

Master Service Agreement

THIS MASTER SERVICES AGREEMENT (“AGREEMENT”) GOVERNS YOUR PURCHASE AND ONGOING USE OF THE SERVICES.

BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

You may not access the Services if You are Our direct competitor, except with Our prior written consent. In addition, You may not access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

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1. DEFINITIONS

“Affiliate” means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“Confidential Information” means all Confidential Information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure.

“Data Controller” means an entity that determines the purpose and means of the processing of personal data.

“Data Processor” means any entity that which processes personal data on behalf of the controller.

Data Subject” means a natural person to who the data being collected and processed relates to.

“GDPR” means The General Data Protection Regulation and any other applicable legal or regulatory act, as amended from time to time.

“Malicious Code” means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, les, scripts, agents or programs.

“Order Form” means the ordering documents for purchases hereunder, including addenda thereto, that are entered into between You and Us from time to time. Order Forms shall be deemed incorporated herein by reference.

“Purchase Record” means an Order Form, quotation, proposal, invoice, subscription confirmation, online checkout record or other written or electronic record identifying the Services purchased by You.

“Personal Data” means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified,

directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

“Processing” means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

“Services” means the software, applications, platform, online services and content provided by Us that have been purchased by You under the Purchase Record, but excluding Third Party Content.

“Third-Party Content” means eLearning content provided by third parties that interoperate with the Services, and are identified as third-party content.

“User Guide” means the online user guide for the Services as updated from time to time.

“Users” means individuals who are authorised by You to use the Services, for whom subscriptions to a Service have been purchased, and who have been supplied user identifications and passwords by You (or by Us at Your request). Users may include but are not limited to Your employees, consultants, contractors and agents; or third parties with which You transact business.

“We,” “Us” or “Our” means the Ketsko company described in Section 12 (Who You Are Contracting With, Notices, Governing Law and Jurisdiction).

“You” or “Your” means the company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity.

“Your Data” means all electronic data or information submitted by You to the Services.

2. SERVICES

2.1. Provision of Services.

We shall make the Services available to You pursuant to this Agreement and the relevant Purchase Records during a subscription term. You agree that Your purchases hereunder

are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding future functionality or features.

2.2. User Subscriptions.

Unless otherwise specified in the applicable Purchase Record, (i) Services are purchased as User subscriptions and may be accessed by no more than the specified number of Users, (ii) additional User subscriptions may be added during the subscription term at the same pricing as that for the pre-existing subscriptions, prorated for the remainder of the subscription term in effect at the time the additional User subscriptions are added, and (iii) the added User subscriptions shall terminate on the same date as the pre-existing subscriptions. User subscriptions are for designated Users and cannot be shared or used by more than one User. User subscriptions are transferable until training activity is associated with the User.

3. USE OF THE SERVICES

3.1 Our Responsibilities.

We shall: (i) provide to You basic support for the Services at no additional charge, and/or upgraded support if purchased separately, (ii) use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which We shall give at least 8 hours' notice via the Services and which We shall schedule to the extent practicable outside of business hours), or (b) any unavailability caused by circumstances beyond Our reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labour problems (other than those involving Our employees), or Internet service provider failures or delays, and (iii) provide the Services only in accordance with applicable laws and government regulations.

3.2. Your Responsibilities.

You shall (i) be responsible for Users' compliance with this Agreement, (ii) be solely responsible for the accuracy, quality, integrity and legality of Your Data and of the means by which You acquired Your Data, (iii) use commercially reasonable efforts to prevent unauthorised access to or use of the Services, and notify Us promptly of any such unauthorised access or use, and (iv) use the Services only in accordance with the User Guide and applicable laws and government regulations. You shall not (a) make the Services available to anyone other than Users, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious

material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorised access to the Services or their related systems or networks.

