

This agreement is between **WILD LEARNING LTD.**, a company incorporated in Scotland with company number SC703178 and whose Registered Office is at 16 Ravelston House Park, Edinburgh EH4 3LU ("**Wild Learning**") and you ("**the Customer**").

This is a Click to Agree Contract from within the Software if the Customer wishes to be bound by these Terms and Conditions, ("**Terms and Conditions**") the Customer must click to accept the Terms and Conditions. If the Customer does not agree to be bound by the Terms and Conditions, the Customer cannot order or use any Subscription Services or any Professional Services. The Customer must be at least 18 years old to order Services. The person entering into the Agreement on behalf of the Customer warrants that he/she/they has the authority of the Customer to enter into the Agreement on the Customer's behalf.

Wild Learning's issue of an Order Form to the Customer constitutes a contractual offer and the Customer's signing/acceptance of these Terms and Conditions and acceptance/signing of an Order Form will conclude the contract between Wild Learning and the Customer relating to the Services listed in the Order Form. All Order Forms will be deemed to be subject to and include the Terms and Conditions.

The contract ("**the Agreement**") between the Customer and Wild Learning will comprise:

1. the Order Form(s);
2. these Terms and Conditions;
3. the Privacy Policy; and
4. the SLA.

If there is any conflict between the terms of an Order Form and these Terms and Conditions, then the terms of the Order Form will prevail.

The elements of the Agreement will have precedence as follows:

1. Order Form (s) (in reverse chronological order);
2. Terms and Conditions;
3. Privacy Policy;
4. SLA.

## **PART ONE – SUBSCRIPTION SERVICES.**

### **1. Grant of Licence.**

Wild Learning grants to the Customer a non-exclusive, royalty based (i.e. the fees specified in the Order Form), sublicensable (as provided in Clause 8), term licence to Use the Subscription Services for the Customer's internal business purposes for the Subscription Term, subject to the following conditions:

- 1.0 The Subscription Services are located on the Platform. Wild Learning has full administrative access rights to the Platform. Users may access the Subscription Services but have no right to administer the Platform or receive a copy of the object code or source code to the Software.
- 1.1 Users must have a reasonable speed Internet connection, and Local Equipment that is compatible with the Subscription Services, as set out in the Documentation. None of these things are Wild Learning's responsibility.
- 1.2 Wild Learning may periodically Upgrade and Update the Services, in order to provide Users with a greater, evolving user experience. Some of these changes shall occur automatically, while others may require the Customer to schedule and implement the changes. The changes may also mean that Users need to upgrade their Local Equipment in order to make efficient use of the Subscription Services. Wild Learning shall provide the Customer with reasonable notification in advance in this case.
- 1.3 Wild Learning has all required distribution rights to the Intellectual Property in the Software and the Documentation.
- 1.4 Neither party shall be under any liability to the other in respect of anything which, apart from this provision, may constitute breach of the Agreement arising by reason of Force Majeure.

### **2. Conditions of Use.**

The Subscription Services provided to the Customer are non-exclusive, non-transferable and are for the Customer's internal business use only. The Customer's right to use the Subscription Services is subject to the following conditions:-

The Customer shall not:

www.stuart-co.com

- 2.0 subject to Clauses 8 sub-licensing and 21.3 alienation of these Terms and Conditions, transfer to any other person any of its rights to use the Subscription Services;
- 2.1 sell, license, rent or lease the Subscription Services except as provided for in the Agreement;
- 2.2 make the Subscription Services available to anyone who is not a User;
- 2.3 create any derivative works based upon the Subscription Services or Documentation;
- 2.4 copy any feature, design or graphic in, or reverse engineer the Software (including without prejudice to the foregoing generality the graphical user interface and/or menu command hierarchy);
- 2.5 access the Subscription Services (i) in order to build a competitive solution or to assist someone else to build a competitive solution; or (ii) if the User is an employee or contractor of a Wild Learning competitor;
- 2.6 use the Subscription Services in a way that violates any criminal or civil law;
- 2.7 load test the Subscription Services in order to test scalability; or,
- 2.8 exceed any usage limits listed on the applicable Order Form.

### **3. User Content/Security**

- 3.0 Users provide all data for use in the Subscription Services, and Wild Learning is not obliged to modify or add to User Content except as specified in Clause 4. The Customer is solely responsible for User Content and the accuracy of User Content.
- 3.1 User Content belongs to Users or their licensors, and Wild Learning makes no claim to any right of ownership in User Content except as specifically provided herein.
- 3.2 Wild Learning shall keep User Content confidential in accordance with Clause 17 of these Terms and Conditions.
- 3.3 Subject to the terms of Clauses 4 and 24, Wild Learning shall only be entitled to use User Content strictly as necessary to carry out its obligations under the Agreement, and for no other purpose. However, Wild Learning:
  - 3.3.0 may observe and report back to the Customer on the Customer's and its clients' usage of the Subscription Services, and make recommendations for improved usage of the Subscription Services; and,
  - 3.3.1 shall use reasonable endeavours to ensure that the data centre containing the User Content complies with ISO 27001.
  - 3.4.3 may identify trends and publish reports on its findings from data aggregated from the User Site(s) provided such reports do not identify the User and otherwise anonymise the data and comply with the terms of Clause 17 (Confidentiality);
- 3.4 Wild Learning shall, in providing the Subscription Services, comply with the Privacy Legislation and in accordance with its Privacy Policy and Clauses 22 and 23 of these Terms and Conditions. For the purposes of the Privacy Legislation (except in the case of Data Sharing in terms of Clause 23), Wild Learning will be a Data Processor and the Customer will be the Data Controller of User Content. This clause is in addition to, and does not relieve, remove or replace, Wild Learning's obligations or rights under the Privacy Legislation.
- 3.5 Sharing of login/account details is not permitted unless expressly authorised in writing by Wild Learning. Users must keep login/account details confidential and Users should not reveal their username or password to any unauthorised third parties. Wild Learning accepts no liability for any losses or damages incurred as a result of account details being shared in breach of the terms of the Agreement. It is recommended that Users do not save login/account details in their internet browser.
- 3.6 Passwords must be robust and difficult to break.
- 3.7 Industry Best Practice security recommendations should be implemented at all times, such as (a) maintaining a recognised Cyber Essentials Certification IT systems such as <https://www.cyberessentials.ncsc.gov.uk>; (b) Always implementing strong, robust, difficult to break passwords, that are changed on a regular basis; (c) that Users do not save login/account details in their internet browser; and (d) implementing two factor authentication at each endpoint.
- 3.8 Whereas as part of the Subscription Services, Wild Learning may host email accounts or other online communications infrastructure or subscription accounts (including the Wild Learning subscription itself) for Users, Wild Learning accepts no responsibility and shall not be liable for third parties accessing such email, online communications accounts or subscription accounts by way of breaking or hacking passwords. It is the responsibility of Users to ensure that all email, online communications accounts and subscription accounts are properly protected with robust passwords. The terms of Clause 4 apply to the use of any such email, online communications accounts and subscription accounts.

### **4. Acceptable Usage Policy**

- 4.0 Without prejudice to the generality of Clause 2.6, when using the Subscription Services; Users should do so in accordance with the following rules:
  - 4.0.0 Users must not use obscene or vulgar language;

- 4.0.1 User Sites may not contain any material that is unlawful or otherwise objectionable (including that which may be in breach of rules, regulations or legislation in force in the United Kingdom or any other jurisdiction in which the Customer's User Site can be lawfully accessed. This does not extend to material which may be automatically blocked in certain jurisdictions but that is lawful in the Customer's home country);
- 4.0.2 User Sites may not contain any material that is intended to promote or incite violence or any other unlawful conduct against any group, individual or animal. This includes, but is not limited to, the provision of instructions on how to assemble weapons of any kind, bombs, grenades or other explosive devices;
- 4.0.3 User Sites may not infringe the Intellectual Property rights of any third party including, but not limited to, copyright, trademarks, patents and designs;
- 4.0.4 User Sites may not contain any material that may contain viruses or other software or instructions that may damage or disrupt other software, computer hardware or communications networks; and
- 4.0.5 User Sites may not be used for unauthorised mass-communications such as "spam" or "junk mail".
- 4.1 Wild Learning does not screen or pre-approve any User Site or User Content (although Users acknowledge that Wild Learning may do so if it wishes).
- 4.2 Wild Learning may edit a User Site to comply with the provisions of sub-Clause 4.0 without prior consultation. In cases of severe breaches of the provisions of sub-Clause 4.0, a User Site may be taken down and the relevant account may be suspended or terminated. The Customer will not be informed in writing of the reasons for such alterations or take downs.
- 4.3 Wild Learning accepts no responsibility or liability for any infringement of third-party rights by User Sites.
- 4.4 Wild Learning will not be liable in any way or under any circumstances for any loss or damage that any User may incur as a result of such User Sites, or Wild Learning exercising its rights under the Agreement, nor for any errors or omissions in User Sites. Use of and reliance upon User Sites is entirely at the Customer's own risk.
- 4.5 The Customer acknowledges that Wild Learning may retain copies of any and all communications, information, User Content and User Sites sent to Wild Learning.
- 4.6 Users must comply with the terms of the Privacy Legislation at all times.
- 4.7 Users who are the Customer's employees and consultants and other third parties must enter into the EULA.
- 4.8 All Candidates are required to enter into the Candidate Terms and the EULA.

## **5. Intellectual Property**

- 5.0 Subject to the exceptions in Clause 6 of these Terms and Conditions, all Content, that is not User Content, and the Database and the Software and the Documentation are the property of Wild Learning, or Wild Learning's Affiliates or licensors. By continuing to use the Services the Customer acknowledges that such material is protected by applicable United Kingdom and international Intellectual Property and other laws.
- 5.1 The Customer may print, reproduce, copy, distribute, store or in any other fashion re-use Content from the Services for personal or educational purposes only unless otherwise given Wild Learning's express written permission to do so. Specifically, the Customer agrees that it will not systematically copy Content from the Services with a view to creating or compiling any form of comprehensive collection, compilation, directory or database unless given Wild Learning's express written permission to do so.
- 5.2 In the event that new inventions, designs or processes evolve in performance of or as a result of the Agreement, the Customer acknowledges that the same shall be the property of Wild Learning unless otherwise agreed in writing by Wild Learning.
- 5.3 Any trade mark, trade name or logo such as "Powered by Wild Learning" appearing on or in the Software is the property of Wild Learning and must not be copied, obscured or removed from the Software.

## **6. User Site Intellectual Property**

- 6.0 The Intellectual Property rights subsisting in the User Content of User Sites belong to the User to which that/those User Site(s) belong(s) unless it is expressly stated otherwise in the Agreement.
- 6.1 Where expressly indicated, certain Content available through User Sites and the Intellectual Property rights subsisting therein belongs to third parties.
- 6.2 The third party Content described in this Clause 6, unless expressly stated to be so, is not covered by any permission granted by Clause 5 of these Terms and Conditions to use Content.
- 6.3 For the avoidance of doubt, the Database (excluding the User Content therein) shall not be considered User Content.

## 7. Third Party Intellectual Property

- 7.0 Unless otherwise expressly indicated, all Intellectual Property rights including, but not limited to, copyright and trademarks, in Content belong to the manufacturers or distributors of such Content as may be applicable.
- 7.1 Subject to Clause 5 the Customer may not reproduce, copy, distribute, store or in any other fashion re-use Content unless otherwise indicated on the Subscription Services or the Documentation or unless given express written permission to do so by the relevant manufacturer or supplier.

