

PRELOADED

PRELOADED PROFESSIONAL SERVICES AGREEMENT

Standard Terms and Conditions Schedule

This Preloaded Professional Services Agreement is between Preloaded Limited ("Preloaded") and the entity as identified in the Statement of Work (as defined below) ("Client") that has requested various Services from Preloaded as described in said Statement of Work, and describes the terms and conditions pursuant to which Preloaded will provide the Services to the Client. The Client agrees to be bound by the terms and conditions of this Agreement. The Client and Preloaded are collectively referred to as the "Parties" and individually as a "Party".

PRELOADED AND THE CLIENT AGREE AS FOLLOWS:

1 DEFINITIONS

In this Agreement the following words shall have the following meanings:

"Acceptance" shall mean acceptance of the Deliverables by the Client in accordance with this Agreement.

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with Preloaded, including any direct or indirect subsidiary of Preloaded's ultimate parent company, Learning Technologies Group plc, where "control" means the ownership of, or the power to vote for, at least fifty percent (50%) of the voting stock, shares or interests of such entity.

"Agreement" means this Standard Terms and Conditions Schedule together with the Statement of Work making reference to this Standard Terms and Conditions Schedule.

"Client Materials" means any materials set out in a Statement of Work that the Client provides to Preloaded to be incorporated into the Deliverables including but not limited to source content materials, logos, trademarks, corporate information or information relating to Client's business.

"Client Project Manager" means the individual identified in the Statement of Work as fulfilling that role.

"Deliverables" refers to any content or milestones delivered by Preloaded to the Client as part of the Services. This may include but is not limited to: project documentation in printed or on-line format, consultancy, online materials, video, audio, photographs, software, computer code, support and maintenance or any other item as defined in the respective Statement of Work.

"Intellectual Property Rights" ("IPRs") means patents, unpatented inventions, registered and unregistered designs and design rights, copyright (including, without limitation, rights in computer software), database rights, topography rights, domain names, trademarks, service marks, trade names, rights in trade secrets, know-how including applications and the right to apply for the foregoing and all other intellectual property rights of any nature whatsoever, and all rights of a similar nature or having similar effect, throughout the world whether registered or unregistered.

"License" means a license of any Deliverables or other content or materials which belong to Preloaded or which Preloaded is otherwise authorised to license to the Client as specified in a Statement of Work.

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“Modifications” means any changes to the Deliverables which require an amendment to a Statement of Work. Modifications shall be requested and undertaken under the terms of Clause 5 (Change Control).

“Project” means an individual project under the terms and conditions of this Agreement. Each Project shall have its own respective Statement of Work.

“Services” means the services to be provided by Preloaded to the Client under each respective Statement of Work.

“Statement of Work” (“SOW”), means a document, agreed by each Party, detailing a Project and referencing this Standard Terms and Conditions Schedule.

2 SERVICES

2.1 Scope of this Agreement

2.1.1 This Agreement shall govern the relationship between Preloaded and the Client to the exclusion of all other terms and conditions including any terms or conditions which the Client may purport to apply under, or which may be included or referenced in, any purchase order for the provision of services, confirmation of order or otherwise.

2.1.2 Where an express, written amendment is made in the Statement of Work to this Standard Terms and Conditions Schedule, this Standard Terms and Conditions Schedule shall be deemed amended as appropriate. For the avoidance of doubt, where there is any discrepancy between a Statement of Work and the remainder of this Agreement, the Statement of Work shall take precedence.

2.2 Statement of Work

A Statement of Work is agreed by mutual agreement between the Parties and can be in physical form or in electronic or click-wrap form. This Agreement shall come into effect upon execution of a Statement of Work (which for the avoidance of doubt can include clicking on an “I Accept” or similar button, submitting the applicable document electronically, signing and transmission by email, or other agreed method).

2.3 SLAs

Preloaded reserves the right to review and amend any SLAs detailed in a Statement of Work on an annual basis, unless where expressly otherwise stated in a Statement of Work.

2.4 Delivery

Preloaded shall use its reasonable commercial endeavours to complete the Services in accordance with the timetable specified in the respective Statement of Work, however, time shall not be of the essence and no warranty as to the time of completion or delivery is given by Preloaded, unless expressly otherwise stated in a Statement of Work. Preloaded does not accept liability, nor shall it be liable, for any loss or damage occasioned by delay in delivery howsoever caused, and any time stated for completion or delivery shall not be a term of this Agreement but shall be an estimate only.