3.3. Usage Limitations.

Ketsko standard Annual Subscription model allows subscribed users unlimited usage of the system and unlimited access to the courses and risk assessments they are subscribed to. However, as an alternative model, we may also offer a Pay-Per-Use Subscription. Under this model You must purchase Flexible Training Credits (FTCs) in addition to paying an Annual Subscription per user. When a user completes a course or risk assessment FTCs are consumed. Generally 1 x FTC will be consumed on completion of 1 x 30-minute Ketsko course or 1 risk assessment. The number of FTCs required per course can vary depending on the publisher and the length of the course. FTCs need to be purchased in advance and the number and cost of these will be detailed on Your Purchase Record if you have been offered a Pay-Per-Use Subscription. You will also be provided with usage reports so you can monitor your FTC usage.

4. THIRD-PARTY PROVIDERS

4.1. Acquisition of Third-Party Products and Services.

We may offer Third-Party Content for sale under Purchase Records. Any other acquisition by You of third-party products or services, including but not limited to Third-Party Content and implementation, customization and other consulting services, and any exchange of data between You and any third-party provider, is solely between You and the applicable third-party provider. We do not warrant or support third-party products or services, except as specified in a Purchase Record. No purchase of third-party products or services is required to use the Services.

5. FEES AND PAYMENT FOR SERVICES

5.1. User Fees.

You shall pay all fees specified in all Purchase Records hereunder. Except as otherwise specified herein or in a Purchase Record, (i) fees are quoted and payable in Pounds Sterling or Euros where applicable (ii) fees are based on services purchased and not actual usage, (iii) payment obligations are non-cancellable and fees paid are non-refundable, and (iv) the number of User subscriptions purchased cannot be decreased during the relevant

subscription term stated on the Order Form. User subscription fees are based on annual periods that begin on the subscription start date and each annual anniversary thereof; therefore, fees for User subscriptions added during an annual period will be charged pro rata for the remainder of that subscription term.

5.2. Invoicing and Payment.

You will provide Us with valid and updated credit card information, or with a valid purchase order or alternative document reasonably acceptable to Us. Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Purchase Record. If the Order Form specifies that payment will be by a method other than a credit card, We will invoice You in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net 30 days from the invoice date.

5.3. Overdue Charges.

If any charges are not received from You by the due date, then at Our discretion, (a) such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and/or (b) We may condition future subscription renewals and Order Forms on payment terms shorter than those specified in Section 5.2 (Invoicing and Payment).

5.4. Suspension of Service and Acceleration.

If any amount owing by You under this or any other agreement for Our services is 30 or more days overdue (or 10 or more days overdue in the case of amounts You have authorised Us to charge to Your credit card), We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Our services to You until such amounts are paid in full.

5.5. Payment Disputes.

We shall not exercise Our rights under Section 5.3 (Overdue Charges) or 5.4 (Suspension of Service and Acceleration) if the applicable charges are under reasonable and good faith dispute and You are cooperating diligently to resolve the dispute.

5.6. Taxes.

Unless otherwise stated, Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales,

use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "Taxes"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this paragraph, the appropriate amount shall be invoiced to and paid by You, unless You provide Us with a valid tax exemption certificate authorised by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against it based on Our income, property and employees.

6. PROPRIETARY RIGHTS

6.1. Reservation of Rights.

Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the Services, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

6.2. Restrictions.

You shall not (i) permit any third party to access the Services except as permitted herein or in a Purchase Record, (ii) create derivative works based on the Services, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes, (iv) reverse engineer the Services, or (v) access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.

6.3 Restrictions relating to third parties/competitors.

You shall not (i) permit any third party/competitor to access the Services except as permitted herein or in a Purchase Record, (ii) permit any third party/competitor to create derivative works based on the Services, (iii) permit any third party/competitor to copy, frame or mirror any part or content of the Services, (iv) permit any third party/competitor to reverse engineer the Services, or (v) permit any third party/competitor to access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.

6.4 The provisions of clause 6.2 and 6.3 above apply equally to any Services provided to You through your purchase and on-going use of the Services and during any trial period for the Services entered into between You and Us.

