

Terms and Conditions

1. DEFINITIONS

"Affiliate" means any entity that controls, is controlled by, or is under common control with Interplay Learning or Customer (where "control" means ownership of more than 50% of the voting equity interests in such entity or the legal power to direct or cause the direction of the general management of such entity, whether by contract or otherwise), but in each case only for so long as such ownership or control will continue.

"Apprenticeship Program" means the workforce training program developed and administered by Interplay Learning under applicable SOWs, which may include related training instruction (RTI), support for on-the-job training (OJT), regulatory registration with the U.S. Department of Labor (DOL) or other entities, documentation services, instructional onboarding, compliance guidance, and other program design and operational services, as more fully described in the applicable SOW.

"Claim" means any claim, demand, suit or proceeding brought against the indemnitee by a third party.

"Company Apprenticeship Program" means the apprenticeship plan designed in consultation with the Customer to meet its operational, compliance, and workforce development needs, as documented in the applicable Order or Exhibit

"Customer Data" means any information, data or content that Customer uploads or transfers to Interplay Learning that is used in connection with the provision of the Interplay Learning Services under this Agreement, including Customer's Confidential Information.

"Documentation" means Interplay Learning's technical documentation and user and usage guides for the applicable Interplay Learning Services made available to Customer by Interplay Learning. Interplay Learning's current Documentation can be made available by request or through the SaaS Services.

"Downloadable Materials" means Interplay Learning's proprietary software that is a downloadable object-code agent, component, file or product, and/or content, and related Documentation, including any updates and upgrades thereto provided or made available to Customer by Interplay Learning under this Agreement.

"Hardware" means the tangible equipment and components supplied or made available by Interplay Learning to Customer under any related Order, including, without limitation, virtual reality headsets, computers, peripherals, simulator bases (desktop or motion-based), storage or transportation containers, and any other physical items identified in the applicable documentation.

"Intellectual Property Rights" or "IP Rights" means all patents, patent applications, copyrights, mask work rights, trade secrets, trademarks, and moral rights, whether or not registered, and all applications therefor and registrations, renewals and extensions thereof, under the laws of any state, country, territory, or other jurisdiction.

"Interplay Learning Product(s)" means the SaaS Services and Downloadable Materials.

"Interplay Learning Services" means, collectively, the Interplay Learning Products, Professional Services, Support Services, and all other services to be provided by Interplay Learning to Customer under this Agreement.

"Loss" means any liabilities, damages, costs or expenses, including attorneys' fees and costs.

"Order" means one or more Interplay Learning order forms executed by the parties for the license and purchase of Interplay Learning Services and/or Hardware and that reference this Agreement.

"Platform" means Interplay Learning's proprietary technology platform that powers the SaaS Services.

"Professional Services" means those professional services to be performed by Interplay Learning for Customer in connection with the SaaS Services, including implementation services, integration services, managed services, consulting services, the Apprenticeship Program, or other offerings, as more fully described in one or more SOWs.

"SaaS Services" means Interplay Learning's software-as-a-service offerings including courses, online training, content, materials and services and related Documentation, including any updates and upgrades thereto provided or made available to Customer by Interplay Learning under this Agreement.

"Site" means Interplay Learning's website located at interplaylearning.com and related Interplay Learning websites, pages, API's, Facebook and other social applications and any Interplay Learning mobile applications ("**Mobile App(s)**") that link to or reference these terms or interplaylearning.com.

"Statement of Work" or "SOW" means one or more statements of work signed by the parties from time to time referencing this Agreement, that describe the Professional Services that Interplay Learning will perform for Customer. SOWs may be attached to Orders.

"Subscription Period" means the subscription period of time specified in the Order during which the Interplay Learning Products and/or Hardware will be provided and licensed to Customer, as applicable.

"Support Services" means the support maintenance services for the Interplay Learning Products.

"Trial Services" or "Trial" means the provision of Interplay Learning Products to Customer to try at its option whether as a trial, pilot, evaluation, proof of concept, or by a similar description.

"Users" means the individuals who are designated by Customer to access and use the Interplay Learning Products under this Agreement, and for whom Customer has issued or approved access credentials. Each User must be a single identified individual using a single login with one unique email address. Customer may permanently (i.e., not for a predefined temporary period of time) replace one named User with another if the original named User no longer has access to the Interplay Learning Products.

2. ACCESS AND USE RIGHTS

2.1 **SaaS Services.** Subject to the terms and conditions of this Agreement, Interplay Learning will make available to Customer the Interplay Learning SaaS Services on a non-exclusive, limited, revocable, non-transferable and non-sublicensable basis only: (a) during the applicable Subscription Period, (b) internally for Customer's own internal business purposes, and not for resale or license to third parties, (c) by the authorized number of Users, (d) subject to the quantity(ies) in the applicable Order, and (e) in accordance with the additional Interplay Learning SaaS Services rights and limitations specified in the Order.

2.2 **Downloadable Materials.** Subject to the terms and conditions of this Agreement, Interplay Learning grants Customer a non-exclusive, limited, revocable, non-transferable and non-sublicensable license to download, install and use the Downloadable Materials only: (a) during the applicable Subscription Period, (b) internally for Customer's own internal business purposes, and not for resale or license to third parties, (c) by the authorized number of Users, (d) subject to the quantity(ies) in the applicable Order, and (e) in accordance with any additional Interplay Learning Software rights and limitations specified in the Order.

2.3 **Affiliates.** Customer may allow its Affiliates to use the Interplay Learning Services made available to Customer hereunder for the benefit of Customer and its Affiliates, provided that Customer will be responsible for the acts and omissions of its Affiliates as if such acts and omissions were those of Customer.