2.5 Acceptance

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2.5.1 The Client shall each time test and provide Preloaded with its feedback promptly on delivery of Deliverables by Preloaded (but in no event later than within 5 business days from their delivery), and Deliverables shall be deemed to be accepted by Client upon the first occurrence of the following:

2.5.1.1 Use by Client of the Deliverables in a production environment;

2.5.1.2 Written acknowledgement by Client that the Deliverables are accepted (where applicable, in accordance with the Acceptance criteria detailed in the respective Statement of Work ("Acceptance Criteria")); or

2.5.1.3 The passage of 10 days from notification by Preloaded that the Deliverables have been delivered without written notice from Client that the Deliverables do not meet the Acceptance Criteria.

2.5.2 The Client may only reject the Deliverables if they do not comply with the specifications outlined or referred to in the Statement of Work. Where the Client does not accept the Deliverables, it shall provide Preloaded written notice of this and stating and demonstrating the non-conformities, whereupon Preloaded shall correct the non-conformities and resubmit the Deliverables to the Client for Acceptance testing as soon as possible after receiving the Client's notice of rejection.

3 FEES AND PAYMENT

3.1 The fees for the performance of the Services ("Fees") shall be detailed in the respective Statement of Work and payment shall be as detailed therein.

3.2 Where it is not specified in the Statement of Work that a category of work is fixed price work, the Fees for such work will be payable monthly in arrears on a time and materials basis at Preloaded's then current applicable day-rates.

3.3 For the fixed price work, Preloaded shall invoice the Client the Fees in accordance with the payment plan as detailed in the Statement of Work. Where work is carried out on a time and materials basis, Preloaded reserves the right to review and reasonably amend its applicable day-rates on an annual basis.

3.4 License Fees, if any, shall be payable in accordance with the Statement of Work.

3.5 Client will settle all authorised invoices submitted in accordance with this condition within 30 days from the date of a correctly submitted invoice. If Customer requires a purchase order (P.O.), it shall be provided when the Order Form or SOW is signed. In no event shall Customer's failure or delay in providing a P.O. alter its payment obligations under the relevant Order Form or SOW.

3.6 Payments which are not received when due will be considered overdue and will remain payable by Client together with interest for late payment from the due date payable at the rate of 4% per annum above the base rate for the time being of National Westminster Bank plc applicable after as well as before any judgement. This interest will accrue on a daily basis and will be payable on demand.

3.7 The Fees are exclusive of value added tax ("VAT") which shall be paid by the Client at the then prevailing rate.

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4 CLIENT'S OBLIGATIONS

4.1 To enable Preloaded to perform its obligations under this Agreement and the applicable Statement of Work, the Client shall:

4.1.1 Co-operate with and provide Preloaded with any reasonable information requested by Preloaded and access to all personnel under the Client's authority necessary for the proper performance of this Agreement and the Services, within sufficient time to enable Preloaded to provide the Services in accordance with this Agreement;

4.1.2 Obtain all necessary permissions and consents, which may be required before the commencement of the Services;

4.1.3 Comply with such other requirements as may be set out in each Statement of Work or as otherwise agreed in writing between the parties; and

4.1.4 Appoint a suitably competent Client Project Manager with the appropriate level of authority to liaise directly with Preloaded in relation to all Project issues.

4.2 The Client shall be liable to compensate Preloaded for any expenses incurred by Preloaded as a result of any failure by the Client to comply with Clause 4.1.

4.3 Without prejudice to any other rights or remedies to which Preloaded may be entitled, if the Client terminates or cancels, for reasons other than those detailed in Clause 9 Termination, part or all of the Services agreed to under this Agreement or under the applicable Statement of Work, then the Client shall be required to pay to Preloaded as agreed damages and not as a penalty the full amount of the value of Services to be terminated as contracted for under this Agreement. The Client agrees this is a genuine pre-estimate of Preloaded's losses in such a case.

4.4 If the Client omits or commits anything which prevents or delays Preloaded from undertaking or complying with any of its obligations under this Agreement, then Preloaded shall notify the Client as soon as possible and:

4.4.1 Preloaded shall have no liability in respect of any delay to the completion of any Project;

4.4.2 if applicable, the timetable for the Project will be modified accordingly; and

4.4.3 Preloaded shall notify the Client at the same time if it intends to make any claim for additional costs.

5 CHANGE CONTROL

5.1 The scope of the Services shall be as set out in the Statement of Work. If, during the term of the respective Statement of Work, the Client wishes to have Preloaded change all or any part of the Services by way of Modifications, then the Client shall provide Preloaded with written particulars of such Modifications and such further information as Preloaded may reasonably require.

5.2 Preloaded shall then submit, at its sole discretion, to the Client, in the shortest reasonable time, a full written response including the feasibility, price and programme timescales for such Modifications. Preloaded shall not be obliged to submit a written quotation and if it elects not to do so the Statement of Work shall continue in force unchanged. However, Preloaded hereby

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agrees not to unreasonably decline to submit a written quotation and shall in any event give its reasons in writing for so doing.