6.5 Equitable Relief.

You acknowledge that any breach or threatened breach of clauses 6.2 and/or 6.3 of this

Agreement will result in irreparable harm to Us for which damages would not be an adequate remedy, and therefore, in addition to Our rights and remedies otherwise available at law, We will be entitled to seek injunctive or other equitable relief, as appropriate. If We seek any equitable remedies, We will not be precluded or prevented from seeking remedies at law.

6.6. Ownership of Data.

You exclusively own all rights, title and interest of all data owned by You prior to submission to the Services. The use of the Services does not create or transfer any ownership rights.

6.7. Suggestions.

We shall have a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by You, including Users, relating to the operation of the Services.

7. CONFIDENTIALITY

7.1. Scope of Confidential Information.

Your Confidential Information shall include Your Data; Our Confidential Information shall include the Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Your Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

7.2. Protection of Confidential Information.

Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own Confidential Information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who have

signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

7.3 Compelled Disclosure.

The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

8. GENERAL DATA PROTECTION REGULATION

8.1. Without limiting the above, We shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data. We shall not (a) modify Your Data, (b) disclose Your Data except as compelled by law in accordance with Section 7.3 (Compelled Disclosure) or as expressly permitted in writing by You, or (c) access Your Data except to provide the Services or prevent or address service or technical problems, or at Your request in connection with customer support matters, (d) use or process Your Data except to provide the Services to You as agreed in this Agreement.

8.2. Each party shall comply with all applicable requirements of GDPR in respect of Personal Data. Without limiting the generality of the foregoing, We shall: (a) acknowledge that under GDPR, You are a Data Controller and We are a Data Processor where processing personal data under the terms of the Agreement. Each party must ensure compliance with the Act at all times during the Term of the Agreement; (b) agree to process the Personal Data only for the purposes outlined in the contract and strictly for no other purpose without Your written authority; (c) keep a record of processing activities undertaken on Your data or on Your behalf; (d) not disclose or transfer the Personal Data to a third party located outside the EEA without Your prior written authorisation; (e) agree to notify You immediately and no later than 48 hours upon receipt of a request from an individual seeking to exercise any of their rights under the GDPR. Taking into account the nature of the processing, assist You by appropriate technical and

organisational measures, for the fulfilment of Your obligation to respond to requests by Data Subjects to exercise their rights under Chapter III of the GDPR (including the right to transparency and information, the data subject access right, the right to rectification and erasure, the right to the restriction of processing, the right to data portability and the right to object to processing);

(f) inform You if, in Our opinion, an instruction infringes Article 28 of the GDPR or any other provision of the Data Protection Legislation;

(g) take such measures in relation to the security of the Personal Data as are required of it by Article 32 of the GDPR and to ensure access is restricted to authorised users only and administration rights are exercised.

(h) use sub-processors only in accordance with Section 8.3;

(i) take into account the nature of the processing under an Agreement and the information available to Us, assist You in carrying out Your obligations under Articles 32 to 36 of the GDPR and any other Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(j) make available to You information that demonstrates its compliance with Article 28 (3) of the GDPR and its obligations;

(k) permit You or a third party authorised by You, to carry out audits and inspections of the processing of Personal Data by Us, on reasonable notice in normal business hours; (l) notify You without undue delay after becoming aware of a personal data breach; and (m) acknowledge that the Personal Data belongs to You.

8.3. You authorise Us to use sub-processors to provide the Services. Our current sub-processor list will be made available by Us separately and may be updated from time to time. We will impose written data protection obligations on sub-processors as required by GDPR.

8.4. Data Processing Details.

Where We process Personal Data on Your behalf as Data Processor, the following details apply unless otherwise stated in a Purchase Record or other written agreement:

(a) Subject matter: the provision, operation, support, maintenance and improvement of the Services.

(b) Duration: for the term of the Services, including any renewal term that is paid within the applicable payment terms. If the Services renew but payment is not received before the applicable payment terms period expires, the Agreement for the relevant Services will expire at the end of that payment terms period and processing for service provision will

end at that time.

