pearson shall notify Customer of any Security Incident that it becomes aware of without undue delay. All such notifications should be made in accordance with the notice provisions set out in the Agreement or at Pearson's discretion by a phone call or email to the Customer representative that Pearson regularly liaises with.

7.7.3 Pearson shall take reasonable steps to remedy or mitigate the effects of Security Incidents.

7.7.4 Pearson shall cooperate with Customer and provide Customer with reasonable assistance and information:

- a. in the investigation of a Security Incident; and
- b. in relation to any notifications of a Security Incident Customer makes to a regulator.

7.7.5 All costs associated with managing a Security Incident and fulfilling its obligations shall be borne by Customer where the Security Incident occurs as a result of Customer failing to perform its obligations under the Agreement or Customer's End Users failing to comply with the Services' Terms of Use.

7.7.6 Customer is solely responsible for its compliance with any incident notification laws in relation to Customer Personal Data and fulfilling any third party notification obligations related to Security Incidents.

7.7.7 Pearson's notification of or response to a Security Incident under this Clause will not be construed as an acknowledgement by Pearson of any fault or liability with regard to that Security Incident.

7.8 Sub-processors

Pearson shall not provide access to or disclose any Customer Personal Data to a subcontractor or other third party without Customer's prior authorisation. Notwithstanding the foregoing, Customer specifically authorises the engagement of Pearson's affiliates as subprocessors. In addition, Customer generally authorises Pearson to engage third parties to process Customer Personal Data provided that Pearson imposes data protection terms to an equivalent standard as provided for under this Agreement.

7.9 Audit

If requested by Customer, and no more than once annually Pearson will make available the Audit Report to Customer to enable Customer to verify Pearson's compliance with its obligations in relation to the processing of Customer Personal Data. Customer acknowledges that provision of the Audit Report by Pearson shall satisfy the audit requirements set out in Article 28(3)(h) of the GDPR.

7.10 International data transfers

Customer agrees that Pearson shall be entitled to transfer and process Customer Personal Data within the European Economic Area. Customer also consents to the transfer and/or processing of Customer Personal Data outside the European Economic Area provided that the transfer is in accordance with one of the allowed mechanisms prescribed by the Data Protection Laws.

7.11 Effects of termination

Customer instructs Pearson to retain the Customer Personal Data for a reasonable period after termination or expiry of this Agreement in order to support any subsequent auditing or data recovery that may be required by Customer. Thereafter, Pearson shall destroy Customer Personal Data in its possession or control. This obligation (to destroy data) shall not apply to the extent that Pearson is required by its internal policies or by any European Union (or any European Union Member State) law or other applicable law or by any post-termination contractual commitments to retain some or all of the Customer Personal Data. The provisions of these data protection clauses shall continue to apply to any Customer Personal Data retained by Pearson notwithstanding termination or expiry of this Agreement.

7.12 Use of De-Identified Data

Customer agrees that during and after the expiry of the Agreement, Pearson may use and disclose for benchmarking, educational research, developing and improving products and services or for any other related purposes Customer Personal Data from which features directly identifying any individual have been removed. Such de-identified data is not considered Customer Personal Data.

8. Events, part of services

In the event that we offer, live scheduled services for training or other purposes, or webinars, live web chats or similar activities related to the Services (**Events**), you agree to the following rules:

8.1 We may allow you to substitute a delegate to an Event upon notification to us at no additional charge at our absolute discretion.

8.2 If there is a specific fee for the Event in addition to the general Fees for the Services (**Event Fee**) and you do not attend an Event, then the full Event Fee remains payable.

8.3 You may cancel your booking at any time within 14 calendar days of sending us your booking request except that we will NOT accept any cancellations less than 10 days before an Event. We will not make any refunds of Event Fees if a delegate cancels 15 or more calendar days after booking an Event, or if the Event falls within 10 days of the date you cancel.

8.4 Events are subject to cancellation or rescheduling at our discretion. Events might be subject to minimum numbers of attendees. If the Event is cancelled, we will credit to you any paid Event Fees as soon as possible (if any were paid). If the time, date, venue or content of the Event is changed subsequent to your booking, you will be notified and given the option to cancel your booking for a full refund of the Event Fee. We shall not be liable for any additional loss or damage resulting from such cancellation or changes.