5.3 Upon receipt of such quotation, the Client may elect either:

5.3.1 to accept such quotation in which case a contract amendment will be agreed between the Parties and added to the Statement of Work; or

5.3.2 to withdraw the proposed Modifications to the Deliverables in which case the Statement of Work shall continue in force unchanged, subject to Clause 5.4 below; or

5.3.3 to discuss further with Preloaded the Modifications.

5.4 If the Client's request for such Modifications to the Deliverables is subsequently withdrawn but results in a delay in the provision of the Deliverables, then Preloaded shall not be liable for such a delay and shall be entitled to such extension of time as is reasonably necessary for performing its obligations as a consequence of the delay together with reimbursement by the Client of any additional costs incurred by Preloaded as a result of the delay.

6 WARRANTY

6.1 Preloaded warrants that the Services performed under this Agreement shall be performed using reasonable skill and care, and of a quality conforming to generally accepted industry standards and practices.

6.2 Following notice in writing by the Client, Preloaded shall at its own expense correct any material defect in any Deliverables within sixty (60) days if this should occur within three (3) months after Acceptance of the Deliverables providing the defect has not arisen as a consequence of technical changes to the post Acceptance delivery environment or implementation/changes to the Deliverables which have been carried out by parties other than Preloaded.

6.3 Without prejudice to Clauses 6.1 and 6.2, and except as expressly stated in this Agreement, all warranties whether express or implied, by operation of law or otherwise, are hereby excluded in relation to the Services and Deliverables.

7 CONSULTANCY PERSONNEL

7.1 Preloaded shall perform the Services using such personnel (including personnel from Affiliates) as it considers suitably qualified. Preloaded intends to maintain continuity of personnel throughout the provision of the Services but reserves the right at any time to vary personnel upon reasonable notice. In particular, Preloaded personnel shall consult with the Client to co-ordinate holiday arrangements wherever practicable but shall not be required to seek prior authorisation from the Client for such holidays.

7.2 Preloaded personnel engaged in the performance of the Services shall at all times remain under the direction and control of Preloaded and the conditions of employment of Preloaded shall continue to apply to such personnel.

7.3 Nothing in this Agreement shall operate so as to prevent Preloaded from assigning Preloaded personnel involved in the performance of the Services to the provision of similar services for third parties, or in any way to restrict Preloaded's use of such personnel.

8 LIMITATION OF LIABILITY

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8.1 Neither Party excludes or restricts liability for:

8.1.1 death or personal injury sustained by any employee, agent or subcontractor of the other Party to the extent that its own negligence or that of its employees, agents or subcontractors causes death or personal injury; or

8.1.2 fraud or fraudulent misrepresentation.

8.2 This Clause 8 shall apply to all liability of Preloaded or any of its Affiliates in connection with or in relation to the subject matter of this Agreement howsoever arising and whether liability arises in contract, tort or otherwise and whether resulting from any breach of Preloaded's obligations under this Agreement or in connection with the provision of the Services (Licenses included) or from any act, omission, statement, advice or recommendation, whether negligent or not of its employees, agents or subcontractors, and whether or not the loss or damage had been foreseeable.

8.3 Subject to Clause 8.1, the entire aggregate liability of Preloaded under this Agreement (including under any indemnity obligations and including any liability for the acts or omissions of its employees, agents and sub-contractors) will be limited to the higher of £100,000 and an aggregate of the Fees due under this Agreement.

8.4 Except as expressly stated in this Agreement, Preloaded disclaims all liability to the Client in connection with Preloaded's performance of this Agreement and in no event will Preloaded be liable to the Client for loss of profits, loss of actual or anticipated savings, loss of data or for any special, indirect or consequential damages or loss suffered by the Client.

9 TERMINATION

9.1 The term of this Agreement shall be as stated in the Statement of Work or as may be otherwise agreed between the Parties.

9.2 Either Party may terminate this Agreement forthwith by notice in writing to the other if:

9.2.1 the other Party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 30 calendar days of being given written notice from the other Party to do so;

9.2.2 the other Party commits a material breach of this Agreement which cannot be remedied under any circumstances;

9.2.3 the other Party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;

9.2.4 the other Party ceases to carry on its business or substantially the whole of its business; and/or

9.2.5 the other Party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

9.3 Termination of this Agreement shall not affect the right of Preloaded to be paid for all and any Services and Deliverables provided by it prior to the date of termination.

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10. INTELLECTUAL PROPERTY RIGHTS (IPR)

10.1 Unless otherwise agreed, the IPR in all Deliverables created specifically and exclusively for the Client pursuant to this Agreement (as expressly confirmed in the Statement of Work) shall vest in the Client upon payment in full of all sums due to Preloaded.