(c) Nature and purpose of processing: collection, storage, hosting, access, retrieval, transmission, support, maintenance, security monitoring, backup, deletion and other processing necessary to provide the Services.

(d) Types of Personal Data: business contact details, account details, user identifiers, usage records, communications, Customer-submitted data and other Personal Data provided to or generated through the Services.

(e) Categories of Data Subjects: Your personnel, users, representatives, applicants, contractors, customers, suppliers and other individuals whose Personal Data is provided to or generated through the Services.

(f) Controller obligations and rights: You are responsible for determining the purposes and lawful basis of the processing, giving lawful instructions, providing required notices, handling Data Subject rights where applicable, and complying with Your obligations as Data Controller.

(g) Return, deletion and backup copies:

(i) After expiry or termination of the relevant Services, Personal Data processed on Your behalf will be taken out of active processing for service provision.

(ii) Personal Data processed on Your behalf will then be deleted or anonymised in accordance with Our deletion and backup-retention processes, unless continued retention is required by law or expressly agreed in writing.

(iii) Residual copies may remain in backups for a limited period in accordance with Our normal backup-retention, security, restoration and legal compliance processes, but will not be available for Customer access, Data Subject access or ordinary operational use.

9. WARRANTIES AND DISCLAIMERS

9.1. Our Warranties.

We warrant that (i) the Services shall perform materially in accordance with the User Guide, and (ii) the functionality of the Services will not be materially decreased during a subscription term. For any breach of either such warranty, Your exclusive remedy shall be as provided in Section 12.3 (Termination for Cause) and Section 12.4 (Refund or Payment

upon Termination) below.

9.2. Mutual Warranties.

Each party represents and warrants that (i) it has the legal power to enter into this Agreement, and (ii) it will not transmit to the other party any Malicious Code, (iii) it will not add malicious code when using the Authoring tool for Editing Courses & Creating new courses, (iv) it will not include malicious code when uploading 3rd party content to the Services, for example, SCORM courseware, (v) it will ensure that all 3rd party content is checked for all known computer virus, malware and spyware prior to upload.

9.3. Disclaimer.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

10. MUTUAL INDEMNIFICATION

10.1. Indemnification by Us.

We shall defend You against any claim, demand, suit, or proceeding ("Claim") made or brought against You by a third party alleging that the use of the Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party, and shall indemnify You for any damages finally awarded against, and for reasonable legal fees incurred by You in connection with any such Claim; provided, that You (a) promptly give Us written notice of the Claim; (b) give Us sole control of the defence and settlement of the Claim (provided that We may not settle any Claim unless the settlement unconditionally releases You of all liability); and (c) provide to Us all reasonable assistance, at Our expense.

10.2. Indemnification by You.

You shall defend Us against any Claim made or brought against Us by a third party alleging that Your Data, or Your use of the Services in violation of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law, and shall indemnify Us for any damages finally awarded against, and for reasonable legal fees incurred by Us in connection with any such Claim; provided, that We (a) promptly give You written notice of the Claim; (b) give You sole control of the defence and settlement of the Claim (provided that You may not settle any Claim unless the settlement

unconditionally release Us of all liability); and (c) provide to You all reasonable assistance, at Our expense.

10.3 The indemnification referred to in Clause 10.2 above includes any claims brought against Us by a third party alleging that Your use of third party content hosted by Us on Your behalf, and/or Your use of the authoring tool as provided to You as part of the Services and as further outlined in the Purchase Record agreed by the parties has infringed that third party's IP as a direct result of Your use of the said third party content and/or authoring tool.

10.4 Exclusive Remedy.

This Section 10 (Mutual Indemnification) states the indemnifying party's sole liability to, and the Indemnified party's exclusive remedy against, the other party for any type of Claim described in this Section.