## 8. Sub-licences and Client Sharing

- 8.0 The Customer agrees:
  - 8.0.0 not to represent itself as agent of Wild Learning for any purpose, nor pledge Wild Learning's credit or give any condition or warranty or make any representation on Wild Learning's behalf or commit Wild Learning to any contracts or otherwise incur any liability on behalf of Wild Learning howsoever arising;
  - 8.0.1 not without Wild Learning's prior written consent, make any representations, warranties, guarantees or other commitments with respect to the specifications, features or capabilities of the Subscription Services which are inconsistent with those contained in any promotional material supplied by Wild Learning;
  - 8.0.2 to observe all reasonable directions and instructions given to it by Wild Learning in relation to the promotion and advertisement of the Subscription Services to the extent that such promotions or advertisements refer to the Subscription Services; and
  - 8.0.3 not to make any written statement as to the quality or manufacture of the Subscription Services without prior written approval of Wild Learning.
  - 8.0.4 that the Software shall contain the words "© Wild Learning" or such other similar wording as is prescribed by Wild Learning from time to time. The Customer shall ensure that this wording is not removed or obscured from/in the Software.
- 8.1 Wild Learning undertakes and agrees with the Customer:
  - 8.1.0 to meet all orders for the quantity of Sub-licenses as the Customer requires and is entitled to grant from time to time in accordance with the Agreement; and
  - 8.1.1 to provide the Customer with reasonable technical support to enable the Customer to promote, resell and distribute the Subscription Services in accordance with the relevant Order Form.
- 8.2 The sums to be paid by the Customer to Wild Learning in respect of the purchase/supply of Sub-licenses shall be calculated in accordance with the relevant Order Form.
- 8.3 The Customer is entitled to grant the number of Sub-licenses as are detailed in the relevant Order Form;
- 8.4 Unless specified otherwise in the relevant Order Form, the Customer must contain the EULA in any Sub-licence.
- 8.5 The Customer is not entitled to amend, vary or change the terms of the EULA without Wild Learning's consent.
- 8.6 The terms of each Sub-licence will be as agreed in the relevant Order Form.
- 8.7 The Customer shall supervise and control use of the Subscription Services by Users in accordance with the terms of the Agreement and the EULA.
- 8.8 The Customer will where required by Wild Learning, enforce the terms of the Sub-licence for Wild Learning's benefit.
- 8.9 Notwithstanding the terms of Clause 8.5, the terms of the Sub-licence will be on the same terms *mutatis mutandis* as these Terms and Conditions.
- 8.10 Notwithstanding that the Customer has granted a Sub-licence, the Customer will remain liable to Wild Learning under the Agreement.

## 9. Subscription Services Warranties

- 9.0 Wild Learning warrants that: (i) the Subscription Services will function substantially as described in the Documentation; and (ii) Wild Learning owns or otherwise has the right to provide the Subscription Services to the Customer under the Agreement. Subject to the terms of Clause 18, the remedies set out in this Clause 9 are the Customer's exclusive remedies for breach of warranty.
- 9.1 If the Subscription Services do not function substantially in accordance with the Documentation, Wild Learning shall, at its option, either (i) modify the Subscription Services to conform to the Documentation; or (ii) provide a workaround solution that will reasonably meet the Customer's requirements. If neither of these options are commercially feasible,

either party may terminate the relevant Order Form under the Agreement, in which case Wild Learning shall refund to the Customer all fees pre-paid to Wild Learning under the relevant Order Form for unused Subscription Services.

9.2 If the normal operation, possession or use of the Subscription Services by the Customer is found to infringe any third party Intellectual Property right or Wild Learning believes that this is likely, Wild Learning shall, at its option, either (i) obtain a license from such third party for the benefit of the Customer; (ii) modify the Subscription Services so that they no longer infringe; or (iii) if neither of these options is commercially feasible, terminate the relevant Order Form under the Agreement, in which case Wild Learning shall refund to the Customer all fees pre-paid to Wild Learning under the relevant Order Form for unused Subscription Services.

9.3 However, Wild Learning has no warranty obligations for:

9.3.0 the extent that Software has been modified by the Customer or any third party, unless the modification has been approved in writing by Wild Learning; or,

9.3.1 problems in the Subscription Services caused by any Third-Party Software or hardware, by accidental damage or by other matters beyond Wild Learning's reasonable control.

## **PART TWO – PROFESSIONAL SERVICES.**

### **10. Professional Services Warranties.**

10.0 Wild Learning warrants that (i) the Professional Services shall substantially conform to the applicable Order Form; and (ii) the Professional Services shall be performed with reasonable skill, care and diligence. The remedies set out in this Clause 10 are the Customer's exclusive remedies for breach of either warranty. If the Professional Services do not conform to the Order Form or are not performed with reasonable skill, care and diligence, Wild Learning shall re-perform the Professional Services to the extent necessary to correct the defective performance.

10.1 Wild Learning shall comply with the terms of the SLA (or as amended in an Order Form) at all times. The terms of Clause 10.1 shall apply to the SLA.

### **11. The Customer's Responsibilities.**

The Customer shall provide Wild Learning with all information, access, and full good faith cooperation reasonably necessary to enable Wild Learning to deliver the Services and shall do anything that is identified in the Order Form as the Customer's responsibility. If the Customer fails to do this, Wild Learning shall be relieved of its obligations to the extent that the obligations are dependent upon the Customer's performance.

## **PART THREE – GENERAL.**

### **12. Term of Agreement.**

This Agreement starts on the date that both parties sign an Order Form for the relevant services and ends when Wild Learning no longer is obliged to provide the Customer with Services under any Order Form.

### **13. Payments.**

13.0 The Customer shall pay the fees listed in, and in accordance with, the relevant Order Form.

13.1 If the Customer initially purchases Subscription Services for a term, and subsequently orders an additional product, the purchase price for the additional product shall be pro-rated so that the added subscriptions terminate on the same day as the initial Subscription Term (unless specified otherwise in the relevant Order Form).

13.2 The fees for the initial Subscription Term (stated in the relevant Order Form) will be as specified in the Order Form. Wild Learning reserves the right to change fees from time to time and any such changes may affect the Customer's recurring fees after the initial Subscription Term. Increases in price will be reflected in the Customer's recurring fees for the Services.

### **14. Termination and Suspension.**

14.0 Either party may terminate rights granted to the other under a particular Order Form at any time after expiry of the Subscription Term and provided all outstanding fees have been paid to the party providing the services by providing 30 days' prior written notice to the other party.

14.1 Either party may terminate the Agreement, or any rights granted under a particular Order Form with immediate effect if:

- 14.1.0 the other party commits a material breach of any term of the Agreement or any Order Form which is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so; or
- 14.1.1 the other party is unable to pay its debts and/or ceases to trade and/or suffers an Insolvency Event.
- 14.2 Clauses 2.4, 2.5, 3.3, 4, 5, 6, 7, 9, 12, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25 and 26 shall continue after the Agreement ends.
- 14.3 If Wild Learning terminates an Order Form under the Agreement because of non-payment by the Customer, all unpaid fees for the remainder of the Subscription Term immediately fall due for payment.
- 14.4 Upon termination of the Agreement or any Order Form for any reason:
  - 14.4.0 (except in the case of termination due to the Customer's material breach of the Agreement), the Customer will be given restricted access to the Subscription Services for a period of ten days in which to recover their User Content. Wild Learning can provide a User Content recovery service to the Customer, should they wish to use it. Wild Learning reserves the right to charge for this service; and
  - 14.4.1 each party shall immediately pay to the other all of that party's unpaid invoices and interest at the rate specified in the relevant Order Form, for any services for which no invoice has been raised and any work in progress. Each party shall invoice the other and the invoice shall be payable immediately on receipt.
- 14.5 Termination of the Agreement or any Order Form shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages (subject to the limitations contained herein) in respect of any breach of the Agreement or any Order Form that existed at or before the date of termination.
- 14.6 Wild Learning may retain User Content in backup media for an additional period of up to one year after the date of termination of the Agreement, or longer if required by law, provided it makes no further use of such User Content (except as provided for herein or as is required by law), keeps the User Content confidential in accordance with Clause 17, and supplies the Customer with a copy of the most recent back-up of the User Content within 30 days of the Customer's request (at the Customer's cost).

#### **15. Warranty Disclaimer.**

- 15.0 Except as expressly provided in the Agreement, the Services are provided with no other warranties of any kind, and Wild Learning disclaims all other warranties, express or implied, including without limitation any warranty of merchantability or fitness for a particular purpose. Wild Learning does not warrant that the use of the Subscription Services shall be uninterrupted or error-free.

#### **16. Limitation of Liability.**

- 16.0 Neither party shall be liable under the Agreement for any indirect, special, incidental, punitive or consequential damages (including without limitation damages for loss of goodwill, work stoppage, computer failure or malfunction, lost or corrupted data, lost profits, lost business or lost opportunity), or any other similar damages under any theory of liability (whether in contract, tort/delict, strict liability or any other theory), even if the other party has been informed of this possibility. The Customer assumes all responsibility for the selection of the Services, Software and Documentation necessary to achieve the Customer's intended results, and for the use and results of the Services or work product. Each party's total liability for any direct loss, cost, claim or damages of any kind related to the Agreement or the relevant Order Form shall not exceed the amount of the fees paid or payable by the relevant party under such relevant Order Form during the period of 12 months before the event giving rise to such loss, cost, claim or damages. However, there is no limitation on direct loss, claim or damages arising as a result of an infringement of either party's Intellectual Property rights by the other party, or a breach of Clause 17 or Clauses 22 and 23 of these Terms and Conditions by the other party.
- 16.1 Wild Learning's liability under the Agreement (except where provided otherwise in this agreement to a lesser extent) shall be limited to the amount of professional indemnity insurance underwritten in the name of Wild Learning which shall be £500,000. This limitation shall not apply to a breach of Clauses 22 or 23.

#### **17. Confidentiality**

- 17.0 Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Agreement and any Order Form. A party's Confidential Information shall not be deemed to include information that (i) is now, or subsequently becomes, through no act or failure to act on the part of receiving party (the "Receiver"), generally known or available; (ii) is known by the Receiver at the time of receiving such information, as evidenced by the Receiver's records; (iii) is subsequently provided to the Receiver by a third party, as a matter of

right and without restriction on disclosure; or (iv) is required to be disclosed by law, provided that the party to whom the information belongs is given prior written notice of any such proposed disclosure.

- 17.1 Subject to clauses 17.3, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party (other than to a consultant or a Sub-contractor for the purposes of the Agreement and which consultant or Sub-contractor shall have entered into undertakings of confidentiality in relation to the Confidential Information on terms no less onerous than those contained in this Clause 17), or use the other's Confidential Information for any purpose other than to carry out its obligations under the Agreement.
- 17.2 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of the Agreement.
- 17.3 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of a competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 17.3, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 17.4 No party shall make, or permit any person to make, any public announcement concerning the Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 17.5 This clause 17 shall survive termination of the Agreement or any Order Form, howsoever arising.

#### **18. Indemnification by Wild Learning.**

- 18.0 Wild Learning shall indemnify and hold harmless the Customer its clients, its Affiliates, directors and employees from any damages finally awarded against the Customer (including, without limitation, reasonable costs and legal fees incurred by the Customer) arising out of any third party suit, claim or other legal action alleging that the use of the Services or Documentation by the Customer (other than User Content – see Clauses 4 and 19) infringes the Intellectual Property of any third party, ("Legal Action"). Wild Learning shall provide reasonable assistance in the defence of such Legal Action.
- 18.1 However, Wild Learning shall have no indemnification obligations for any Legal Action arising out of: (i) a combination of the Services and/or Software with software or products not supplied, or approved in writing by Wild Learning; (ii) any repair, adjustment, modification or alteration to the Subscription Services by the Customer or any third party, unless approved in writing by Wild Learning; or (iii) any refusal by the Customer to install and use a non-infringing version of the Subscription Services offered by Wild Learning under Clause 9.2(ii). Clause 9.2(ii) and this Clause 18 state the entire liability of Wild Learning with respect to any Intellectual Property infringement by the Subscription Services or Software or Documentation.
- 18.2 The Customer shall give written notice to Wild Learning of any Legal Action no later than 30 days after first receiving notice of a Legal Action, and shall give copies to Wild Learning of all communications, notices and/or other actions relating to the Legal Action. The Customer shall give Wild Learning the sole control of the defence of any Legal Action, shall act in accordance with the reasonable instructions of Wild Learning and shall give Wild Learning such assistance as Wild Learning reasonably requests to defend or settle such claim. Wild Learning shall conduct its defence at all times in a manner that is not adverse to the Customer's interests. the Customer may employ its own counsel to assist it with respect to any such claim. The Customer shall bear all costs of engaging its own counsel, unless engagement of counsel is necessary because of a conflict of interest with Wild Learning or its counsel, or because Wild Learning fails to assume control of the defence. The Customer shall not settle or compromise any Legal Action without Wild Learning's express written consent. Wild Learning shall be relieved of its indemnification obligation under this Clause 18 if the Customer materially fails to comply with Clause 18.3.

#### **19. Indemnification by the Customer**

- 19.0 The Customer shall indemnify and hold harmless Wild Learning, its Affiliates, directors, and employees from any damages finally awarded against Wild Learning (including, without limitation, reasonable costs and legal fees incurred by Wild Learning) arising out of any third party suit, claim or other legal action (including but not limited to any governmental investigations, complaints and actions) in connection with the User Content, including, without limitation, any action for infringement of any trademark, copyright, trade secret, right of publicity or privacy (including defamation), patent or other proprietary right with respect to the User Content ("Legal Claim").