2.4 **Trial Licenses.** If Customer orders Trial Services, then Interplay Learning will make the applicable Interplay Learning Products available to Customer on a Trial basis under this Agreement until the earlier of (a) the end of the Trial period set forth in the Order, or (b) the start date of any Subscription Period for the Interplay Learning Products ordered by Customer, or (c) termination of the Trial by Interplay Learning in its sole discretion. Additional Trial terms and conditions may be included in the Trial Order. Notwithstanding anything to the contrary in this Agreement, during the Trial the Interplay Learning Services are provided "as-is" without warranty of any kind.

2.5 **Restrictions.** Customer will not directly or indirectly, nor authorize any third party to, do any of the following: (a) use or access any Interplay Learning Services for which Customer has not paid the applicable fees; (b) copy, modify or create derivative works of the Interplay Learning Products; (c) publish, sublicense, sell, resell, rent, lease, market or distribute the Interplay Learning Products, including using on a service bureau, outsourcing or time sharing basis; (d) create public Internet "links" to an Interplay Learning Product, or "frame" or "mirror" any Interplay Learning Product content on any other server or wireless or Internet-based device, or manually or systematically harvest, scrape, collect or otherwise extract information or data contained on the Site; (e) reverse engineer, decompile, disassemble or otherwise

attempt to gain access to the source code form of an Interplay Learning Product (except to the extent that such prohibition is expressly precluded by applicable law), circumvent its functions, or attempt to gain unauthorized access to an Interplay Learning Product or its related systems or networks; (f) use the Interplay Learning Services in violation of any applicable law, including any laws regarding intellectual property, privacy, personally identifiable data, and export; (g) remove any proprietary notices from the Interplay Learning Services or any other Interplay Learning materials furnished or made available hereunder; (h) use or access the Interplay Learning Services in order to (i) build a competitive product or service, or (ii) copy any features, functions or graphics of the Interplay Learning Services; (i) make the Interplay Learning Services available to anyone other than Users; (j) interfere with or disrupt the integrity or performance of the SaaS Services, the Platform or any data contained therein; (k) attempt to gain unauthorized access to the Platform or its related data, systems or networks; (l) use the Interplay Learning Products 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; (m) publish or disclose to third parties any evaluation of the Interplay Learning Services without Interplay Learning's prior written consent; (n) publish or disclose to third parties any data or information on Customer's results from using the Interplay Learning Services, without Interplay Learning's prior written consent; or (o) perform vulnerability, load or any other test of the Platform without Interplay Learning's prior written consent. Customer is responsible for compliance by each User with the terms of this Agreement.

2.6 **No Other Rights.** Interplay Learning Services are made available for limited use, access and/or license, and are not sold. Except as expressly set forth in this Agreement, no additional rights are granted to Customer. Interplay Learning hereby reserves all rights not expressly granted to Customer under this Agreement.

3 **HARDWARE PROVISION, USE, AND OWNERSHIP**

3.1 **Hardware Terms.** To the extent that any Hardware is provided to Customer under an Order, the provision, use, maintenance, and return of such Hardware shall be governed by this Agreement and the terms and conditions set forth in the applicable Order. In the event of any conflict between this Agreement and the Hardware Order with respect to Hardware, the terms of the Hardware Order shall control.

3.2 **Ownership and Title.**

(a) **Leased/Subscription-Based Hardware.** Any Hardware designated in an Order as leased or subscription-based shall remain the sole and exclusive property of Interplay Learning. Customer shall acquire no ownership interest in such Hardware, and shall use it only as expressly permitted under this Agreement and the applicable Hardware Order

(b) **Purchased Hardware.** If Hardware is designated in an Order as being sold to Customer, the title shall transfer to Customer only upon Interplay Learning's receipt of full payment for the applicable fees as specified in the corresponding Order, subject to the warranties and disclaimers set forth in this Agreement. All right, title, and interest in the Software and Intellectual Property Rights embedded within or provided in connection with the Hardware remain with Interplay Learning.

3.3 **Risk of Loss.** Risk of loss, theft, or damage to all Hardware shall pass to Customer upon delivery to the shipping address designated in the applicable Order. Customer shall be responsible for any loss or damage occurring thereafter, including during any return shipment of Leased Hardware. For clarity, Interplay Learning shall not be liable for any loss, damage, or delay occurring in transit after shipment.

3.4 **Use and Restrictions.** Customer shall not, and shall not permit any third party to: (a) dismantle, disassemble, or modify the Hardware; (b) use the Hardware with any third-party software or hardware not approved by Interplay Learning; (c) remove or obscure any proprietary markings or labels; or (d) transfer, sublicense, assign, rent, or lease the Hardware (other than as permitted under this Agreement). Interplay Learning makes no representations or warranties regarding Software performance when operated on Customer-supplied or modified hardware.

3.5 **Maintenance and Software Updates.** Customer shall cooperate with Interplay Learning to implement any required firmware or Software updates necessary for the proper operation of the Hardware. Maintenance obligations, if any, including support or replacement services, shall be set forth exclusively in the applicable Hardware Order.

3.6 **Return of Hardware.** Unless otherwise stated in the applicable Hardware Order, Customer shall return all leased and subscription-based Hardware to Interplay Learning in good working condition (reasonable wear and tear excepted) within fifteen (15) days following the termination or expiration of the applicable Order or Subscription Period. Interplay Learning reserves the right to invoice Customer for the replacement value of any unreturned, lost, stolen, or materially damaged Hardware, as determined in its sole discretion.

3.7 **No Sale or License Implied.** Except as expressly stated in a fully executed Order, no provision of this Agreement or the applicable Hardware Order shall be construed to transfer or imply the sale, license, or other grant of rights to any Hardware, Software, or intellectual property owned by Interplay Learning. Customer's use of Hardware does not convey, and is not intended to convey, any license or right except as expressly granted herein.

4. SITE ACCESS AND ACCOUNT REGISTRATION

4.1 **Account Activity.** Customer will: (a) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; and (b) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Interplay Learning Services. Customer is responsible for its Users' and its Affiliates' compliance with this Agreement. Customer will immediately notify Interplay Learning of any unauthorized account access or use or other suspected security breach of which Customer is aware.