8.5 Pearson and its licensors own all copyright and all other intellectual property rights in all training materials provided in connection with an Event. You agree not to reproduce, sell, hire or copy such training materials (in whole or in part) and not to use such materials except for the purposes of post-Event reference.

9. Warranties

9.1 We warrant that:

9.1.1 we have full right and title to enter into the Agreement;

9.1.2 we will use reasonable skill and care in the performance of our obligations under your Agreement.

9.2 However, we do not give you or your End Users any other warranties. All other warranties, representations or terms having equivalent effect that might be implied by law are excluded to the extent permitted by law, including any warranties as to satisfactory quality or fitness for a particular purpose. In particular, we cannot guarantee: 9.2.1 the accuracy of the Content;

9.2.2 the availability of the Services;

9.2.3 that the Services will be free from infection by viruses or anything else that has contaminating or destructive properties.

9.3 No representative of Pearson is authorised to give or make any other representation, warranty, condition or term or modify the warranties provided in this clause 9 in any way.

10. Limitation of Liability

10.1 Pearson shall not be liable for any loss of data, loss of profit or wasted management time whether they are direct or indirect damages, and Pearson shall not be liable for any special, indirect, consequential or incidental damages (including damages for loss of use) arising from the Agreement, in tort or otherwise from your (or your End Users') use of or inability to use the Services, or from any action taken (or refrained from being taken) as a result of using the Services.

10.2 You acknowledge that we have no liability for any loss, claim or damage suffered by or made against you or your End Users as a result of any unauthorised access to the Services or breach by any of you, your End Users or other parties of the terms of your Agreement.

10.3 In any event and except for the circumstances set out in clause 10.4, our liability to you in respect of any claim for breach of Agreement, negligence or otherwise in relation to the Services shall be limited to the greater of the total Fees paid or payable to Pearson by you during the 12 months preceding the cause of action and £500.

10.4 Nothing will limit either party's liability for death or personal injury caused by its negligence, or for fraud, fraudulent misrepresentation, or for any other liability that cannot be excluded or limited under applicable law. Clauses 10.1 through 10.3 shall not apply in these circumstances.

10.5 You must promptly inform Pearson in the event of any claim by a third party received by you in relation to the Services and you must comply with Pearson's reasonable requests in relation to such claim.

11. Termination and cancellation

11.1 Your Agreement and subscription commences on the date we accept your order and continues for a period of 12 months from that date or such other period of time indicated on the product. We will confirm when we have accepted your order by providing you with confirmation and/or giving you access to the Services.

11.2 If you have purchased a rolling annual subscription service, the Agreement will renew automatically for further periods of 12 months each unless either of us gives the other at least 30 calendar days' prior written notice before the end of the then current subscription period that it does not want to renew the Agreement. In all other cases, the Agreement will end automatically at the end of your subscription period.

11.3 If you are a consumer you have the statutory right to cancel your order at any time within 14 working days of submitting your order and receive a full refund, provided that you have not

started using the Services. Please notify us by email at digital.support@pearson.com if you wish to cancel your subscription.

11.4 Either of us may terminate the Agreement by notifying the other in writing if the other materially breaches any of the terms of the Agreement and fails to remedy that breach (if capable of remedy) within 14 days of the notice of the breach.

11.5 We may terminate the Agreement immediately if we believe or if we have reason to believe that there is a breach of security or if you or your End Users fail to comply with the Terms of Use.

11.6 We may terminate your Agreement by giving you 30 calendar days' notice (or less where we have an urgent business need) if we discontinue the Services. In that event, we may offer you a pro rata refund for any remaining subscription period or a replacement product.

11.7 On termination of your Agreement your licence to use the Services will terminate. You and your End Users must delete all Content you or they may have downloaded from all servers or devices you or they may have downloaded it to. The provisions of clause 4 (Intellectual Property Rights) clause 6 (Confidentiality), clause 7 (Data Protection), clause 9 (Warranties), clause 10 (Limitation of Liability), clause 11 (Termination), clause 13 (Content Submission) and clause 14 (General) will survive any termination or expiry of your Agreement.

12. Changes

12.1 We are continually seeking to improve the Services. We reserve the right, at our discretion, to make changes to any part of the Services, provided that the changes do not materially reduce the content or functionality of the relevant part of the Services. If we make any changes that in our view materially reduce the content or functionality of the relevant Services, we will notify you and give you a right to terminate.