19.1 Wild Learning shall give written notice to the Customer of any Legal Claim no later than 30 days after first receiving notice of a Legal Claim and shall give copies to the Customer of all communications, notices and/or other actions relating to the Legal Claim. Wild Learning shall give the Customer the sole control of the defence of any Legal Claim, shall act in accordance with the reasonable instructions of the Customer and shall give the Customer such assistance as the Customer reasonably requests to defend or settle such claim. The Customer shall conduct its defence at all times in a manner which is not adverse to Wild Learning's interests. Wild Learning may employ its own counsel to assist it with respect to any such claim. Wild Learning shall bear all costs of engaging its own counsel, unless engagement of counsel is necessary because of a conflict of interest with the Customer or its counsel, or because the Customer fails to assume control of the defence. Wild Learning shall not settle or compromise any Legal Claim without the Customer's express written consent. The Customer shall be relieved of its indemnification obligation under Clause 19 if Wild Learning materially fails to comply with Clause 19.2.

## **20. Publicity.**

Wild Learning may list the Customer as a customer and use the Customer's logo on Wild Learning's website, on publicly available Customer lists, and in media releases with the Customer's consent, such consent not to be unreasonably withheld.

## **21. Miscellaneous.**

- 21.0 The Agreement represents the entire express agreement of the parties, and supersedes any prior or current agreements or understandings, whether written or oral. If there is a conflict between the Agreement and an Order Form, the Order Form shall prevail.
- 21.1 The Agreement may not be changed or any part waived except by written agreement between the parties.
- 21.2 The Agreement shall be governed by the laws of Scotland. The parties consent to the exercise of exclusive jurisdiction of the Scottish courts.
- 21.3 Neither party shall assign or otherwise transfer any of its rights or obligations under the Agreement without the prior written consent of the other party.
- 21.4 The language of the Agreement shall be English.
- 21.5 The time zone of the Agreement shall be Greenwich Mean Time.

## **22. Data Processing.**

- 22.0 Both parties will comply with all applicable requirements of the Privacy Legislation. This Clause 22 is in addition to, and does not relieve, remove or replace a party's obligations or rights under the Privacy Legislation.
- 22.1 The provisions of the Agreement shall apply to the processing of the Personal Data carried out for the Customer by Wild Learning, and to all Personal Data held by Wild Learning in relation to all such processing whether such Personal Data is held at the date of the Agreement or received afterwards.
- 22.2 The Agreement shall continue in full force and effect for so long as Wild Learning is processing Personal Data on behalf of the Customer.
- 22.3 Wild Learning is only to process the Personal Data received from the Customer:
  - 22.3.0 for the purposes of the Agreement and not for any other purpose;
  - 22.3.1 to the extent and in such a manner as is necessary for those purposes; and
  - 22.3.2 strictly in accordance with the Agreement or otherwise with the express written authorisation and instructions of the Customer (which may be specific instructions or instructions of a general nature or as otherwise notified by the Customer to Wild Learning).
- 22.4 Schedule 1 sets out the scope, nature and purpose of processing by Wild Learning, the duration of processing and the types of Personal Data and categories of data subject.
- 22.5 All instructions given by the Customer to Wild Learning shall be made in writing and shall at all times be in compliance with the Privacy Legislation and other applicable laws. Wild Learning shall act only on such written instructions from the Customer unless Wild Learning is required by law to do otherwise.
- 22.6 Wild Learning shall promptly assist the Customer (where the Customer cannot do this itself via the Subscription Services) in complying with a legitimate data subject request to amend, transfer, delete, or otherwise dispose of Personal Data. Where permitted to do so by law, Wild Learning may charge a reasonable fee for providing such assistance.
- 22.7 Both Parties shall comply at all times with the Privacy Legislation and other applicable laws and shall not perform their obligations under the Agreement or any other agreement or arrangement between themselves in such way as to cause either party to breach any of its applicable obligations under the Privacy Legislation.

- 22.8 The Customer hereby warrants, represents, and undertakes that the Personal Data shall comply with the Privacy Legislation in all respects including, but not limited to, its collection, holding, and processing.
- 22.9 Wild Learning agrees to comply with any reasonable measures required by the Customer to ensure that its obligations under the Agreement are satisfactorily performed in accordance with any and all applicable legislation from time to time in force (including, but not limited to, the Privacy Legislation) and any best practice guidance issued by the ICO.
- 22.10 Wild Learning shall provide all reasonable assistance (at the Customer's cost) to the Customer in complying with its obligations under the Privacy Legislation with respect to the security of processing, the notification of Personal Data breaches, the conduct of data protection impact assessments, and in dealings with the ICO.
- 22.11 When processing the Personal Data on behalf of the Customer, Wild Learning shall:
- 22.11.0 not process the Personal Data outside the European Economic Area or the United Kingdom (all EU member states, plus Iceland, Liechtenstein, and Norway) ("EEA") other than transfers from the EEA to the United Kingdom (which shall be permitted) without the prior written consent of the Customer and, where the Customer consents to such a transfer to a country that is outside of the EEA, to comply with the obligations of Data Processors under the provisions applicable to transfers of Personal Data to third countries set out in the Privacy Legislation by providing an adequate level of protection to any Personal Data that is transferred and providing appropriate safeguards in relation to the transfer;
  - 22.11.1 not transfer any of the Personal Data to any third party without the written consent of the Customer and, in the event of such consent, the Personal Data shall be transferred strictly subject to the terms of a suitable agreement, as set out in Clause 22.21;
  - 22.11.2 process the Personal Data only to the extent, and in such manner, as is necessary in order to comply with its obligations to the Customer or as may be required by law (in which case, Wild Learning shall inform the Customer of the legal requirement in question before processing the Personal Data for that purpose unless prohibited from doing so by law);
  - 22.11.3 implement appropriate technical and organisational measures, and take all steps necessary to protect the Personal Data against unauthorised or unlawful processing, accidental loss, destruction, damage, alteration, or disclosure;
  - 22.11.4 make available to the Customer any and all such information as is reasonably required and necessary to demonstrate Wild Learning's compliance with the Privacy Legislation; and
  - 22.11.5 inform the Customer immediately if it is asked to do anything that infringes the Privacy Legislation or the Privacy Legislation.
- 22.12 Wild Learning shall, at the Customer's cost, assist the Customer in complying with its obligations under the Privacy Legislation. In particular, the following shall apply to data subject access requests, complaints, and data breaches.
- 22.13 Wild Learning shall notify the Customer without undue delay if it receives:
- 22.13.0 a subject access request from a data subject; or
  - 22.13.1 any other complaint or request relating to the processing of the Personal Data.
- 22.14 Wild Learning shall, at the Customer's cost, cooperate fully with the Customer and assist as required in relation to any subject access request, complaint, or other request, including by:
- 22.14.0 providing the Customer with full details of the complaint or request;
  - 22.14.1 providing the necessary information and assistance in order to comply with a subject access request;
  - 22.14.2 providing the Customer with any Personal Data it holds in relation to a data subject (within the timescales required by the Customer); and
  - 22.14.3 providing the Customer with any other information requested by the Customer.
- 22.15 Wild Learning shall notify the Customer immediately if it becomes aware of any form of Personal Data breach, including any unauthorised or unlawful processing, loss of, damage to, or destruction of any of the Personal Data.
- 22.16 The Customer shall be liable for, and shall indemnify (and keep indemnified) Wild Learning in respect of any and all action, proceeding, liability, cost, claim, loss, expense (including reasonable legal fees and payments on a solicitor and client basis), or demand suffered or incurred by, awarded against, or agreed to be paid by, Wild Learning and any Sub-Processor arising directly or in connection with:
- 22.16.0 any non-compliance by the Customer with the Privacy Legislation or other applicable legislation;
  - 22.16.1 any Personal Data processing carried out by Wild Learning or Sub-Processor in accordance with instructions given by the Customer that infringe the Privacy Legislation or other applicable legislation; or

- 22.16.2 any breach by the Customer of its obligations under the Agreement, except to the extent that Wild Learning or a Sub-Processor is liable under sub-Clause 22.17.
- 22.17 Wild Learning shall be liable for, and shall indemnify (and keep indemnified) the Customer in respect of any and all action, proceeding, liability, cost, claim, loss, expense (including reasonable legal fees and payments on a solicitor and client basis), or demand suffered or incurred by, awarded against, or agreed to be paid by, the Customer arising directly or in connection with Wild Learning's Personal Data processing activities that are subject to the Agreement:
  - 22.17.0 only to the extent that the same results from Wild Learning's or a Sub-Processor's breach of the Agreement; and
  - 22.17.1 not to the extent that the same is or are contributed to by any breach of the Agreement by the Customer.
- 22.18 The Customer shall not be entitled to claim back from Wild Learning or a Sub-Processor any sums paid in compensation by the Customer in respect of any damage to the extent that the Customer is liable to indemnify Wild Learning or Sub-Processor under sub-Clause 22.17.
- 22.19 Nothing in the Agreement (and in particular, this Clause 22) shall relieve either party of, or otherwise affect, the liability of either party to any data subject, or for any other breach of that party's direct obligations under the Privacy Legislation. Furthermore, Wild Learning hereby acknowledges that it shall remain subject to the authority of the ICO and shall co-operate fully therewith, as required, and that failure to comply with its obligations as a Data Processor under the Privacy Legislation may render it subject to the fines, penalties, and compensation requirements set out in the Privacy Legislation.
- 22.20 In the event that Wild Learning appoints a Sub-Processor, Wild Learning shall:
  - 22.20.0 enter into a Sub-Processing Agreement with the Sub-Processor which shall impose upon the Sub-Processor the same or similar obligations as are imposed upon Wild Learning by the Agreement;
  - 22.20.1 ensure that the Sub-Processor complies fully with its obligations under the Sub-Processing Agreement and the Privacy Legislation; and
  - 22.20.2 remain fully liable to the Customer for performance of the Sub-Processor's obligations to the extent the Sub-Processor fails to fulfil their data protection obligations.
- 22.21 Except as provided otherwise herein, Wild Learning shall, at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Agreement unless required by applicable law to store the Personal Data (and for these purposes the term "delete" shall mean to put such data beyond use).
- 22.22 Wild Learning shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 22 and immediately inform the Customer if, in the opinion of Wild Learning, its instruction infringes the DPA or Privacy Legislation or applicable laws.

### **23. Data Sharing**

- 23.0 In certain circumstances, Wild Learning and a Customer may require to share data which includes Personal Data for example to improve and enhance User experience and (2) to perform and/or improve the Services and (3) to obtain relevant marketing, demographic, clinical and other appropriate information from Wild Learning.
- 23.1 The parties shall not process the Shared Personal Data for any purpose or in any way that is incompatible with the Stated Purposes.
- 23.2 The Shared Personal Data shall be disclosed by one party to another only to the extent reasonably necessary for the Stated Purposes.
- 23.3 Each party shall appoint a data protection officer and/or at least one other of its representatives as a point of contact for all issues relating to the sharing of the Shared Personal Data and the Privacy Legislation (including, but not limited to, compliance, training, and the handling of Personal Data breaches).
- 23.4 Both parties shall at all times during the Subscription Term comply with their obligations as Data Controllers, the rights of data subjects, and all other applicable requirements under the Privacy Legislation. These Terms and Conditions are in addition to, and do not relieve, remove, or replace either party's obligations under the Privacy Legislation. Any material breach of the Privacy Legislation by either party shall, if not remedied within 14 days of written notice from the other party, give the other party grounds to terminate the Agreement with immediate effect.
- 23.5 The extent of the Shared Personal Data, including any applicable restrictions relating to will be agreed between the parties and set out in writing.
- 23.6 Each party shall ensure that the Shared Personal Data is accurate and up-to-date prior to its disclosure to the other party.
- 23.7 The parties shall use compatible technology for the processing of the Shared Personal Data in order to preserve accuracy.