4.2 **System Administrator.** Customer will provide Interplay Learning contact information for Customer's system administrator, if any, who is authorized to provide the information required to configure and manage the Interplay Learning Services. Customer will provide true and accurate information to Interplay Learning and keep such information updated.

4.3 **Account Correspondence.** Customer agrees that Interplay Learning may rely on all information provided to Interplay Learning by Customer from the Customer-designated email addresses. Interplay Learning may provide all notices, statements, and other communications arising under this Agreement to Customer pursuant to Section 16.12 (Notice).

4.4 **Customer Infrastructure.** Customer is responsible for obtaining and maintaining any hardware, software and network infrastructure ("**Customer Infrastructure**") and any ancillary services needed to connect to, access or otherwise use the Interplay Learning Services, and ensuring that the Customer Infrastructure and ancillary services comply with the configuration requirements specified by Interplay Learning, and all costs and fees associated therewith.

5. SUPPORT SERVICES; PROFESSIONAL SERVICES

5.1 **Support Services.** Interplay Learning and its Affiliates will provide Support Services for the Interplay Learning Products (a) for the duration of the Subscription Period, and (b) to the extent and for the time period that Customer pays the associated fees, if any, without interruption. Interplay Learning reserves the right, in its sole discretion, to modify, discontinue, add, adapt, or otherwise change its Support Services, but will not take any such action during a Subscription Period that would materially reduce or degrade the applicable Support Services. Support Services will terminate upon expiration or termination of the Subscription Period or upon Customer's failure to pay applicable fees for such Support Services.

5.2 **Professional Services.** Interplay Learning and its Affiliates will provide the Professional Services identified in a Statement of Work. All SOWs will incorporate and be subject to the terms of this Agreement. Customer acknowledges that the provision of Professional Services by Interplay Learning is dependent on Customer providing reasonable access to relevant resources, IT infrastructure, data and providing timely decisions and input in connection with those Professional Services.

5.3 **Subcontractors.** Interplay Learning reserves the right to engage subcontractors to perform its obligations under this Agreement. Any act or omission of a subcontractor that, if performed or omitted by Interplay Learning itself, would constitute a breach of this Agreement, will be deemed to be a breach of this Agreement by Interplay Learning; therefore Interplay Learning shall be liable and responsible to the same extent as it would otherwise be, had such act or omission been that of Interplay Learning itself.

5.4

6. FEES AND PAYMENT; TAXES

6.1 **Fees and Expenses.** Customer will pay all fees specified in each Order and SOW and any applicable additional fees if Customer exceeds the quantity(ies), use or access rights specified in the Order. Except as otherwise specified herein or in an Order or SOW (a) fees are payable in United States dollars, (b) fees are based on Interplay Learning Services purchased, whether or not Customer uses the Interplay Learning Services so purchased, (c) payment obligations are non-cancellable and fees paid are non-refundable, and (d) the Interplay Learning Products purchased and licensed cannot be decreased during the relevant Subscription Period. Customer will reimburse Interplay Learning for any

expenses specified in the Order, SOW or otherwise authorized by Customer in writing (including via email). All amounts payable under this Agreement will be made without setoff or counterclaim, and without any deduction or withholding.

6.2 Payment Terms. Unless otherwise specified in the Order or SOW, all payments by Customer to Interplay Learning under this Agreement are due within 30 days of Customer's receipt of the invoice. Customer's payments shall be made by ACH, wire transfer, or electronic funds transfer. Customer may also remit payment by credit card if so requested and instructed by Customer. If Customer desires to pay by credit card, then Customer must complete the credit card authorization form provided by Interplay Learning or as prompted on the Site. Such credit card authorization will be used by Interplay Learning to authorize charges for payment of Customer's invoices. In addition, if Customer fails to pay any Interplay Learning invoices, Customer hereby authorizes Interplay Learning to charge Customer's credit card on file with Interplay Learning for payment of such invoices.

6.3 Affiliate Orders. Customer Affiliates may also order Interplay Learning Services under this Agreement by either of the following methods: (a) pursuant to an Order executed by Customer and Interplay Learning, in which case Customer will be responsible for such Affiliate's compliance with the terms and conditions of this Agreement, including payment obligations, or (b) pursuant to an Order executed by such Affiliate and Interplay Learning under which such Affiliate agrees to the terms and conditions of this Agreement and will be "Customer" for all purposes under this Agreement with respect to such Order only. With respect to any such Order signed by an Affiliate, the relevant Affiliate will be solely liable for its own compliance with the terms and conditions of this Agreement, including payment obligations.

6.4 Past Due Invoices. If any payment is not made when due, interest will begin to accrue and be payable at the lesser of the maximum rate permitted under applicable law or 1.5% per month, accrued from the date due until paid in full. If any amount owed by Customer under this Agreement or any other agreement between the parties is 10 days or more overdue, Interplay Learning may, without limiting Interplay Learning's other rights and remedies, accelerate Customer's unpaid fee obligations under this Agreement so that all such obligations become immediately due and payable, and suspend any Interplay Learning Services to Customer until such amounts are paid in full. Interplay Learning will not exercise the foregoing rights if the applicable fees are under reasonable and good faith dispute and Customer is cooperating diligently to resolve the issue.

6.5 Taxes. Customer is solely responsible for the payment of, and will pay when due, all applicable Taxes now in force, enacted or imposed in the future arising from or relating to this Agreement and the provision of products and services under this Agreement including sales, service, use or value added taxes. If for any reason Interplay Learning pays any such Taxes, Customer will reimburse Interplay Learning for such Taxes. "Taxes" means any form of taxation, levy, duty, charge, contribution or impost of whatever nature and by whatever authority imposed (including any fine, penalty, surcharge or interest), excluding any taxes based solely on the net income of Interplay Learning. If Customer is required under any applicable law or regulation, domestic or foreign, to withhold or deduct any portion of the payments due to Interplay Learning, then the sum payable to Interplay Learning will be increased by the amount necessary so that Interplay Learning receives an amount equal to the sum it would have received had Customer made no withholdings or deductions.