11. LIMITATION OF LIABILITY

11.1. Limitation of Liability.

Nothing in this Agreement excludes or limits any liability that cannot lawfully be excluded or limited. In no event shall either party's aggregate liability arising out of or related to this agreement, whether in contract, tort or under any other theory of liability, exceed the total amount paid by You hereunder or, with respect to any single incident, 150% of the amount paid by You hereunder (in aggregate) in the 12 months preceding the incident. The foregoing shall not limit your payment obligations under section 5 (fees and payment for services).

11.2 Exclusion of Consequential and Related Damages.

In no event shall either party have any liability to the other party for any lost profits or revenues or for any indirect, special, incidental, consequential, cover or punitive damages however caused, whether in contract, tort or any other theory of liability, and whether or not the party has been advised of the possibility of such damages. The foregoing disclaimer shall not apply to the extent prohibited by applicable law.

11.3 Where editing permissions are provided, You undertake to ensure that only persons who are suitably qualified health and safety professionals, knowledgeable in both the subject-matter of the module, test or risk assessment prior to editing and any subject matter to be dealt with by the content after editing, are permitted to perform editing operations and that any such person has the appropriate language skills (where a module

is written in a language other than English). Training courses approved/accredited/assured by third party organisations. Editing, adding to, or in any way modifying one of these courses invalidates the approval/accreditation/assurance and it is Your responsibility to ensure that any edits are accurate and correct.

11.4 We endeavour to ensure the training reflects best practice in the subject area they cover but it is the customer's responsibility to ensure they meet the needs of their employees and local legislation.

12. TERM AND TERMINATION

12.1. Term of Agreement.

This Agreement forms a valid contract once You accept this Agreement, click a box indicating acceptance, execute an Order Form that references this Agreement, accept a quotation, proposal, invoice, subscription confirmation or other Purchase Record that references this Agreement, access or use the Services after being notified that this Agreement applies, or otherwise agree to this Agreement in writing or electronically. This Agreement continues until all subscriptions or Services provided under it have expired or been terminated.

12.2. Term of Purchased User Subscriptions.

User subscriptions purchased by You commence on the start date specified in the applicable Purchase Record and continue for the subscription term specified therein. If this Agreement has not been renewed the Agreement will automatically extend at the end of each term for a further term of 1 year unless either party gives the other written notice of termination at least 30 days prior to the end of the relevant term. Any renewal is conditional on payment of the applicable renewal fees within the applicable payment terms. If renewal fees are not paid before the applicable payment terms period expires, the Agreement for the relevant Services will expire at the end of that payment terms period.

12.3. Termination for Cause.

A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

12.4. Refund or Payment upon Termination.

Upon any termination for cause by You, We shall refund You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination.

Upon any termination for cause by Us, You shall pay any unpaid fees covering the remainder of the term of all Purchase Records after the effective date of termination. In no event shall any termination relieve You of the obligation to pay any fees payable to Us for the period prior to the effective date of termination.

12.5. Return of Your Data.

Upon request by You made within 30 days after the effective date of termination or expiry of the relevant Services, We will make available to You for download a file of Your Data in a reasonably available export format.

12.6 Upon termination You must delete any Ketsko SCORM courses from Your learning management system, applications and all storage devices and provide written confirmation that this has been done by a duly authorised individual within 90 days of termination.

12.7. Surviving Provisions.

Section 5 (Fees and Payment for Services), 6 (Proprietary Rights), 7 (Confidentiality), 9.3 (Disclaimer), 10 (Mutual Indemnification), 11 (Limitation of Liability), 12.4 (Refund or Payment upon Termination), 12.5 (Return of Your Data), 13 (Who You Are Contracting With, Notices, Governing Law and Jurisdiction) and 14 (General Provisions) shall survive any termination or expiration of this Agreement.

13. WHO YOU ARE CONTRACTING WITH, NOTICES, GOVERNING LAW AND JURISDICTION

13.1. General.

You are contracting with Ketsko Limited, a company incorporated in Ireland. You should direct notices under this Agreement to the Chief Executive Officer, Ketsko Limited, Registered Address in Ireland.

13.2. Manner of Giving Notice.

Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv) the first business day after sending by email

(provided email shall not be sufficient for notices of termination or an indemnifiable claim).