- 23.8 Both parties shall at all times during the Term process the Shared Personal Data fairly and lawfully.
- 23.9 Both parties shall ensure that they have legitimate grounds for processing the Shared Personal Data under the Privacy Legislation.
- 23.10 Both parties shall ensure that they have in place all required notices and consents in order to enable the sharing of the Shared Personal Data under the Agreement. In particular, the parties shall ensure that data subjects are provided with clear and sufficient information about the following:
- 23.10.0 the purposes for which their Personal Data is to be processed;
  - 23.10.1 the legal basis upon which it is relying for such purposes;
  - 23.10.2 the fact that their Personal Data is to be transferred to a third party and sufficient detail about the transfer to enable the data subject to understand the purpose of the transfer and any risks associated therewith; and
  - 23.10.3 in the event that their Personal Data is to be transferred outside of the United Kingdom or EEA, the fact that such a transfer is to take place and sufficient detail about the transfer to enable the data subject to understand the purpose of the transfer and any risks associated therewith; and
  - 23.10.4 all other information required under the Privacy Legislation.
- 23.11 The parties shall assist one another in complying with their respective obligations and the rights of data subjects under the Privacy Legislation. Such assistance shall include, but not be limited to:
- 23.11.0 consulting with the other party with respect to information and notices provided to data subjects relating to the Shared Personal Data;
  - 23.11.1 informing the other party about the receipt of data subject access requests and providing reasonable assistance in complying with the same;
  - 23.11.2 not disclosing or otherwise releasing any Shared Personal Data in response to a data subject access request without prior consultation with the other party, whenever reasonably possible;
  - 23.11.3 assisting the other party at the cost of the other party in responding to any other data subject request.
- 23.12 Each party shall maintain records of all data subject requests received, the decisions made in response, and any information provided to the data subject(s) concerned. Such records shall include copies of the request, details of any data accessed and shared, and, if applicable, details of any further correspondence, telephone conversations, or meetings relating to the request.
- 23.13 Each party shall hold and process the Shared Personal Data only for so long as is necessary for the fulfilment of the Stated Purposes.
- 23.14 In the event that any statutory or similar retention periods apply to any of the Shared Personal Data, the relevant Personal Data shall be retained by the relevant party in accordance therewith.
- 23.15 The parties shall delete (or otherwise dispose of) or at a party's option anonymise the Shared Personal Data (or the relevant part thereof) and any and all copies thereof or, on the written request of the other party, other than in the case of anonymised data, return it to the other disclosing party, subject to any legal requirement to retain any applicable Personal Data, in the following circumstances:
- 23.15.0 upon the termination or expiry of the Agreement; or
  - 23.15.1 once the Stated Purposes have been fulfilled and it is no longer necessary to retain the Shared Personal Data (or the relevant part thereof) in light of the Stated Purposes; whichever is earlier.
- 23.16 All Shared Personal Data to be deleted or disposed of or anonymised under the Agreement shall be deleted or disposed of using methods compliant with the Privacy Legislation.
- 23.17 Following the deletion and/or disposal or anonymisation of the Shared Personal Data (as applicable), the party deleting or disposing of the data shall notify the other party of the same in writing, confirming that the Shared Personal Data has been deleted or disposed of or anonymised using methods compliant with the Privacy Legislation.
- 23.18 For the purposes of this Clause the transfer of Shared Personal Data shall refer to any sharing of the Shared Personal Data by a party with a third party. Such sharing shall include, but not be limited to, the appointment of a third-party Data Processor and sharing the Shared Personal Data with a third-party Data Controller.
- 23.19 In the event that a party wishes to appoint a third-party Data Processor, it shall remain liable to the other party for any acts and/or omissions of the third-party processor and it shall comply with the Privacy Legislation.
- 23.20 Neither party shall transfer any of the Shared Personal Data outside of the United Kingdom or EEA unless:
- 23.20.0 that party complies with the provisions the Privacy Legislation (where the third party is a joint controller); and

- 23.20.1 that party ensures that the transfer is to a country that the European Commission has determined (by means of an adequacy decision) offers an adequate level of data protection, pursuant to the Privacy Legislation; there are appropriate safeguards in place pursuant to the Privacy Legislation; or one of the derogations for specific situations set out in the Privacy Legislation applies.
- 23.21 A party shall transfer the Shared Personal Data to the other party using methods compliant with the Privacy Legislation.
- 23.22 Both parties shall ensure that they have in place appropriate technical and organisational measures as reviewed and approved by the other party, to protect against the unauthorised or unlawful processing of, and against the accidental loss or destruction of, or damage to, the Shared Personal Data, having regard to the state of technological development and the cost of implementing any such measures.
- 23.23 When putting appropriate technical and organisational measures in place, both parties shall ensure a level of security appropriate to the nature of the Shared Personal Data which is to be protected, and to the potential harm resulting from the unauthorised or unlawful processing of, the accidental loss or destruction of, or damage to, the Shared Personal Data.
- 23.24 All technical and organisational measures put in place by both parties shall be reviewed regularly by the respective party, updating such measures upon the agreement of the other party as appropriate throughout the Term of the Agreement.
- 23.25 Both parties shall ensure that any and all of their representatives by whom the Shared Personal Data is to be handled and processed are appropriately trained to do so in accordance with the Privacy Legislation and with the requisite technical and organisational measures.
- 23.26 The parties shall further ensure that any of their respective representatives to whom the Shared Personal Data is to be disclosed are subject to contractual obligations in relation to confidentiality and data protection that bind those Representatives and that are same as the obligations imposed upon the parties by the Agreement.
- 23.27 In the event of a dispute or claim brought by a data subject or the ICO concerning the processing of Shared Personal Data against either or both parties, the parties will inform each other about any such disputes or claims and will cooperate with a view to settling them amicably in a timely fashion.
- 23.28 The parties agree to respond to any generally available non-binding mediation procedure initiated by a data subject or by the supervisory authority. If they do participate in the proceedings, the parties may elect to do so remotely (such as by telephone or other electronic means). The parties also agree to consider participating in any other arbitration, mediation, or other dispute resolution proceedings developed for data protection disputes.

#### **24. Feedback and Modifications**

- 24.0 The Customer hereby acknowledges that upon submitting Feedback to Wild Learning, the Customer automatically grants to Wild Learning a worldwide, perpetual, irrevocable, royalty free licence to use that Feedback in any way Wild Learning deems appropriate including, but not limited to:
- 24.0.0 The use, publication, distribution, transmission, broadcasting, licensing, sub-licensing, leasing, lending and sale of the Feedback; and
- 24.0.1 The creation, use, publication, distribution, transmission, broadcasting, licensing, sub-licensing, leasing, lending and sale of any derivative works based upon the Feedback.
- 24.1 Wild Learning's use of the Feedback shall not bestow any rights or interests upon the Customer whatsoever.
- 24.2 The Customer hereby acknowledges that any modifications made to the Software at the request or suggestion of the Customer will belong to and be the Intellectual Property of Wild Learning.

#### **25. Change Orders.**

- 25.0 If the Customer wishes to amend the scope of an Order Form, the parties will use all reasonable endeavours to agree to a Change Order. Each Change Order shall detail the requested changes to the applicable task, responsibility, duty, budget, work programme or other matter. The Change Order will become effective upon the execution of the Change Order by both parties and will include a specified period of time (as agreed upon by the parties) within which Wild Learning will implement the changes and any increase in price.
- 25.1 Both parties agree to act in good faith and promptly when considering a Change Order requested by the other party. Wild Learning reserves the right to postpone effecting material changes in the scope of Professional Services until such time as the parties agree to and execute the corresponding Change Order.

## 26. Entire Agreement

The Agreement and each Order Form comprises the entire Agreement between the Parties and supersedes all previous agreements between the Parties. The Agreement can only be altered or amended by either an Order Form or a Change Order.

## PART FOUR – DEFINITIONS.

### 27. Glossary.

- 27.0 **“Affiliate”** means an entity which controls, is controlled by, or is under common control with, a party, and control means the ability to vote 50% or more of the voting securities of any entity or otherwise having the ability to influence and direct the policies and direction of an entity;
- 27.1 **“Assessment”** means a Wild Learning online report created by a Candidate by completing an online questionnaire via the Software in terms of the Candidate Terms;
- 27.2 **“Candidate”** means any person who is using the Software to create an Assessment;
- 27.3 **“Candidate Terms”** means the terms and conditions to be entered into by Candidates using the Wild Learning Software to create an Assessment, which Candidate Terms comprise Schedule 2 annexed;
- 27.4 **“Change Order”** means a written statement signed by the parties recording any (a) change in the details of an Order Form, or (b) change in the assumptions upon which the Order Form is based (including, but not limited to, changes in an agreed starting date for a Subscription or Professional Services or suspension of the services by the Customer or (c) any changes in the fees, costs and/or time lines;
- 27.5 **“Confidential Information”** means any information that is proprietary or confidential which either party directly or indirectly discloses, or makes available, to the other, including but not limited to, the existence and terms of the Agreement, all confidential or proprietary information relating to the business, affairs, operations, processes, product information, know-how, technical information, designs, trade secrets or software and/or Intellectual Property of the party disclosing such information;
- 27.6 **“Content”** means any text, graphics, images, audio, video, software, data compilations including, but not limited to, text, graphics, logos, icons, sound clips, video clips, data compilations, page layout, underlying code and software and any other form of information capable of being stored in a computer that appears on, is uploaded to or forms part of the Subscription Services or the Platform; BUT excluding User Content;
- 27.7 **“Database”** means the database stored on the Platform which contains inter alia User Content;
- 27.8 **“Data Controller”, “Data Processor”, “Personal Data” “processing” and “data subject”** shall have the meanings ascribed to them in the Privacy Legislation;
- 27.9 **“DPA”** means the Data Protection Act 2018 and any modification, amendment or re-enactment thereof;
- 27.10 **“Documentation”** means user documentation provided electronically by Wild Learning for use with the Subscription Services, as periodically updated and all training and consultancy materials provided by Wild Learning from time to time in any readable format;
- 27.11 **“EULA”** means the End User Licence Agreement in the form set out in PART SEVEN of these Terms and Conditions;
- 27.12 **“Feedback”** means all comments, suggestions, requests, requirements, improvements, feedback, or other input the Customer and Users provide regarding any products or services owned or supplied by Wild Learning or its Affiliates;
- 27.13 **“Force Majeure”**, means circumstances beyond the control of Wild Learning which shall include (but shall not be limited to) acts of God, perils of the sea or air, fire, flood, drought, explosion, sabotage, accident, embargo, riot, civil commotion, including acts of local government and parliamentary authority, disease, epidemic or pandemic (whether naturally occurring or man-made); inability to supply the Subscription Services and or the Professional Services, materials, breakdown of Local Equipment and labour disputes of whatever nature and for whatever cause arising including (but without prejudice to the generality of the foregoing) work to rule, overtime bars, strikes and lockouts and whether between either of the parties hereto and any or all of its employees and/or any other employer and any or all of its employees and/or between any two or more groups of employees (and whether of either of the parties hereto or any other employer);
- 27.14 **“GDPR”** means the General Data Protection Regulation (Regulation (EU) 2016/679) as amended, replaced, supplemented or adopted into United Kingdom Legislation from time to time;
- 27.15 **“ICO”** means the UK’s supervisory authority, the Information Commissioner’s Office;
- 27.16 **“Industry Best Practice”** means the standard of care, attention, diligence, expertise, knowledge, methods and practice expected of a competent and experienced professional in the IT and Cyber Security profession;

- 27.17 **“Insolvency Event”** means the other party (a) enters liquidation, or a winding up petition is presented against the company; (b) has a receiver, liquidator, administrator, trustee or an individual with a similar role appointed over any of its assets; (c) proposes to make any arrangements with its creditors or passes a resolution to place the company into liquidation; or (d) suffers an event which, under the law of a different country, is equivalent to any of the previously specified acts or events;
- 27.18 **“Intellectual Property”** means patents, trademarks, trade name, service mark, copyright, trade secrets, know-how, process, technology, development tool, ideas, concepts, design right, domain names, moral right, database right, methodology, algorithm and invention, and any other proprietary information (whether registered, unregistered, pending or applied for);
- 27.19 **“Local Equipment”** means the Customer or User’s own on-premise equipment including hardware and software environment which is used in connection with the Software Services, which comprise of, but is not limited to - server computers (whether virtual or not), Desktop PC’s, Laptops or any other portable device, storage systems and relative hardware, firmware, operating software, operating system software, networking software, database software, anti-virus and security software, switches, power supplies and telecommunications infrastructure, internet connection, broadband availability and infrastructure, routers, Printers, associated peripheral devices or accessories whether fixed or portable;
- 27.20 **“Order Form”** means a document provided by Wild Learning and signed by the Customer that describes the Subscription Services and Professional Services being purchased and/or licensed by the Customer in terms of the Agreement and any additional conditions pertaining thereto substantially in the form comprising PART SIX of these Terms and Conditions;
- 27.21 **“Platform”** means the hardware and software environment in which the software element of the Subscription Services operates, which comprises one or more server computers (whether virtual or not), mirroring/duplicating/back-up and storage systems and relative hardware operating software, virtual machine software (where relevant), operating system software, database software, anti-virus and security software, switches, power supplies and telecommunications infrastructure;
- 27.22 **“Privacy Legislation”** means the GDPR, (where applicable in relation to the storage retention and processing of EU personal data), the DPA, the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (the **“UK GDPR”**), as it forms part of the law of England and Wales, Scotland, and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, the DPA, the Data Protection Directive (95/46/EC), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all applicable laws and regulations relating to the processing of personal data and privacy in the relevant territory, including where applicable the guidance and codes of practice issued by the Information Commissioner or the territorial equivalent (as amended or replaced from time to time);
- 27.23 **“Privacy Policy”** means Wild Learning’s policy relating to User Content and compliance with (amongst others) the Privacy Legislation from time to time, the current version of which is located here <https://www.wildlearn.co/privacy-policy>
- 27.24 **“Professional Services”** means the training, consulting, development and other professional services identified on an Order Form but does not include the Subscription Services;
- 27.25 **“Services”** means Professional Services and/or Subscription Services as the case may be;
- 27.26 **“Shared Personal Data”** means the personal data and special category personal data to be shared between Wild Learning and the Customer under these Terms and Conditions;
- 27.27 **“SLA”** means a Service Level Agreement in the form set out in PART FIVE of these Terms and Conditions;
- 27.28 **“Software”** means the Wild Learning™ proprietary operating software and the Third-Party Software written in object and source code residing on and used for operating the Platform and the Subscription Services as Updated and Upgraded from time to time;
- 27.29 **“Sub-licence”** means a licence of Subscription Services or any part thereof granted by the Customer to a Client in terms of the Agreement and in the form of the EULA;
- 27.30 **“Sub-Processor”** means a sub-processor appointed by Wild Learning to process the Personal Data;
- 27.31 **“Sub-Processing Agreement”** means an agreement between Wild Learning and a Sub-Processor governing the Personal Data processing carried out by the Sub-Processor, as described in Clause 22;
- 27.32 **“Subscription Services”** means the hosted Customer experience solutions identified in an Order Form, and any modifications periodically made by Wild Learning, but does not include the Professional Services;