6.6 Right to Audit. If requested by Interplay Learning, Interplay Learning will have the right, not more than once every 12 months during the term of this Agreement and for two years thereafter, to perform an audit at Customer's facilities insofar as may be necessary or desirable, in Interplay Learning's judgment, to determine Customer's compliance with its rights and obligations under this Agreement. Interplay Learning and Interplay Learning's independent auditors will have access to Customer's books and records pertaining to this Agreement and Interplay Learning Services, and operations at reasonable times during normal business hours, with reasonable prior written notice and Customer agrees to cooperate in all respects necessary to enable Interplay Learning and its independent auditors to carry out the intent and purposes of this Section. Interplay Learning may notify Customer of any deficiencies in performance discovered in any such audit, which deficiencies will be promptly corrected by Customer including Customer's payment of applicable fees for exceeding any quantity(ies) or for using or accessing any Interplay Learning Services for which Customer has not paid the applicable fees, regardless of whether such Interplay Learning Services are accessible by Customer. All information disclosed by Customer to such third party auditor or otherwise observed or learned by such third party auditor will be deemed Customer's Confidential Information (defined below).

7. TERM AND TERMINATION

7.1 Term of Agreement. This Agreement will begin on the Effective Date and will remain in force until there are no Orders or SOWs in effect for a period of 12 months, unless terminated earlier in accordance with the terms of this Agreement.

7.2 Subscription Period. The term of each Subscription Period for the Interplay Learning Products will begin on the

Subscription Period start date set forth in the applicable Order and will remain in force for the Subscription Period, unless terminated earlier in accordance with the terms of this Agreement. The Subscription Period will automatically renew without notice to Customer for one-year periods (each a “**Renewal Subscription Period**”), unless either party gives the other party written notice of its intent not to renew such Subscription Period at least 30 days before the expiration of the then-current term. Each Renewal Subscription Period will be subject to Interplay Learning’s then-current policies and pricing.

7.3 SOW Term. The term of each SOW for Professional Services will begin upon the effective date set forth in the applicable SOW, or such other start date set forth in such SOW, and will remain in force until completion of the Professional Services, unless terminated earlier in accordance with the terms of this Agreement.

7.4 Hardware Return Upon Termination. Upon termination or expiration of this Agreement, or any applicable Order under which Hardware is leased or subscription-based, Customer shall return all such Hardware to Interplay Learning in accordance with the terms of the applicable Hardware Order. The Customer’s right to use such Hardware shall immediately cease upon the effective date of termination, and Interplay Learning reserves the right to invoice Customer for any unreturned, late, or damaged Hardware as further set forth in the applicable Order.

7.5 Termination for Cause. Each party will have the right to terminate this Agreement (including all Orders and SOWs) if the other party breaches any term of this Agreement, an Order or SOW including non-payment, and fails to cure such breach within 30 days (10 days in the case of non-payment) after written notice thereof. Either party may terminate this Agreement (including all Orders and SOWs) immediately upon delivery of written notice if (a) the other party makes an assignment for the benefit of creditors, or (b) the other party becomes the object of the institution of voluntary or involuntary proceedings in bankruptcy or liquidation and, where such proceedings are involuntary, they remain undismissed for 60 days after their institution, or a receiver is appointed with respect to a substantial part of its assets. Termination of this Agreement automatically results in the termination of all outstanding Orders and SOWs. If Interplay Learning terminates this Agreement (or an Order or SOW) for Customer’s uncured breach, then Customer shall i) not be entitled a refund of any prepaid fees and all remaining subscription fees for the duration of the applicable Subscription Period, as if it had not been terminated, shall become immediately due and payable and ii) pay Interplay Learning all fees for Professional Services performed through the effective date of termination. If Customer terminates this Agreement for Interplay Learning’s uncured breach, Interplay Learning shall refund to Customer a prorated portion of prepaid fees for the remaining Subscription Period.

7.6 Effect of Termination. All rights granted to Customer hereunder will immediately terminate upon any termination of this Agreement. Upon termination of this Agreement, Customer will: (a) within five days return or destroy, at Interplay Learning’s direction, any and all Downloadable Materials, Documentation and Interplay Learning materials, and all copies thereof, and (b) upon Interplay Learning’s request certify in writing to Interplay Learning that all actions required by the preceding clause (c) have been satisfied. Further, subject to Section 14.4 (Return of Confidential Information) both parties will either return or destroy any and all Confidential Information of the other party, and all copies thereof, at the direction of the owning party and provide written proof of same upon the owning party’s reasonable request.

7.7 Customer Data. Prior to termination and subject to the terms of this Agreement, Customer will have the right to access and download Customer Data available pursuant to Interplay Learning’s data retention policy in a manner and in a format supported by the SaaS Services. Upon termination of this Agreement for any reason, to the extent legally permitted, Interplay Learning will archive or delete all Customer Data in its systems or otherwise in its possession or under its control pursuant to Interplay Learning’s data retention policy.

7.8 Suspension of Service. Interplay Learning may immediately suspend Customer’s access to, or use of, Interplay Learning Services and Site if: (a) Interplay Learning believes in its sole discretion that there is a significant threat to the security, integrity, functionality, or availability of the Site or Interplay Learning Services or any content, data, or applications in the Interplay Learning Services; (b) Customer or Users are in breach of Section 2.5 (Restrictions); (c) Customer or Users posted, uploaded or transmitted unauthorized User Content (defined below); (d) Customer or Users are in breach of Interplay Learning’s AUP (defined below), Mobile App usage terms or other applicable code of conduct; or (e) Customer’s payment of undisputed fees is 10 days or more overdue; provided, however, Interplay Learning will use commercially reasonable efforts under the circumstances to provide Customer with notice and, if applicable, an opportunity to remedy such violation prior to any such suspension. Interplay Learning will not be liable to Customer, Users or any third party for any such suspension. Customer will continue to be charged applicable fees during any period of suspension.