Notices to You shall be addressed to the system administrator designated by You for Your relevant Services account, and in the case of billing-related notices, to the relevant billing contact designated by You.

13.3. Agreement to Governing Law and Jurisdiction.

This Agreement shall be governed by and construed in accordance with the laws of England and Wales and each party agrees to submit to the non-exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with this Agreement or the legal relationships established by this Agreement and/or any Contract and any proceedings in respect of any such claim or matter may be brought in such courts.

13.4 Notwithstanding the other provisions of this Agreement, We shall be entitled to bring an action in any jurisdiction where this relates to the protection of our intellectual property rights or other rights.

14. GENERAL PROVISIONS

14.1. Relationship of the Parties.

The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

14.2. No Third-Party Beneficiaries.

There are no third-party beneficiaries to this Agreement.

14.3. Waiver and Cumulative Remedies.

No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

14.4. Severability.

If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to

accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

14.5. Legal Fees.

You shall pay all of Our reasonable direct legal fees and other costs incurred by Us to collect any fees or charges due Us under this Agreement following Your breach of Section 5.2 (Invoicing and Payment)

14.6. Assignment.

Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Purchase Records), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganisation, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement upon written notice to the assigning party. In the event of such a termination, We shall refund to You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

14.7. Entire Agreement.

This Agreement, including all exhibits and addenda hereto and all Purchase Records, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Order Form, the terms of such exhibit, addendum or Purchase Record shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in Your purchase order or other order documentation (excluding Purchase Records) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

15. SERVICE LEVELS – SOFTWARE

15.1. Supported Administrator.

The Customer may nominate one employee as the Administrator for the system who will contact Ketsko support in the event of support being required.

15.2. Contacting Support.

Support is available Monday to Friday (excluding UK bank holidays) from 9am to 5pm. Support can be contacted by email at support@ketsko.com

15.3. Maintenance.

There will be no planned maintenance during business hours between 9am and 5pm Monday to Friday. If any maintenance is required within these times, the Customer will be informed prior to maintenance taking place.

15.4. Support Severity Level.

Severity	Support Type	Description
1 Low	User System Error	Issues found during use of the System by users
2 Medium	Administrator System Error	Issues found in the System during use of the Administration functions

3 High	Main System Problems	Database issues, System incompatibilities, or major system related issues resulting in significantly reduced system functionality
4 Severe	Major System Problems	System freeze or crash

15.5 Response Time

Based on GMT time zone:

Severity	Response Time 9am to 5pm Mon-Fri	Response Time Out of Hours	Procedures	Target Resolution Period (from response)
1 Low	1 hour	By 10am next working day	User to report issue to Customer main contact. Customer main contact to report issue to Ketsko Customer Success	1 Business Day
2 Medium	1 hour	By 10am next working day		1 Business Day
3 High	1 hour	By 9am next working day	Customer main contact to report issue to Ketsko Customer Success	2 Business Days
4 Severe	1 hour	By 9am next working day	Customer main contact to report issue to Ketsko Customer Success	2 Business Days

16.SERVICE LEVELS – INFRASTRUCTURE

16.1 Hosting Environment

The Services are hosted on the Amazon Web Service Europe (AWS) infrastructure and are built to provide a highly available and durable service.

AWS provide a commitment to 99.99% monthly uptime with regard to cloud computing (EC2) services in their Service Level Agreement.

16.2 AWS GDPR Compliance

AWS has in place effective technical and organizational measures for data processors to secure personal data in accordance with GDPR. AWS continue to innovate and invest in security and their industry-leading functionality provides the foundation for their long list of internationally-recognized certifications and accreditations, demonstrating compliance with rigorous international standards, such as ISO 27001 for technical measures, ISO 27017 for cloud security, ISO 27018 for cloud privacy, SOC 1, SOC 2 and SOC 3, PCI DSS Level 1, and EU-specific certifications such as BSI's Common Cloud Computing Control Catalogue(C5).

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