- 27.33 “**Subscription Term**” means the period of time during which Wild Learning is required to provide the Customer with the Subscription Services as specified in the relevant Order Form;
- 27.34 “**Terms and Conditions**” means these terms and conditions;
- 27.35 “**Third-Party Software**” means software other than the Software which belongs to third parties and in relation to which Wild Learning has the right to grant sub-licenses;
- 27.36 “**Update**” means any update, update rollup, service pack, feature pack, critical update, security update, or hotfix that is used to improve or to fix a software product;
- 27.37 “**Upgrade**” means a software package that replaces an installed version of a product with a newer version of the same product, typically leaving existing customer data and preferences intact while replacing the existing software with the newer version;
- 27.38 “**User**” means the Customer and any of its employees, or a person to whom the Customer has outsourced services, that has permission to access the Subscription Services as a named user and is not employed by Wild Learning and acting in the course of their employment;
- 27.39 “**User Content**” means any text, graphics, images, audio, video, software, data compilations and any other form of information capable of being stored in a computer that appears on, is uploaded to or forms part of a User Site or the Subscription Services and has been uploaded by a User;
- 27.40 “**User Site**” means a partition/tenancy/instance on the Platform created by Wild Learning for the Customer and/or User or Users accessing the Subscription Services which shall contain User Content and shall be hosted on the Platform;
- 27.41 “**Working Day**” means any day (1) which is neither a Saturday or a Sunday or a public holiday in any part of the United Kingdom and (2) upon which the Bank of England is open for business.

**PART FIVE – SLA**

**28. Server availability Service Level Agreement (SLA)**

This SLA is designed to ensure that Wild Learning meets the needs of its Customers and it outlines what levels of service can be expected.

| Service Line                    | SLA  | KPI (%) |
|---------------------------------|--|---------|
| System Availability             | To be made available to Users 24/7                                   | 99      |
| Support Hours:                  | Wild Learning will respond within defined service levels (see below) | 99      |
| Technical Support - Second Line | Available 9.00am – 5.00pm GMT  | 99      |

**29. Incident Resolution Targets**

|     | Severity   | Severity Description  | Initial Response | Status Update | Resolution            |
|-----|------------|---|------------------|---------------|-----------------------|
| 2.1 | Severity 1 | Unplanned outage impacting multiple Users                       | 1hr              | 4hrs          | <24 hrs               |
| 2.2 | Severity 2 | Outage / sever disruption to service for several Users          | 2hrs             | 8hrs          | Within 2 working days |
| 2.3 | Severity 3 | Reduced functionality causing disruption to business            | 4hrs             | 16hrs         | Within 3 working days |
| 2.4 | Severity 4 | Non-urgent / reduced functionality with low impact              | 8hrs             | 24hrs         | Within 5 working days |
| 2.5 | Severity 5 | On Demand Professional services requests for installations etc. | 8hrs             | TBD           | Agree with customer   |

Wild Learning shall use reasonable endeavours to provide the helpdesk support services in accordance with these Service Levels and Response Times. These Response times refer only to the time within which Wild Learning shall respond to a helpdesk support request. Wild Learning gives no guarantee as to the time any given issue may take to resolve save that it hereby undertakes to use reasonable endeavours to resolve issues as quickly as is reasonably possible within the target resolution times specified in the table above.

**3. Support provided under this Agreement shall include:**

**3.1 Help Desk facilities.**

- 3.1.1 Due to the close working relationship required during the proof of concept, Wild Learning will appoint a dedicated account manager who will be the first and primary point of contact for all communications.
- 3.1.2 For software issues, the Customer can email support@tetco.io to contact the Wild Learning Help Desk which is available during normal business hours (Contracted Hours)
- 3.1.3 The Customer Contact must submit sufficient material and information to enable Wild Learning support staff to duplicate the problem. A support technician will be assigned and will commence incident processing within the defined response time. When appropriate, the support technician will give an estimate of how long it will take to resolve. The technician will do their best to keep the Customer advised on the progress of problem resolution.
- 3.1.4 The help desk includes an on-line Support facility: The Customer shall ensure the availability at its expense of compatible Local Equipment including software, hardware, communications infrastructure and provide adequate broadband facilities for on-line problem resolution. Wild Learning will work with the Customer’s hardware supplier where necessary to ensure that remote support facilities are setup according to requirements.
- 3.1.5 The help desk is strictly not a training facility. Its objective is to troubleshoot and resolve Software Operational Issues.

- 3.1.6 The help desk is not a hardware or Local Equipment IT support facility. Wild Learning does not support or warrant your Local Equipment, or any other system or service that you subscribe to. Its sole purpose is to support the Wild Learning Software only. Anything else is strictly the Customer's responsibility.
- 3.1.7 Additional Service Levels: additional service levels shall be as follows:
  - 3.1.7.1 Wild Learning will maintain a help desk staffed by skilled, trained professionals.
  - 3.1.7.2 The help desk is equipped with a purpose designed management system that allows Customer/User calls to be logged, tracked, traced and reported.
  - 3.1.7.3 All requests are logged and prioritised, against this priority Wild Learning will respond to Customer/User requests.
  - 3.1.7.4 During "Contracted hours", Wild Learning will log all Customer/User calls to the Help Desk. "Contracted hours" are Monday to Friday - 9am to 5pm GMT
  - 3.1.7.5 A restricted service is provided on public holidays.
- 3.2 Help Desk Procedures:
  - 3.2.1 Answer the support case, received via email:
    - 3.2.1.1 Answer the support case, received via email:
    - 3.2.1.2 Update the Case database
    - 3.2.1.3 Agree case priority
    - 3.2.1.4 Give the user a case reference if necessary
  - 3.2.2 Take action on the case:
    - 3.2.2.1 Confirm that this is a Wild Learning problem
    - 3.2.2.2 Interrogate the Help Desk database
    - 3.2.2.3 Use reasonable endeavours to resolve the problem reported by Customer/User
    - 3.2.2.4 Report to Customer if problem cannot be resolved
    - 3.2.2.5 Pass to a third party if not a Wild Learning problem
    - 3.2.2.6 Inform Customer of progress
  - 3.2.3 Close the case:
    - 3.2.3.1 Inform Customer of resolution
    - 3.2.3.2 Update the Help Desk System Database
    - 3.2.3.3 Performance Analysis / reporting
    - 3.2.3.4 Review/Update the Help Desk Database
    - 3.2.3.5 Review Service Level
  - 3.2.4 Correction of critical errors or assistance to overcome problems.
  - 3.2.5 Wild Learning may, at its sole discretion, correct errors by "patch" or by version update.
  - 3.2.6 Provision of Information on availability of new versions of Licensed Software.
  - 3.2.7 Provision Consultancy advice (chargeable at agreed rates may apply where appropriate) on Software development, enhancements and modifications, together with estimates for the same.
  - 3.2.8 Provide Installations and Re-installations of Wild Learning as are required and reasonable to support use of Wild Learning software.

## PART SIX – ORDER FORM

The following Order Form is a template to be used and completed each time the Customer wishes to order new Services and the terms have been agreed between the parties.

This Order Form ("Order Form") is between **WILD LEARNING LTD.**, a company incorporated in Scotland with company number SC703178 and whose Registered Office is at 16 Ravelston House Park, Edinburgh EH4 3LU ("**Wild Learning**") and **you** ("**the Customer**").

### 1. The parties hereby agree as follows:

- 1.1. This document constitutes an "Order Form" in terms of Wild Learning's Terms and Conditions which can be viewed here <https://www.wildlearn.co/terms-of-service> ("**Terms and Conditions**"). This Order Form forms part of the Agreement, and this Order Form is subject to the terms and provisions of the Agreement.
- 1.2. In this Order Form, unless specified otherwise, words and phrases shall have the same meanings as those in the Terms and Conditions.

### Subscription Services

1. Number of Users:
2. Number of Candidates
3. Price per User/Candidate:
4. Subscription Term

### Professional Services:

2. Customisation/White-labelling:
  - 2.1. Translation
  - 2.2. New Functionality
  - 2.3. Evaluation
  - 2.4. Evaluation Criteria
  - 2.5. Data/materials to be provided by Customer
  - 2.6. Resources to be provided by Customer
3. Acceptance Testing:
  - 3.1. Acceptance Testing Criteria
4. Programme for delivery of Professional Services
5. Training:
6. Provision of support and information to detect and clarify possible impositions and abuses of the Customer's business
7. [Others]
8. Service Levels
9. Fees:
  - 9.1. Milestone payments
  - 9.2. Invoicing Terms
  - 9.3. Currency [GBP]
  - 9.4. Exchange Rate

### Sub-contractors

Any Affiliates and Sub-contractors used in delivering either the Subscription Services or the Professional Services must be approved by the Customer (such approval not to be unreasonably withheld) and shall be bound by all the terms and conditions of the Agreement and this Order Form. The use of any approved Sub-contractor or Affiliate by Wild Learning will not absolve Wild Learning of its contractual obligations to the Customer under the Agreement and Wild Learning shall be liable to the Customer for the work carried out by any such Sub-contractor or Affiliate as if Wild Learning had carried out such work itself. Any Sub-contractors or consultants (other than Wild Learning's Affiliates) that will be used by Wild Learning in performing the Services are listed below:

[Specify all Sub-contractors and Affiliates to be used in delivering either the Subscription Services or the Professional Services]

**Special Conditions:**

[ ]  
If there is any conflict or inconsistency between the terms of this Order Form and the Agreement, the terms of the Order Form shall have precedence.

This Order Form forms part of the Agreement.

ACKNOWLEDGED, ACCEPTED AND AGREED TO:

Wild Learning Ltd.

[Customer]

By: /

-----

-----

Name:

Name:

Title:

Title:

## PART SEVEN – EULA

This agreement is between **WILD LEARNING LTD.**, a company incorporated in Scotland with company number SC703178 and whose Registered Office is at 16 Ravelston House Park, Edinburgh EH4 3LU ("**Wild Learning**") and you ("**the User**"). This is a Click to Agree Contract from within the Software if the User wishes to be bound by these Terms and Conditions. If the User does not agree to be bound by these Terms and Conditions, the User cannot use the Software.

The contract ("**Agreement**") between the User and Wild Learning will comprise:

1. these Terms and Conditions; and
2. the Privacy Policy;

### PART ONE – SUBSCRIPTION SERVICES.

#### 1. Access to the Software.

Wild Learning grants to the User a non-exclusive, royalty based, non-sublicensable licence to Use the Software for the User's personal business use for the duration of the Agreement, subject to the following conditions: -

- 1.1. The Software is located on the Platform. Wild Learning has full administrative access rights to the Platform. Users may access the Software but have no right to administer the Platform or receive a copy of the object code or source code to the Software.