7.9 Non-Exclusive Remedy. Except as otherwise expressly stated herein, termination of this Agreement by either party will be a non-exclusive remedy and will be without prejudice to any other right or remedy of such party. Except as otherwise expressly stated herein, the rights and remedies of the parties to this Agreement are cumulative and not

alternative.

7.10 **Survival.** Notwithstanding any other provision of this Agreement, Sections 1, 2.5, 2.6, 4.4, 6, 7.6, 7.9, 7.10, 8, 9.2 – 9.6, 11.5, 11.6, 12, 13, 14, 15 and 16, and all rights and obligations thereunder, and the exhibits, addenda and Interplay Learning policies (to the extent required to carry out the rights and obligations set forth in this Agreement), and all other terms and conditions which by their nature are intended to survive, will survive any termination of this Agreement.

7.11 **Remedies.** The parties agree that money damages are not a sufficient remedy for any breach or anticipated breach of Section 2 (Access and Use Rights) and Section 14 (Confidentiality) or any other provisions of this Agreement which may cause either party irreparable injury or may be inadequately compensable in monetary damages. Accordingly, each party is entitled to specific performance, injunctive or other equitable relief as a remedy for any such breach or anticipated breach without the necessity of proving irreparable harm or posting bond and without waiving any other remedies at law or in equity which may be available in the event of any action to enforce such provisions.

8. PROPRIETARY RIGHTS

8.1 **Ownership.** As between Interplay Learning and Customer, Interplay Learning owns all right, title, and interest in and to the Interplay Learning Services, the Site and the Platform (including any customizations, modifications, adaptations, interfaces or derivative works that may be developed as a result of the Professional Services set forth in any Order or SOW unless otherwise set forth in such Order or SOW), the Documentation, Interplay Learning's Confidential Information, and all intellectual property rights related thereto ("**Interplay Learning IP**"). As between Customer and Interplay Learning, Customer owns all right, title, and interest in and to the Customer Data, Customer's Confidential Information, and all intellectual property rights related thereto. This Agreement does not grant any right or license to any intellectual property except as expressly provided in this Agreement, and no other right or license is to be implied by or inferred from any provision of this Agreement or by the conduct of the parties.

8.2 **Feedback.** We welcome and encourage you to provide feedback, comments, and suggestions for improvements to the Interplay Learning Services and Site ("Feedback"). Any Feedback Customer provides to Interplay Learning is deemed non-confidential and non-proprietary and may be used by Interplay Learning for any purpose without acknowledgement or compensation; provided, Customer will not be identified publicly as the source of the Feedback. Customer hereby grants Interplay Learning a perpetual, irrevocable, non-exclusive, royalty-free, worldwide right to freely use, reproduce, modify, make derivative works of, perform, display, distribute, disclose and otherwise exploit any such Feedback.

8.3 **Personal Data.** Any personally identifiable data ("**Personal Data**") provided by Customer and its Users will be considered the exclusive property of Customer, and Interplay Learning will not use such Personal Data during the term of the Agreement except in connection with the Interplay Learning Services to be rendered hereunder, for outreach to Users and appropriate Customer personnel concerning product roadmap, product updates, new products and the like, or at Customer's request, in each case, in compliance with this Agreement and all applicable laws and regulations.

8.4 **Customer Data.** Customer hereby grants to Interplay Learning a non-exclusive, royalty-free, perpetual, irrevocable license to access and use the Customer Data to the extent legally permitted to (a) provide, perform, improve and enhance the Interplay Learning Services and for other development, diagnostic and corrective purposes in connection with the Interplay Learning Services, and (b) disclose such data solely in aggregate and anonymized form in connection with the provision and marketing of the Interplay Learning Service, provided that such disclosed data will not be capable of being re-identified unless it is otherwise public information. Customer is solely responsible for maintaining backups and copies of all Customer Data input into the Interplay Learning Services and has sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data. No other rights or licenses are granted by Customer except as expressly set forth herein.

8.5 **Security and Data Protection.** Each party will at all times maintain a documented information security program that includes industry standard security measures designed to safeguard the security and confidentiality of the information that it receives, processes, stores, or transmits, including Confidential Information. In this regard, each party will establish and enforce physical, technical and logical processes/controls that are designed to reasonably: protect against accidental, unauthorized or unlawful destruction, loss, alteration, disclosure or access of such information. Without limiting the foregoing, each party will: (i) use appropriate industry standard security measures (including for network security, access governance, strong authentication, data loss prevention, encryption, and monitoring) to protect data from any unauthorized disclosure and/or use; (ii) take all reasonable measures to secure and defend its facilities and equipment against unauthorized modification of, or access to its systems or information found therein; (iii) periodically test its systems for potential security breaches, remediate any identified security vulnerabilities and provide evidence to the other party of

same upon request; (iv) report to the other party without undue delay any breaches of security or unauthorized access to data that it detects or becomes aware of; (v) promptly implement all measures necessary to restore the security of data, and cooperate with the other party to identify any additional steps required to address and rectify the breach and its effects; and (vi) respond to the other party's reasonable requests for information regarding its information security program and/or in-scope systems, and upon request from the other party, provide copies or summaries of its applicable policies and procedures. Each party agrees to comply with applicable laws and regulations, including but not limited to all applicable data privacy and security laws relating to the processing of Personal Data that may exist in any relevant jurisdiction.

8.6 No Exclusivity. Customer acknowledges that Interplay Learning is in the business of providing development and other services to other customers, and that Interplay Learning will have the right to provide to third parties services which are the same as or similar to the Interplay Learning Services, including Professional Services, provided to Customer pursuant to this Agreement or a SOW, and to use or otherwise exploit any Interplay Learning IP in providing such services. In addition, Customer acknowledges that Interplay Learning will be free to use and employ its general skills, know-how, and expertise, and to use and employ any generalized ideas, concepts, know-how, or expertise gained during the provision of Professional Services hereunder, so long as Interplay Learning acquires and applies such items without disclosure of any Customer Confidential Information.