10.2 The IPR in all other Deliverables whether developed or modified using pre-existing code, information, software or using code developed not only for the Client but for, or in contemplation of other clients, shall vest in and remain with Preloaded who, where specified in the Statement of Work, shall on payment of all sums due to Preloaded, grant a perpetual Licence (or such other License as may be specified in the Statement of Work) to the Client to use the same free of further charge (or at such License Fees as may be specified in the Statement of Work) for the purposes and as outlined in the Statement of Work.

10.3 If any Deliverables contain any third party Intellectual Property Rights, the Client shall agree to the inclusion of such assets, code or content and to any respective license/s in any Deliverables as required and/or defined in the respective Statement of Work.

10.4 If any Services include Client Materials, the Client warrants to Preloaded that Client has obtained all necessary licenses and consents to allow Preloaded's use of the Client Materials for incorporation into the Services and/or Deliverables. Client indemnifies Preloaded against any claims arising from such use of the applicable Client Materials by Preloaded.

11 FORCE MAJEURE

Neither Party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, the act or omission of government, highway authorities or any telecommunications carrier, operator or administration or other competent authority, or the delay or failure in manufacture, production, or supply by third parties of equipment or Services, and a Party shall be entitled to a reasonable extension of its obligations after notifying the other Party of the nature and extent of such events.

12 INDEPENDENT CONTRACTORS

Preloaded and the Client are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties. Preloaded may, in addition to its own employees, engage sub-contractors (Affiliates included) to provide all or part of the Services being provided to the Client and such engagement shall not relieve Preloaded of its obligations under this Agreement.

13 CONFIDENTIALITY

13.1 Preloaded and the Client shall keep in confidence any information obtained under this Agreement whether or not designated as confidential by the disclosing Party and shall not divulge the same to any person (other than their own employees and professional advisors (each a "Recipient") who need to know the information) without the consent of the other Party.

13.2 The receiving Party shall ensure that each Recipient is made aware of, and complies with the receiving Party's obligations of confidentiality under this Agreement as if the Recipient was a party to this Agreement:

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13.3 This Clause 13 shall not apply to information which is:

13.3.1 in the public domain other than in breach of this Agreement;

13.3.2 in the possession of the receiving party before such divulgence has taken place;

13.3.3 obtained from a third party who is free to divulge the same; and/or

13.3.4 disclosed by the receiving party to satisfy the order of a court of competent jurisdiction or to comply with provisions of any law or regulations in force from time to time.

13.4 The provisions of this clause shall survive termination of the Agreement regardless of the reason for such termination.

13.5 The Parties agree that a violation of this Clause 13 may cause irreparable harm to the disclosing Party, for which monetary damages would be inadequate and injunctive relief may be available for a breach of this clause.

14 ASSIGNMENT

Neither Party will assign this Agreement (or any benefits or interests arising under this Agreement) without the prior written consent of the other Party (which will not be unreasonably withheld or delayed) except that assignments to Affiliates of Preloaded will be permitted. Any attempted assignments not permitted hereunder shall be void and of no force and effect.

15 SEVERABILITY

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

16 WAIVER

The failure by either Party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce any or all Terms and Conditions of this Agreement.

17 NOTICES

Any notice to be given by either Party to the other may be served by email, fax, personal service or by post to the addresses detailed in the Statement of Work. If the notice is sent by: email it shall, unless the contrary is proved, be deemed to be received on the day it was sent; if sent by fax, it shall be deemed to be served on receipt of an error free transmission report; if given by letter, it shall be deemed to have been served at the time at which the letter was delivered personally; or if sent by post, shall be deemed to have been delivered in the ordinary course of post.

18 ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. Unless expressly provided elsewhere in this Agreement, this Agreement may be varied only by a document signed by both parties.

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19 RIGHTS OF THIRD PARTIES

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

20 EMPLOYMENT RESTRICTION

While this Agreement is in force and for a period of 12 months from its termination for any reason, neither Party will solicit the employment of any person employed by the other Party who is actively engaged in the provision or receipt of the Services.

21 DATA PROTECTION

Each Party shall comply at all times with its obligations under the Data Protection Act 1998 or any legislation that replaces it in whole or in part and any other legislation relating to the protection of Personal Data including the data protection principles set out in the Act and have due regard to the guidelines and guidance notes issued from time to time by the Information Commissioner (and any successor) and all other relevant authorities.

22 BRIBERY, GIFTS, GRATUITIES, CONFLICTS OF INTEREST

Each Party shall observe the highest standard of business ethics and all applicable laws and regulations, including without limitation the Bribery Act 2010, regarding the giving/receiving of bribes, gifts and gratuities. Each Party shall avoid any conflict of interest, or any appearance of a possible conflict of interest, or other improper dealings.

23 GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.