#### 2. Conditions of Use.

The rights to use the Software provided to the User are non-exclusive, non-transferable and are for the User's personal business use only. The User's right to use the Software is subject to the following conditions:-

the User shall not:

- 2.1. Transfer to any other person any of its rights to use the Software;
- 2.2. Sell, license, rent or lease the Software;
- 2.3. Make the Software available to anyone who is not a User;
- 2.4. Create any derivative works based upon the Software or Documentation;
- 2.5. Copy any feature, design or graphic in, or reverse engineer the Software (including without prejudice to the foregoing generality the graphical user interface and menu command hierarchy);
- 2.6. Access the Software (i) in order to build a competitive solution or to assist someone else to build a competitive solution; or (ii) if the User is an employee or contractor of a Wild Learning competitor;
- 2.7. Use the Software in a way that violates any criminal or civil law;
- 2.8. Load test the Software in order to test scalability; or,
- 2.9. Exceed any specified usage limits listed the Documentation.

#### 3. User Content/Security

- 3.1. Users provide all data for use in the Software, and Wild Learning is not obliged to modify or add to User Content except as specified in Clause 4. The User is solely responsible for User Content and the accuracy of User Content.
- 3.2. User Content belongs to the User or its licensors, and Wild Learning makes no claim to any right of ownership in it.
- 3.3. Wild Learning shall keep User Content confidential in accordance with Clause 10 of the Agreement.
- 3.4. Subject to the terms of Clause 4, Wild Learning shall only be entitled to use User Content strictly as necessary to carry out its obligations under the Agreement, and for no other purpose. However, Wild Learning:
  - 3.4.1. may observe and report back to the User on the User's usage of the Software, and make recommendations for improved usage of the Software;
  - 3.4.2. may identify trends and publish reports on its findings from data aggregated from more the User Site(s) provided such reports do not identify the User and otherwise anonymise the data and comply with the terms of Clause 10 (Confidentiality);
- 3.5. The parties shall comply with the principles of the Privacy Legislation and in accordance with the Privacy Policy.
- 3.6. Sharing of accounts is not permitted unless expressly authorised in writing by Wild Learning. Users must keep account details confidential and Users should not reveal their username or password to any unauthorised third parties. Wild Learning accepts no liability for any losses or damages incurred as a result of account details being shared in breach of the terms of the Agreement. It is recommended that Users do not save account details in their internet browser.
- 3.7. Passwords must be strong, robust, robust and difficult to break and changed on a regular basis.

3.8. Whereas as part of the Subscription Services, Wild Learning may host email accounts or other online communications infrastructure or subscription accounts (including the Wild Learning subscription itself) for Users, Wild Learning accepts no responsibility and shall not be liable for third parties accessing such email, online communications accounts or subscription accounts by way of breaking or hacking passwords. It is the responsibility of Users to ensure that all email, online communications accounts and subscription accounts are properly protected with robust passwords. The terms of Clause 4 apply to the use of any such email, online communications accounts and subscription accounts.

#### **4. Acceptable Usage Policy**

- 4.1. Without prejudice to the generality of Clause 2.7, when using the Software; Users should do so in accordance with the following rules:
  - 4.1.1. Users must not use obscene or vulgar language;
  - 4.1.2. User Sites may not contain any material that is unlawful or otherwise objectionable (including that which may be in breach of rules, regulations or legislation in force in the United Kingdom or any other jurisdiction in which the User's User Site can be lawfully accessed. This does not extend to material which may be automatically blocked in certain jurisdictions but that is lawful in the User's home country);
  - 4.1.3. User Sites may not contain any material that is intended to promote or incite violence or any other unlawful conduct against any group, individual or animal. This includes, but is not limited to, the provision of instructions on how to assemble weapons of any kind, bombs, grenades or other explosive devices;
  - 4.1.4. User Sites may not infringe the Intellectual Property rights of any third party including, but not limited to, copyright, trademarks, patents and designs;
  - 4.1.5. User Sites may not contain any material that may contain viruses or other software or instructions that may damage or disrupt other software, computer hardware or communications networks;
  - 4.1.6. User Sites may not be used for unauthorised mass-communications such as "spam" or "junk mail"; and
- 4.2. Wild Learning does not screen or pre-approve any User Site or User Content (although Users acknowledge that Wild Learning may do so if it wishes).
- 4.3. Wild Learning may edit a User Site to comply with the provisions of sub-Clause 4.1 without prior consultation. In cases of severe breaches of the provisions of sub-Clause 4.1, a User Site may be taken down and the relevant account may be suspended or terminated. The User will not be informed in writing of the reasons for such alterations or take downs.
- 4.4. Wild Learning accepts no responsibility or liability for any infringement of third-party rights by User Sites.
- 4.5. Wild Learning will not be liable in any way or under any circumstances for any loss or damage that any User may incur as a result of such User Sites, or Wild Learning exercising its rights under the Agreement, nor for any errors or omissions in User Sites. Use of and reliance upon User Sites is entirely at the User's own risk.
- 4.6. The User acknowledges that Wild Learning may retain copies of any and all communications, information, User Content and User Sites sent to Wild Learning.

#### **5. Intellectual Property**

- 5.1. Subject to the exceptions in Clause 6 of these Terms and Conditions, all Content, that is not User Content, and the Database and the Software and the Documentation are the property of Wild Learning, or Wild Learning's Affiliates or licensors. By continuing to use the Software the User acknowledges that such material is protected by applicable United Kingdom and international Intellectual Property and other laws.
- 5.2. You may print, reproduce, copy, distribute, store or in any other fashion re-use Content from the Software for personal or educational purposes only unless otherwise given Wild Learning's express written permission to do so. Specifically, the User agrees that it will not systematically copy Content from the Software with a view to creating or compiling any form of comprehensive collection, compilation, directory or database unless given Wild Learning's express written permission to do so.
- 5.3. In the event that new inventions, designs or processes evolve in performance of or as a result of the Agreement, the User acknowledges that the same shall be the property of Wild Learning unless otherwise agreed in writing by Wild Learning.
- 5.4. Any trade mark, trade name or logo such as "Powered by Wild Learning" appearing on or in the Software is the property of Wild Learning and must not be copied, obscured or removed from the Software.

#### **6. User Site Intellectual Property**

- 6.1. The Intellectual Property rights subsisting in the User Content of User Sites belong to the User to which that/those User Site(s) belong(s) unless it is expressly stated otherwise.
- 6.2. Where expressly indicated, certain Content available through User Sites and the Intellectual Property rights subsisting therein belongs to other parties.
- 6.3. The third party Content described in this Clause 6, unless expressly stated to be so, is not covered by any permission granted by Clause 5 of these Terms and Conditions to use Content.
- 6.4. For the avoidance of doubt, the Database (excluding the User Content therein) shall not be considered User Content.

## **7. Third Party Intellectual Property**

- 7.1. Unless otherwise expressly indicated, all Intellectual Property rights including, but not limited to, Copyright and Trademarks, in Content belong to the manufacturers or distributors of such products as may be applicable.
- 7.2. Subject to Clause 5 the User may not reproduce, copy, distribute, store or in any other fashion re-use Content unless otherwise indicated on the Software or the Documentation or unless given express written permission to do so by the relevant manufacturer or supplier.

## **8. Warranty Disclaimer.**

- 8.1. Except as expressly provided in the Agreement, the Services are provided with no other warranties of any kind, and Wild Learning disclaims all other warranties, express or implied, including without limitation any warranty of merchantability or fitness for a particular purpose. Wild Learning does not warrant that the use of the Subscription Services shall be uninterrupted or error-free.

## **9. Limitation of Liability**

- 9.1. Neither party shall be liable under the Agreement for any indirect, special, incidental, punitive or consequential damages (including without limitation damages for loss of goodwill, work stoppage, computer failure or malfunction, lost or corrupted data, lost profits, lost business or lost opportunity), or any other similar damages under any theory of liability (whether in contract, tort/delict, strict liability or any other theory), even if the other party has been informed of this possibility. Each party's total liability for any direct loss, cost, claim or damages of any kind related to the Agreement or the relevant Order Form shall not exceed the sum of £10,000. However, there is no limitation on direct loss, claim or damages arising as a result of an infringement of either party's Intellectual Property rights by the other party, or a breach of the Privacy Legislation by the other party.
- 9.2. Wild Learning's liability under the Agreement (except where provided otherwise in this agreement to a lesser extent) shall be limited to the amount of professional indemnity insurance underwritten in the name of Wild Learning which shall be £500,000. This limitation shall not apply to a breach of the Privacy Legislation.

## **10. Confidentiality**

- 10.1. Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Agreement. A party's Confidential Information shall not be deemed to include information that (i) is now, or subsequently becomes, through no act or failure to act on the part of receiving party (the "Receiver"), generally known or available; (ii) is known by the Receiver at the time of receiving such information, as evidenced by the Receiver's records; (iii) is subsequently provided to the Receiver by a third party, as a matter of right and without restriction on disclosure; or (iv) is required to be disclosed by law, provided that the party to whom the information belongs is given prior written notice of any such proposed disclosure.
- 10.2. Subject to clauses 17.3, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party (other than to a consultant or a Sub-contractor for the purposes of the Agreement and which consultant or Sub-contractor shall have entered into undertakings of confidentiality in relation to the Confidential Information on terms no less onerous than those contained in this Clause 10), or use the other's Confidential Information for any purpose other than to carry out its obligations under the Agreement.
- 10.3. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of the Agreement.
- 10.4. A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of a competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance

with this clause 17.3, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

- 10.5. No party shall make, or permit any person to make, any public announcement concerning the Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 10.6. This clause 10 shall survive termination of the Agreement or any Order Form, howsoever arising.

## 11. Indemnification by the User

- 11.1. The User shall indemnify and hold harmless Wild Learning, its Affiliates, directors, and employees from any damages finally awarded against Wild Learning (including, without limitation, reasonable costs and legal fees incurred by Wild Learning) arising out of any third party suit, claim or other legal action (including but not limited to any governmental investigations, complaints and actions) in connection with the User Content, including, without limitation, any action for infringement of any trademark, copyright, trade secret, right of publicity or privacy (including defamation), patent or other proprietary right with respect to the User Content (“Legal Claim”).
- 11.2. Wild Learning shall give written notice to the User of any Legal Claim no later than 30 days after first receiving notice of a Legal Claim and shall give copies to the User of all communications, notices and/or other actions relating to the Legal Claim. Wild Learning shall give the User the sole control of the defence of any Legal Claim, shall act in accordance with the reasonable instructions of the User and shall give the User such assistance as the User reasonably requests to defend or settle such claim. The User shall conduct its defence at all times in a manner which is not adverse to Wild Learning’s interests. Wild Learning may employ its own counsel to assist it with respect to any such claim. Wild Learning shall bear all costs of engaging its own counsel, unless engagement of counsel is necessary because of a conflict of interest with the User or its counsel, or because the User fails to assume control of the defence. Wild Learning shall not settle or compromise any Legal Claim without the User’s express written consent.

## 12. Law

- 12.1. The Agreement shall be governed by the laws of Scotland. The parties consent to the exercise of exclusive jurisdiction of the Courts of Scotland.

## 13. Feedback and Modifications

- 13.1. The User hereby acknowledges that upon submitting Feedback to Wild Learning, the User automatically grants to Wild Learning a worldwide, perpetual, irrevocable, royalty free licence to use that Feedback in any way Wild Learning deems appropriate including, but not limited to:
  - 13.1.1. The use, publication, distribution, transmission, broadcasting, licensing, sub-licensing, leasing, lending and sale of the Feedback; and
  - 13.1.2. The creation, use, publication, distribution, transmission, broadcasting, licensing, sub-licensing, leasing, lending and sale of any derivative works based upon the Feedback.
- 13.2. Wild Learning’s use of the Feedback shall not bestow any rights or interests upon the User whatsoever.
- 13.3. The User hereby acknowledges that any modifications made to the Software at the request or suggestion of the User will belong to and be the Intellectual Property of Wild Learning.