9. USER CONTENT

9.1 Interactive Features. The Site from time to time may provide Customer and Users with the ability to upload, post, submit, publish, or transmit to other users or persons via online forums, chat capabilities, user discussion groups, blogs or online profiles ("**Interactive Features**").

9.2 User Content. The Interactive Features are intended to provide Customer with valuable resources on selected topics. Some, if not most, of the content found on such Interactive Features is provided by Interplay Learning customers and their users, and not Interplay Learning ("**User Content**"). Such customers and their users (including Customer and its Users) are solely responsible for their User Content and for complying with applicable laws relating thereto.

(a) All User Content submitted to the Interactive Features (including for inclusion on the Site) or that is otherwise made available to Interplay Learning is deemed non-confidential and non-proprietary and may be used by Interplay Learning for any purpose without acknowledgement or compensation. Customer hereby grants to Interplay Learning and its Affiliates and their service providers, licensees, successors and assigns a perpetual, irrevocable, non-exclusive, royalty-free, worldwide right to freely use, reproduce, modify, make derivative works of, perform, display, distribute, disclose and otherwise exploit any such User Content.

(b) For any User Content provided by Customer, Customer represents and warrants that (i) it has all necessary rights, licenses and/or clearances to provide such User Content to Interplay Learning and grant to Interplay Learning the license granted, (ii) such User Content is accurate and reasonably complete, (iii) as between Customer and Interplay Learning, Customer is responsible for the payment of third party fees, if any, related to the provision, use and license of such User Content, (iv) such User Content does not and will not infringe or misappropriate any third party rights or constitute a fraudulent statement or misrepresentation or unfair business practices, and (v) Customer will comply with all applicable rules regarding online conduct and acceptable content Interplay Learning may post on the Site or Interactive Features from time to time, including Interplay Learning's Acceptable Use Policy.

9.3 Monitoring and Enforcement. Interplay Learning has the right to:

- (a) remove or refuse to post any User Content for any or no reason in Interplay Learning's sole discretion;
- (b) take any action with respect to any User Content that Interplay Learning deems necessary or appropriate in our sole discretion, including if we believe that such User Content violates this Agreement, infringes any intellectual property right or other right of any third party, threatens the personal safety of users of the Site or the public, or could create risk or liability for Interplay Learning;
- (c) disclose Customer's or its Users' identity or other information about Customer or its Users to any third party who claims that material posted by Customer or its Users violates such third party's rights including their intellectual property rights or their right to privacy; and/or

(d) take appropriate legal action including referral to law enforcement for any illegal or unauthorized use of the Site.

9.4 Without limiting the foregoing, Interplay Learning has the right to fully cooperate with any law enforcement authorities or court order requesting or directing Interplay Learning to disclose the identity or other information of anyone posting any User Content, or materials on or through the Site. CUSTOMER WAIVES AND HOLDS HARMLESS INTERPLAY LEARNING AND ITS AFFILIATES, LICENSEES, AND SERVICE PROVIDERS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY INTERPLAY LEARNING OR ANY OF THE FOREGOING PARTIES DURING OR AS A RESULT OF ITS INVESTIGATIONS AND FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY EITHER INTERPLAY LEARNING, SUCH PARTIES, OR LAW ENFORCEMENT AUTHORITIES.

9.5 Notwithstanding anything to the contrary herein, we have no obligation to review any User Content, or materials before they are posted on the Site, and Interplay Learning cannot ensure prompt removal of objectionable material after it has been posted. Accordingly, Interplay Learning assumes no liability for any action or inaction regarding transmissions, communications, or content provided by any user or third party, and we have no liability or responsibility to Customer or its Users for performance or nonperformance of the activities described in this Section.

10. INTERPLAY LEARNING ACCEPTABLE USE POLICY. The Site contains content and materials that are viewable through online streaming methods that Customer is not authorized to download except as expressly authorized by this Agreement. In addition, Customer will access and use the Interplay Learning Services in accordance with this Agreement, applicable laws, rules, and regulations and Interplay Learning's Acceptable Use Policy ("AUP") published at <https://www.interplaylearning.com/acceptable-use-policy/> and incorporated herein by reference.

11. WARRANTIES; DISCLAIMER

11.1 Authority. Each party represents and warrants to the other that (a) it has the full right, power and authority to enter into this Agreement and perform its obligations hereunder; (b) its execution, delivery and performance of this Agreement will not conflict with or result in a breach or other violation of any agreement or other third party obligation by which it is bound; and (c) when executed and delivered, this Agreement will constitute its legal, valid and binding obligation enforceable against it in accordance with its terms.

11.2 Product Warranty. Interplay Learning warrants to Customer that the Interplay Learning Products will perform materially in accordance with the applicable Documentation during the term of the applicable Subscription Period. Customer must notify Interplay Learning of any warranty claim during the applicable Subscription Period. Customer's sole and exclusive remedy and the entire liability of Interplay Learning for its breach of this warranty will be for Interplay Learning, at its own expense to do at least one of the following: (a) use commercially reasonable efforts to correct such Interplay Learning Product, or (b) terminate Customer's access to or license of the applicable non-conforming Interplay Learning Product and refund the prepaid fee prorated for the unused period of the applicable Subscription Period for such Interplay Learning Product. Interplay Learning will have no obligation regarding a warranty claim for an Interplay Learning Product reported after the applicable Subscription Period.

11.3 Warranty Limitation for Hardware. Interplay Learning disclaims all warranties, express or implied, with respect to the operation or performance of its Software when installed on or operated through non-Interplay Learning Hardware or third-party systems not approved by Interplay Learning. Interplay Learning shall have no obligation to support or troubleshoot Software performance issues attributable to hardware compatibility or environmental conditions outside of its control. Any limited warranties applicable to purchased Hardware shall be provided only to the extent expressly stated in the applicable Order and shall be subject to all disclaimers, exclusions, and limitations contained therein. No warranty shall apply to leased Hardware beyond the obligation to provide replacement units solely in accordance with the applicable Hardware Order.