12.2 If we replace the Services with a different service/product during the term of your subscription, we will give you at least 30 days' calendar notice and allow you to terminate this Agreement. If you do not terminate, we may choose to migrate you to the new replacement service for the remainder of your term without additional charge.

12.3 Pearson reserves the right to vary the terms of the Agreement on one month's notice. Upon expiry of the period stated in the notice, the varied terms shall apply. You may terminate the Agreement on one further month's notice.

13. Content Submission

13.1 The Service may facilitate the upload of suitable educational content to the Services by certain End Users. The Service may have a functionality that allows certain End Users to choose to share either with other End Users of their Institution or other institutions either in the same regional area or to all our customers and their respective end users.

In the event that you or your End Users choose to submit their content in this way, you must only submit content that was created by you/your End Users and you shall grant us or shall procure the grant to us of a non-exclusive royalty-free perpetual transferable irrevocable licence to use such content in the Services for exploitation in any and all media whether now known or invented in the future.

You/your End Users retain all other rights in their content and are free to use it in any way they please except that the copies uploaded to our website/products can only be used within the parameters of the functionalities available on the website/product and our Terms of Use.

If you upload any content, you will comply with the Terms of Use and you will ensure your End Users also comply with the Terms of Use if they upload and/or share any content through the Service.

13.2 The Services contain links to other web sites and resources, either directly or through frames and, where possible we will make clear where such links are being made. Independent third parties provide these sites and Pearson is not responsible and shall not be liable for the availability or content of these outside resources.

14. General

14.1 We will not be liable for any failure or delay in performing our respective obligations under this Agreement to the extent that the failure or delay is the result of any cause or circumstance beyond our reasonable control including but in no way limited to fire, war, acts of God, power outages, internet failures, security breaches, malicious hacks, changes in law and/or regulation, labour disputes, failures in the supply chain, "Force Majeure". We may terminate the Agreement and discontinue the Service in the event of a Force Majeure.

14.2 You may not assign or transfer your rights or obligations under your Agreement without our prior express written consent. We may at any time assign or transfer our rights and obligations under your Agreement to any third party.

14.3 This Agreement (together with the Terms of Use and the Privacy Notice) represents the entire agreement between us in relation to its subject matter. You acknowledge that you have not relied upon any statement or representation not recorded in this Agreement inducing you to enter into it, but this does not exclude the liability of either party for any pre-contractual statements or representations made fraudulently.

14.4 If any provision of this Agreement is found to be invalid by any court having competent jurisdiction, the invalidity of that provision will not affect the validity of the remaining provisions of this Agreement which shall remain in full force and effect.

14.5 Failure by either you or Pearson to exercise any right or remedy under this Agreement does not constitute a waiver of that right or remedy.

14.6 The relationship of the parties established by the Agreement is that of independent contractors, and not an employment, agency, partnership, franchise, joint venture or any other such relationship. Each of the parties shall conduct its respective business at its own initiative, responsibility and expense and shall have no authority to incur any obligations on behalf of the other party to the Agreement.

14.7 Any notice to be given under this Agreement to either party may be served by the other party either by being sent by first class post to such party at the address set out in the Agreement or such other address as that party may notify to the other from time to time or by e-mail or facsimile to such address or number as that party may notify from time to time. Any notice served by post shall be deemed to have been served on the working day next following the date of posting or sending. Any notice sent by facsimile or email transmission shall be deemed to have been duly sent on the date of transmission if a confirmation of receipt has been received.

14.8 A person who is not party to your Agreement shall have no right under the Agreements (Rights of Third Parties) Act 1999 to enforce any of its terms.

14.9 Your Agreement is governed by, and construed in accordance with, English law without regard to its conflict of laws. You agree that the courts of England shall have exclusive jurisdiction to settle any dispute which may arise out of, under, or in connection with your

Agreement or the legal relationship established by it, and for those purposes irrevocably submit all disputes to the jurisdiction of the English courts. However, we may also bring an action against you in the courts of your place of residence.

14.10 Headings in this Agreement are for convenience only and will have no legal meaning or effect.

14.11 Any reference to any legislative provision shall be deemed to include any subsequent re-enactment or amending provision.

15. Pearson company details

Throughout these Terms and Conditions all references to “Pearson” or “we” means Pearson Education Limited, a company registered in England and Wales with company number 872828, registered address 80 Strand, London WC2R 0RL, and VAT number GB278 5371 21.