## PART TWO – DEFINITIONS.

### 14. Glossary.

- 14.1. **“Affiliate”** means an entity which controls, is controlled by, or is under common control with, a party, and **control** means the ability to vote 50% or more of the voting securities of any entity or otherwise having the ability to influence and direct the policies and direction of an entity;

- 14.2. **“Content”** means any text, graphics, images, audio, video, software, data compilations including, but not limited to, text, graphics, logos, icons, sound clips, video clips, data compilations, page layout, underlying code and software and any other form of information capable of being stored in a computer that appears on, is uploaded to or forms part of the Software or the Platform; BUT excluding User Content;
- 14.3. **“Database”** means the database stored on the Platform which contains *inter alia* User Content;
- 14.4. **“DPA”** means the Data Protection Act 2018 and any modification, amendment or re-enactment thereof;
- 14.5. **“Documentation”** means user documentation provided electronically by Wild Learning for use with the Software, as periodically updated and all training and consultancy materials provided by Wild Learning from time to time in any readable format;
- 14.6. **“Feedback”** means all comments, suggestions, requests, requirements, improvements, feedback, or other input the User provides regarding any products or Services owned or supplied by Wild Learning, its Affiliates and licensees;
- 14.7. **“GDPR”** means the General Data Protection Regulation (Regulation (EU) 2016/679) as amended, replaced, supplemented or adopted into United Kingdom Legislation;
- 14.8. **“Intellectual Property”** means patents, trademarks, trade name, service mark, copyright, trade secrets, know-how, process, technology, development tool, ideas, concepts, design right, domain names, moral right, database right, methodology, algorithm and invention, and any other proprietary information (whether registered, unregistered, pending or applied for);
- 14.9. **“Platform”** means the hardware and software environment in which the software element of the Software operates, which comprises one or more server computers (whether virtual or not), mirroring/duplicating/back-up and storage systems and relative hardware operating software, virtual machine software (where relevant), operating system software, database software, anti-virus and security software, switches, power supplies and telecommunications infrastructure;
- 14.10. **“Privacy Legislation”** means the GDPR (where applicable in relation to the storage retention and processing of EU personal data), the DPA, the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (the **“UK GDPR”**), as it forms part of the law of England and Wales, Scotland, and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 the United Kingdom, the Data Protection Directive (95/46/EC), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all applicable laws and regulations relating to the processing of personal data and privacy in the relevant territory, including where applicable the guidance and codes of practice issued by the Information Commissioner or the territorial equivalent. (as amended or replaced from time to time);
- 14.11. **“Privacy Policy”** means Wild Learning’s policy relating to User Content and compliance with (amongst others) the Privacy Legislation from time to time, the current version of which is located at <https://www.wildlearn.co/privacy-notice>
- 14.12. **“Professional Services”** means training, consulting, development and other professional services provided by Wild Learning but does not include the Subscription Services;
- 14.13. **“Services”** means Professional Services and/or Subscription Services as the case may be;
- 14.14. **“Software”** means the Wild Learning™ proprietary operating software and the Third Party Software written in object and source code residing on and used for operating the Platform and the Software as Updated and Upgraded from time to time;
- 14.15. **“Subscription Services”** means the hosted User experience solutions provided via the Platform and any modifications periodically made by Wild Learning, but does not include the Professional Services;
- 14.16. **“Terms and Conditions”** means these terms and conditions;
- 14.17. **“Third Party Software”** means software other than the Software which belongs to third parties and in relation to which Wild Learning has the right to grant sub-licenses;
- 14.18. **“Update”** means any update, update rollup, service pack, feature pack, critical update, security update, or hotfix that is used to improve or to fix a software product;
- 14.19. **“Upgrade”** means a software package that replaces an installed version of a product with a newer version of the same product, typically leaving existing customer data and preferences intact while replacing the existing software with the newer version;
- 14.20. **“User”** means the person that has permission to access the Software as a named user and is not employed by Wild Learning and acting in the course of their employment;

- 14.21. **“User Content”** means any text, graphics, images, audio, video, software, data compilations and any other form of information capable of being stored in a computer that appears on, is uploaded to or forms part of a User Site or the Software and has been uploaded by a User;
- 14.22. **“User Site”** means a partition/tenancy on the Platform created by Wild Learning for a User or Users accessing the Software which shall contain User Content and shall be hosted on the Platform;

## SCHEDULE 1

### Processing, Personal Data and Data Subjects

#### **30. Processing by Wild Learning**

- 30.0 Scope –Wild Learning shall process Personal Data in order to provide the Subscription Services and Professional Services, as set out in the Agreement.
- 30.1 Nature - Those processing operations that are necessary to enable Wild Learning to perform its obligations under the Agreement
- 30.2 Purpose of Processing - Personal Data may be processed for the purpose of providing the Professional Services and the Subscription Services.
- 30.3 Duration of the Processing - The duration of the Agreement
- 30.4 Types of Personal Data – Personal Data may include without limitation:
  - 30.4.1 User First Name
  - 30.4.2 User Last Name
  - 30.4.3 User Email Address
- 30.5 Categories of Data Subject – The Customer’s employees

#### **31. Rights and Obligations of Data Controller**

- 31.1 The rights and obligations of the Data Controller set out in the Agreement and the Privacy Legislation.

## SCHEDULE 2

### Candidate Terms

#### Wild Learning Ltd

#### Terms and Conditions for use of Wild Learning

These Terms and Conditions apply to and govern Your use of Wild Learning. They apply as between:

- (1) You, the User (**You, Your** or **User** as defined below) of the Services (defined below); and
- (2) **Wild Learning Ltd**, a company incorporated in Scotland (No.SC703178) and having its registered office is at 16 Ravelston House Park, Edinburgh EH4 3LU (**Wild Learning, We, Us or Our**); and each a 'Party' and collectively 'the Parties'.

By using the Services, You agree to be bound by these Terms and Conditions. Your agreement to comply with and be bound by these Terms and Conditions is deemed to occur upon Your first use of the Services. If You do not agree to be bound by these Terms and Conditions, You must not use the Services and, if You have commenced use of the Services, You should stop using the Services immediately.

You must be at least 18 years of age to use the Services, and if You are under 18 years of age You must stop using the Services immediately.

#### 1. DEFINITIONS AND INTERPRETATION

In these Terms and Conditions the following words and expressions have the following meanings:

|  |  |
|--|--|
| <b>"Account Content"</b>                               | means collectively the personal and where applicable Payment Information, and credentials (username and password) used by You to access the Services;  |
| <b>"Assessment"</b>                                    | means a Wild Learning online report created by You completing an online questionnaire via the Services which shall contain User Content and be hosted on the Platform;   |
| <b>"Content"</b>                                       | means any text, graphics, images, audio, video, software, data compilations and any other form of information capable of being stored in a computer that appears on, is uploaded to or forms part of the Platform and/or the Services and is not User Content; |
| <b>"Data"</b>  | means collectively all information that You submit to Wild Learning and, where applicable, incorporates the definitions of 'Data' provided in the UK GDPR and the DPA;   |
| <b>"Data Controller" and "Data Processor"</b>          | shall have the meanings given to them in the Privacy Legislation;  |
| <b>"personal data" "processing" and "data subject"</b> | shall have the meanings given to them in the Privacy Legislation;  |
| <b>"Database"</b>                                      | means the database stored on the Platform which contains, amongst other things, User Data;   |

|                                |   |
|--------------------------------|---|
| <b>“DPA”</b>                   | means the Data Protection Act 2018 as modified, amended or re-enacted;  |
| <b>“GDPR”</b>                  | means Regulation (EU) 2016/679;   |
| <b>“Intellectual Property”</b> | means all patents, registered designs, trademarks and service marks (whether registered or not), copyright, database rights, design right, know how, algorithm, trade secrets, information and all similar property including that subsisting (in any part of the world) in inventions, designs, performances, computer programs, semiconductor topographies, Confidential Information, business names, goodwill, Graphical User Interfaces, Menu Command Hierarchy and the styles of presentation of goods or services and in applications for protection of them in any jurisdiction;   |
| <b>“Payment Information”</b>   | means any details required for the purchase of Services from this Website. This includes, but is not limited to, credit / debit card numbers, bank account numbers and sort codes;  |
| <b>“Platform”</b>              | means the hardware and software environment in which the Services operate, comprising one or more server computers (whether virtual or not), mirroring/duplicating/back-up and storage systems and relative hardware operating software, virtual machine software (where relevant), operating system software, database software, anti-virus and security software, switches, power supplies and telecommunications infrastructure;   |
| <b>“Privacy Legislation”</b>   | means the retained EU law version of the GDPR (the <b>“UK GDPR”</b> ), as it forms part of the law of England and Wales, Scotland, and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, the DPA, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), and all applicable laws and regulations relating to the processing of personal data and privacy in the relevant territory, including where applicable the guidance and codes of practice issued by the Information Commissioner or the territorial equivalent (as amended or replaced from time to time); |
| <b>“Premises”</b>              | means Wild Learning’ place of business located at 16 Ravelston House Park, Edinburgh EH4 3LU;   |
| <b>“Service(s)”</b>            | means collectively any online facilities, tools, systems, services or information that Wild Learning makes available through the Website either now or in the future;   |
| <b>“User” / “Users”</b>        | means You/any third party that accesses the Website and is not employed by Wild Learning and acting in the course of their employment;  |
| <b>“User Content”</b>          | means any text, graphics, images, audio, video, software, data compilations and any other form of information capable of being stored in a computer that appears on, is uploaded to or forms part of an Assessment or the Services and has been uploaded by a User;   |

|                        |  |
|------------------------|--|
| <b>“User Data”</b>     | means Data created via an Assessment and stored in the Database;   |
| <b>“Website”</b>       | means the website that You are currently using ( <a href="http://www.wildlearn.co/">http://www.wildlearn.co/</a> ) and any sub-domains of this site (e.g. subdomain. Wild Learning.com) unless expressly excluded by their own terms and conditions. |
| <b>“Wild Learning”</b> | means the programme or programmes comprised in the Wild Learning software for being an automated decision-making tool for the analysis of potential muscular-skeletal problems, created and owned by Wild Learning and forming part of the Services; |

## 2. DATA PROCESSING

In terms of the Privacy Legislation, in connection with Your use of the Services, Wild Learning is processing Your personal data as Data Controller.

## 3. INTELLECTUAL PROPERTY

3.1 Subject to the exceptions in Clause 5 of these Terms and Conditions, all Content included in the Services, including (without limitation) any material contained within Assessments, underlying code and software and the Database, is the property of Wild Learning, or Our affiliates or licensors. By continuing to use the Services You acknowledge that such material is protected by applicable United Kingdom and international Intellectual Property and other laws.

3.2 You may print, reproduce, copy, distribute, store or in any other fashion re-use Content from the Services as specified in Clause 5 of these Terms and Conditions for personal or educational purposes only unless otherwise indicated in the Services or unless We have given Our express written permission for You to do so. Specifically, You agree that:

3.2.1 You will not systematically copy Content from the Services with a view to creating or compiling any form of comprehensive collection, compilation, directory or database unless We have given Our express written permission for You to do so.

## 4. INTELLECTUAL PROPERTY IN ASSESSMENTS

4.1 The Intellectual Property rights subsisting in the User Content of Assessments belong to the User to which that/those Assessment(s) relate(s) unless it is expressly stated otherwise.

4.2 Where expressly indicated, certain Content available through the Services and the Intellectual Property rights subsisting therein belongs to other parties.

4.3 Unless expressly stated to be so, the Content described in this Clause 4 is not covered by any permission granted by these Terms and Conditions to use Content from the Services. The exceptions in Clause 5 continue to apply.

4.4 For the avoidance of doubt, the Database is not and shall not be considered User Content.

## 5. FAIR USE OF INTELLECTUAL PROPERTY

Material from the Website may be re-used without written permission where any of the exceptions detailed in Chapter III of the Copyright Designs and Patents Act 1988 apply.

## 6. THIRD PARTY INTELLECTUAL PROPERTY

6.1 Unless otherwise expressly indicated, all Intellectual Property rights including, but not limited to, copyright and trademarks, in Content (other than User Content) belong to the manufacturers or supplier of the Services as may be applicable.

6.2 Subject to Clause 5 You may not reproduce, copy, distribute, store or in any other fashion re-use such material unless otherwise indicated on the Website or unless given express written permission to do so by the relevant manufacturer or supplier.

## 7. ASSESSMENTS

- 7.1 **Your Assessment, generated by Wild Learning, relies on the accurate and truthful input of information and answers by You. False, misleading and inaccurate information and answers will result in an inaccurate Assessment. Please be honest and thorough and do not withhold relevant information when asked, as this will lead to an inaccurate report.**
- 7.2 **The Assessment generated by Wild Learning is not suitable for any person under 18 years of age.**
- 7.3 Whilst reasonable endeavours have been made to ensure that all information, advice and recommendations provided by Wild Learning will be accurate and up to date, Wild Learning does not give any warranty or representation that this is the case.
- 7.4 Wild Learning does not give any guarantee of any specific results from the use of Wild Learning and/or the Services. Without prejudice to the foregoing, Wild Learning does not guarantee that You will become a more successful student, gain higher exam grades or results, be promoted in Your current employment or gain new employment or become more successful or wealthy.
- 7.5 You use the Services at Your own risk. Wild Learning shall not be liable to You for Your use of the Services.