11.4 Professional Services Warranty. Interplay Learning warrants to Customer that it will perform all Professional Services in a professional and workmanlike manner consistent with generally accepted industry standards. Customer must notify Interplay Learning of any warranty claim for Professional Services during the period the Professional Services are being performed or within 30 days after the conclusion of the Professional Services. Customer's sole and exclusive remedy and the entire liability of Interplay Learning for its breach of this warranty will be for Interplay Learning, at its option and expense, to (a) use commercially reasonable efforts to re-perform the non-conforming Professional Services, or (b) refund the portion of the fees paid attributable to the non-conforming Professional Services.

11.5 Third Party Services, Links, SSO, OAuth, etc. If any portion of the Site contains services (e.g., discussion forums), links, resources, or materials provided by third parties, including URL links, discussion forum engines, single-sign

on services (SSO), OAuth resources (e.g., Facebook, GitHub, LinkedIn, etc.), or capabilities to share to social media websites (“**Third Party Services**”), these are provided solely for Customer’s convenience. Third Party Services may include links contained in courses or in advertisements, including banner advertisements and sponsored links on the Site. Interplay Learning has no control over the contents, software, or privacy practices of such Third Party Services and accepts no responsibility for them or for any loss or damage that may arise from Customer’s use of them. Customer’s access to or use of such Third Party Services is at Customer’s own risk.

11.6 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 10, INTERPLAY LEARNING MAKES NO OTHER WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESS, STATUTORY, IMPLIED, OR OTHERWISE, WITH RESPECT TO THE INTERPLAY LEARNING SERVICES PROVIDED HEREUNDER, AND INTERPLAY LEARNING HEREBY DISCLAIMS ANY IMPLIED WARRANTIES, CONDITIONS AND REPRESENTATIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS, SATISFACTORY QUALITY, ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. RELIANCE BY CUSTOMER OR ITS USERS ON ANYTHING IN THE INTERPLAY LEARNING SERVICES OR ANYTHING SAID OR DISTRIBUTED BY INTERPLAY LEARNING OR ITS AGENTS IN CONNECTION WITH THE INTERPLAY LEARNING SERVICES WILL BE AT CUSTOMER’S SOLE RISK. ANY AND ALL USE OF, INTERPRETATIONS AND DECISIONS MADE BY CUSTOMER OR ITS USERS AS A RESULT OF USING, THE INTERPLAY LEARNING SERVICES OR OTHER INFORMATION PROVIDED BY INTERPLAY LEARNING UNDER THE TERMS HEREOF ALSO INCLUDE THE OPINION AND JUDGMENT OF CUSTOMER AND ITS USERS. CUSTOMER AND ITS USERS HAVE FULL RESPONSIBILITY FOR USE OF, ALL SUCH INTERPRETATIONS AND DECISIONS MADE BY CUSTOMER AND ITS USERS USING, THE INTERPLAY LEARNING SERVICES OR OTHER INFORMATION PROVIDED BY INTERPLAY LEARNING UNDER THE TERMS OF THIS AGREEMENT. INTERPLAY LEARNING MAKES NO REPRESENTATION, WARRANTY, OR GUARANTEE OF THE ABILITY, COMPETENCE, KNOWLEDGE OR SKILL OF CUSTOMER OR ITS USERS TO UTILIZE SUCCESSFULLY OR APPROPRIATELY, IN ANY CIRCUMSTANCE, ANY OF THE TRAINING CONTENT OR LESSONS CONTAINED WITHIN THE INTERPLAY LEARNING SERVICES. Customer acknowledges and agrees that neither Interplay Learning nor its suppliers operates or controls the Internet and that: (a) viruses, worms, Trojan horses, or other undesirable data or software exist; and (b) unauthorized users (e.g., hackers) may attempt to obtain access to Customer Data, website, computers, or networks. Interplay Learning uses reasonable efforts (including firewalls) consistent with industry standards to protect the Interplay Learning Services from such unauthorized use, but subject to the foregoing, Interplay Learning is not responsible for issues related to acts or omissions of third parties.

12. INDEMNIFICATION.

12.1 Customer Obligations. Customer will defend Interplay Learning and its Affiliates, and its and their officers, directors, employees, consultants, subcontractors, agents, licensors, suppliers, successors and assigns from and against any Claim arising out of or relating to: (a) Customer’s violation of this Agreement or the Mobile App usage terms; (b) Customer Data, User Content and/or Feedback; (c) Customer’s use of the Interplay Learning Services and/or Site other than as expressly authorized in this Agreement; (d) Customer’s use of any information obtained from the Interplay Learning Services and/or Site; or (e) Customer’s unauthorized distribution, modification, or use of Interplay Learning’s Confidential Information or IP Rights and Customer will indemnify Interplay Learning from and against Losses finally awarded against Interplay Learning as a result of, or agreed upon by Customer in settlement of, such a Claim.

12.2 Interplay Learning Obligations. Interplay Learning will defend, Customer and its Affiliates, and its and their officers, directors, employees, consultants, subcontractors, agents, licensors, suppliers, successors and assigns from and against any Claim that Customer’s permitted use of the Interplay Learning Services infringes or misappropriates any copyright, trade secret or any patent of a third party issued in the United States and Canada and Interplay Learning will indemnify Customer from and against Losses finally awarded against Customer as a result of, or agreed upon by Interplay Learning in settlement of, such a Claim.