## 8. ACCOUNTS

- 8.1 In order to use the Services You will have an Account created automatically in Wild Learning. This will contain certain Account Content.
- 8.2 You represent and warrant that:
  - 8.2.1 all information You submit is accurate and truthful; and
  - 8.2.2 You will keep this information accurate and up-to-date.
  - 8.2.3 You have permission to submit Payment Information where permission may be required;
- 8.3 Sharing of Accounts is not permitted unless expressly authorised in writing by Wild Learning. Wild Learning access relies on You having and providing a valid email address which is not shared or accessed by any unauthorised third parties. Wild Learning does not accept any liability for any losses or damages incurred as a result of Your email address details being shared by You. If You use a shared computer, it is recommended that You do not save Your email details in Your internet browser.
- 8.4 If You have reason to believe that Your details have been obtained by another person without consent, You should contact Us immediately to suspend Your access to the Services.
- 8.5 If You terminate Your Account, Your details and Assessment(s) will be stored for a period of 2 years and thereafter either be deleted in whole or in part and/or anonymised in accordance with the Privacy Legislation, where applicable.
- 8.6 Some features of the Services require the payment of a Fee. Fees are detailed here <https://www.wildlearn.co/pricing/>. Your credit / debit card will be billed at the time at which You sign up for such features.
- 8.7 No part of this Website constitutes a contractual offer capable of acceptance. Your signing up for the Services constitutes a contractual offer that We may, at Our sole discretion, accept. Our acceptance is indicated by Us sending to You a confirmation email. Only once We have sent You an order confirmation will there be a binding contract between Us and You comprising these Terms and Conditions, Your order, Our Privacy Policy, and the confirmation email.
- 8.8 Confirmation emails under sub-Clause 8.7 shall contain the following information:
  - 8.8.1 Confirmation of the Services and features ordered including full details of the main characteristics of those features;
  - 8.8.2 Fully itemised pricing for the Services ordered including, where appropriate, taxes and any other additional charges;
  - 8.8.3 A confirmation of Your express request that the Services are made available to You immediately and that this will constitute a waiver of Your statutory right to cancel as detailed below in sub-Clause 8.9; and
- 8.9 Your payment will be at the price advertised on the Website. We reserve the right to change Fees from time to time and any such changes may affect Your future Fees:
  - 8.9.1 increases in price will be reflected in Your future Fees; and
  - 8.9.2 decreases in price will not be reflected in Your future Fees.

- 8.10 If You are a consumer based in the European Union, You have a statutory right to a “cooling-off” period with respect to the purchase of certain goods and services. This period, if applicable, begins once the contract between the seller and You, the buyer, is formed and ends at the end of 14 calendar days after that date. Under normal circumstances, premium features requiring the payment of Subscription Fees on this Website are made available immediately upon Our confirmation of Your order for them. By expressly requesting this, You waive Your right to the cooling-off period and may not cancel the contract merely because You have changed Your mind.
- 8.11 All payments for Subscription Fees due under these Terms and Conditions must be made using a valid debit or credit card via Our chosen payment partner, Stripe™. Payments made via stripe are subject to stripe’s own terms and conditions of service and We make no representations or warranties with respect to their services.

## 9. TERMINATION AND/OR SUSPENSION

- 9.1 In the event (1) that any of the provisions of sub-Clause 10.1, below, are not followed, Wild Learning reserves the right to suspend or terminate Your access to the Service(s). Any Users suspended or terminated in this way must not attempt to use the Services under any other name or by using the access credentials of another User, with or without the permission of that User.
- 9.2 If We terminate or suspend Your Account as a result of Your breach of these Terms and Conditions, You will not be entitled to any remedy or recourse.
- 9.3 You will be advised in an email as to the period of time in which you can access your Assessment. At the end of that period you will no longer have access to your Assessment. You will have been provided either the ability to download your Assessment or be provided with a hard copy of it. At the end of the period, your Assessment will either be archived for a period of 2 years and then deleted in accordance with Clause 13.

## 10. USE OF SERVICES

- 10.1 When using the Services You should do so in accordance with the following rules:
- 10.1.1 You must not use obscene or vulgar language;
  - 10.1.2 You must not submit User Content that is unlawful or otherwise objectionable. This includes, but is not limited to, User Content that is abusive, threatening, harassing, defamatory, ageist, sexist or racist;
  - 10.1.3 You must not submit User Content that is intended to promote or incite violence;
  - 10.1.4 You must not submit User Content which contains any material that is unlawful or otherwise objectionable (including that which may be in breach of rules, regulations or legislation in force in the United Kingdom or any other jurisdiction) in which Your User Content can be lawfully accessed;
  - 10.1.5 It is advised that submissions are made using the English language(s) as We may be unable to respond to enquiries submitted in any other languages;
  - 10.1.6 The means by which You identify Yourself must not violate these Terms and Conditions or any applicable laws; and
  - 10.1.7 You must not impersonate other people, particularly employees and representatives of Wild Learning or Our or affiliates.
- 10.2 You agree that You will be liable to Us and will, to the fullest extent permissible by law, recompense Us for any breach of the warranties given by You under sub-Clause 10.1. You will be responsible for any loss or damage suffered by Us as a result of such breach.

## 11. TERMINATION AND CANCELLATION

- 11.1 If Wild Learning terminates Your Account, You will be notified by email and an explanation for the termination may be provided. Notwithstanding the foregoing, We reserve the right to terminate.

## 12. SERVICES AND AVAILABILITY

- 12.1 Whilst every effort has been made to ensure that all descriptions of Services available from Wild Learning correspond to the actual Services, Wild Learning is not responsible for any variations from these descriptions. This does not exclude liability for mistakes due to negligence on the part of Wild Learning and refers only to variations of the correct Services, not different Services altogether.

## 13. **PRIVACY**

- 13.1 Your use of the Services as a data subject is covered by Wild Learning' Privacy Policy which can be found here <https://www.wildlearn.co/privacy-policy>.
- 13.2 Wild Learning will process all personal data in accordance with the Privacy Legislation and Wild Learning' Privacy Policy.
- 13.3 Wild Learning may compile statistics about the use of products and Services including data on traffic, usage patterns, user numbers, and other information. All such data will be anonymised and will not include any personal data, or any anonymised data that can be combined with other data and used to identify a User. Wild Learning may from time to time share such data with third parties such as prospective investors, affiliates, partners, and advertisers. Data will only be shared and used within the bounds of the Privacy Legislation and other applicable laws.
- 13.4 By using the Services You agree to:
  - 13.4.1 Your anonymised Data being used for research and statistical analysis;
  - 13.4.2 Your Data being used for future ethically approved studies;
  - 13.4.3 Your Data being looked at/studied by the NHS or regulatory/other medical authorities.
  - 13.4.4 Us contacting You with promotions, advice and offers.
- 13.5 In certain circumstances, Wild Learning may be legally required to share certain Data held by it, which may include Your personal data, for example, where Wild Learning are involved in legal proceedings, where Wild Learning are complying with legal requirements, a court order, or a governmental authority.
- 13.6 Wild Learning uses analytics services provided by Google Analytics, to collect and analyse anonymous usage information, enabling Wild Learning to better understand how the Services are used. This, in turn, enables Wild Learning to improve the Services.
- 13.7 Your Assessment(s) will be stored by Wild Learning for a period of 2 years and thereafter either deleted in whole or in part and/or anonymised in accordance with the Privacy Legislation where applicable. The purpose of this retention of Your Assessment is to allow Wild Learning to address any issues generated by an Assessment directed at Wild Learning within the two year period.
- 13.8 If You have any questions about the Software or these Terms and Conditions please contact Wild Learning by email at [support@wildlearning.co](mailto:support@wildlearning.co) or by post to Our Premises. Please ensure that Your query is clear.
- 13.9 Wild Learning may change these Terms and Conditions from time to time (for example, if the law changes). Any changes will be immediately posted on this Website and You will be deemed to have accepted the amended Terms and Conditions on Your first use of the Services following the alterations. Wild Learning recommends that You check this page regularly to keep up-to-date.

## 14. **LEGAL RIGHTS AND DISCLAIMERS**

- 14.1 Wild Learning does not give any warranty or representation that the Services will be compatible with all systems, or that they will be secure, or that they will operate on an uninterrupted or error-free basis.
- 14.2 Save for the discretionary screening and approval as detailed in Clause 10, Wild Learning has no control over, or involvement in, any User Content and accepts no responsibility for any actions taken by any Users or products provided by third parties.
- 14.3 Whilst reasonable endeavours have been made to ensure that all information provided in the Services will be accurate and up to date, Wild Learning gives no warranty or representation that this is the case. Wild Learning gives no guarantee of any specific results from the use of the Services.
- 14.4 Whilst Wild Learning exercises all reasonable skill and care to ensure that the Services are secure and free of errors, viruses and other malware, You are strongly advised to take responsibility for Your own internet security, that of Your personal details and Your computers.

## 15. **AVAILABILITY OF THE WEBSITE AND MODIFICATIONS**

- 15.1 Wild Learning accepts no liability for any disruption or non-availability of the Services resulting from external causes including, but not limited to, ISP equipment failure, host equipment failure, communications network failure, power failure, natural events, acts of war or legal restrictions and state-mandated censorship.
- 15.2 Wild Learning reserves the right to alter, suspend or discontinue any part (or the whole of) the Services. These Terms and Conditions shall continue to apply to any modified version of the Website unless it is expressly

stated otherwise.

## 16. **LIMITATION OF LIABILITY**

- 16.1 To the fullest extent permitted by law, Wild Learning excludes all liability for any losses or damage that are not foreseeable or which were not in Your or Our contemplation when we entered into this Contract (known as 'indirect or consequential loss or damage) including, but not limited to, liability for loss of income or revenue; loss of business; loss of profits; loss of anticipated savings; or loss of goodwill. Wild Learning accepts no liability to any User for any loss or damage, whether foreseeable or otherwise, in contract, delict/tort (including negligence), for breach of statutory duty, or otherwise, arising out of or in connection with the use of (or inability to use) the Services or the use of or reliance upon any Content.
- 16.2 To the fullest extent permitted by law, Wild Learning excludes all representations, warranties, conditions and guarantees (whether express or implied, whether by statute, common law or otherwise) that may apply to any Content or the Services.
- 16.3 Wild Learning exercises all reasonable skill and care to ensure that the Services are free from viruses and other malware. Wild Learning accepts no liability for any loss or damage resulting from a virus or other malware, a distributed denial of service attack, or other harmful material or event that may adversely affect Your hardware, software, data or other material that occurs as a result of Your use of the Services (including the downloading of any content from it) or any other site referred to on the Website.
- 16.4 Nothing in these Terms and Conditions excludes or restricts Wild Learning's liability for fraud or fraudulent misrepresentation, for death or personal injury resulting from negligence, or for any other forms of liability which cannot be excluded or restricted by law.
- 16.5 Subject to 16.1, 16.2 and 16.4 above, in no event shall Wild Learning' total liability to You (for anyone event or series of related events) exceed in total 150% of the total amount paid by You for the Services in the 12 months immediately preceding the first incident out of which the liability arose or £1,000 whichever is the lower. For the avoidance of doubt, this limitation of liability shall apply to a breach by Wild Learning of the Privacy Legislation.
- 16.6 Your consumer rights are not affected. For full details of consumers' legal rights, including those relating to digital content, please contact Your local Citizens' Advice Bureau or Trading Standards Office.

## 17. **NO WAIVER**

In the event that any party to these Terms and Conditions fails to exercise any right or remedy contained herein, this shall not be construed as a waiver of that right or remedy.

## 18. **PREVIOUS TERMS AND CONDITIONS**

In the event of any conflict between these Terms and Conditions and any prior versions thereof, the provisions of these Terms and Conditions shall prevail unless it is expressly stated otherwise.

## 19. **THIRD PARTY RIGHTS**

Nothing in these Terms and Conditions shall confer any rights upon any third party. The agreement created by these Terms and Conditions is between You and Wild Learning as specified in these Terms and Conditions.

## 20. **COMMUNICATIONS**

- 20.1 All notices / communications shall be given to Us either by post to Our Premises at the address given above or by email to support@wildlearning.co. Such notice will be deemed received 3 days after posting if sent by first class post, the day of sending if the email is received in full on a business day and on the next business day if the email is sent on a weekend or public holiday.

## 21. **LAW AND JURISDICTION**

- 21.1 These Terms and Conditions, and the relationship between You and Us (whether contractual or otherwise) shall be governed by and construed in accordance with the laws of Scotland.
- 21.2 If You are a consumer, any disputes concerning these Terms and Conditions, the relationship between You and Us, or any matters arising therefrom or associated therewith (whether contractual or otherwise) shall be subject to the jurisdiction of the courts of England, Wales, Scotland, or Northern Ireland, as determined by Your residency. If You are not resident in the United Kingdom any disputes concerning these Terms and Conditions, the relationship between You and Us or any matters arising therefrom or associated therewith (whether contractual or otherwise) shall be subject to the jurisdiction of the Scottish courts.