12.3 If a Claim under this Section 12.2 is brought or threatened, or Interplay Learning believes is likely to occur, Interplay Learning may, at its option, (a) procure for Customer the right to use the Interplay Learning Services, or (b) replace the Interplay Learning Services with non-infringing products or services that are functionally equivalent in all material respects, or (c) if options (a) and/or (b) above cannot be accomplished despite Interplay Learning’s commercially reasonable efforts, then Interplay Learning may terminate this Agreement with respect to such Interplay Learning Services at issue, and upon return or cessation of use of the Interplay Learning Services at issue, issue a pro-rata refund or credit to Customer for any prepaid fees corresponding to the remaining Subscription Period of the Interplay Learning Services at issue after the date of termination.

12.4 Interplay Learning will have no liability under this Section 12.2 or otherwise to the extent a Claim is based upon

(a) Interplay Learning's compliance with a Customer-provided specification or instruction, (b) any infringement arising out of the use of the Interplay Learning Services in combination with other hardware, equipment, software or materials not furnished by Interplay Learning (if such infringement would not have occurred but for such combined use), (c) use of the Interplay Learning Services in violation of the applicable Documentation, (d) any patent, copyright or trade secret in which the Customer or its Affiliate has a direct or indirect interest, (e) modification or alteration of the Interplay Learning Services not made by or for Interplay Learning, if infringement would have been avoided by the absence of the modifications, (f) Interplay Learning's use of any Customer Data or any other Customer-provided material in accordance with this Agreement, (g) use of any version other than a current release of the Interplay Learning Services, if infringement would have been avoided by use of a current release made available to Customer at no additional cost, (h) Customer's continuing such allegedly infringing activity after being informed by Interplay Learning and provided, at no additional charge, with modifications that would have avoided the alleged infringement and reasonable time to implement such modifications; (i) Customer's use of the Interplay Learning Services in breach of this Agreement; or (j) Customer's use of the Interplay Learning Services after the then-current Subscription Period.

12.5 This Section 12.2 contains and limits the entire liability and obligations of Interplay Learning for Intellectual Property Rights infringements by the Interplay Learning Services.

12.6 Indemnity Process. The party seeking to be indemnified will give prompt written notice to the other party of the Claim against which it seeks to be indemnified and will provide the indemnifying party, at the indemnifying party's expense, with the assistance reasonably necessary for the defense and settlement of the Claim. The failure by the indemnified party to timely furnish to the indemnifying party any notice required to be furnished under this Section 12 will not relieve the indemnifying party of its obligations under this Section 12, except to the extent such failure materially and adversely prejudices the ability of the indemnifying party to defend such Claim. If the indemnifying party fails to assume the defense of any Claim, the indemnified party will be entitled to assume the defense thereof at the sole cost and expense of the indemnifying party. The indemnifying party will have sole control of the defense and settlement of any such Claim. The indemnifying party will not be liable for any settlement of an action effected without its written consent (which consent will not be unreasonably withheld or delayed), nor will the indemnified party settle any such action without the written consent of the indemnifying party (which consent will not be unreasonably withheld or delayed). The indemnifying party will have no right to settle any Claim without the indemnified party's prior written consent, which will not be unreasonably withheld or delayed, unless the settlement unconditionally releases the indemnified party of all liability. The indemnified party may engage counsel of its choice at its own expense.

13. LIMITATION OF LIABILITY. IN NO EVENT WILL INTERPLAY LEARNING, ITS AFFILIATES, OR ITS OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, OR DIRECTORS BE LIABLE TO CUSTOMER OR ITS AFFILIATES OR ITS AND THEIR USERS, OR TO ANY THIRD PARTY WITH RESPECT TO THIS AGREEMENT WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR UNDER ANY OTHER LEGAL OR EQUITABLE THEORY, AND WHETHER OR NOT INTERPLAY LEARNING HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, FOR: (a) ANY AMOUNT IN THE AGGREGATE IN EXCESS OF THE AMOUNT CUSTOMER HAS PAID TO INTERPLAY LEARNING UNDER THIS AGREEMENT FOR THE INTERPLAY LEARNING SERVICES IN THE 12 MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH THE EVENT GIVING RISE TO SUCH LIABILITY OCCURRED; (b) PERSONAL INJURY; (c) ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, INCLUDING WITHOUT LIMITATION LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF ANTICIPATED SAVINGS, LOSS OF USE, OR LOSS OF GOODWILL; (d) DATA LOSS OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; (e) ANY MATTER BEYOND INTERPLAY LEARNING'S REASONABLE CONTROL; OR (f) ANY ACTIONS OF, OR SERVICES PROVIDED BY THIRD PARTY SERVICE PROVIDERS OR INDEPENDENT CONTRACTORS PROVIDING SERVICES ON BEHALF OF INTERPLAY LEARNING OR VIA THE SITE. MULTIPLE CLAIMS WILL NOT EXPAND THESE LIMITATIONS. THE FOREGOING LIMITATIONS DO NOT APPLY TO ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE INTERPLAY LEARNING SERVICES RENDERED BY INTERPLAY LEARNING HEREUNDER INCLUDING ACCESS TO THE INTERPLAY LEARNING PRODUCTS MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS OUTSIDE THE CONTROL OF INTERPLAY LEARNING BUT INHERENT IN THE USE OF THE INTERNET, ELECTRONIC COMMUNICATIONS AND REMOTE COMPUTING SERVICES. INTERPLAY LEARNING IS NOT RESPONSIBLE FOR ANY DAMAGES RESULTING FROM SUCH DELAYS, DELIVERY FAILURES OR OTHER SIMILAR PROBLEMS.

14. CONFIDENTIALITY

14.1 Confidential Information. The term "**Confidential Information**" includes all information, software and data furnished by either party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether in oral, written, graphic or

machine-readable form, and materials, documentation, designs, improvements, formulae, discoveries, inventions, networks, concepts, ideas, technical information and procedures, legal, financial or business affairs, markets, products, key personnel, suppliers, policies or operational methods, plans for future developments for the business of the Disclosing Party, and all other information disclosed to the Receiving Party by the Disclosing Party that is not readily available to the public, and all copies of the foregoing, that is either designated as proprietary or confidential or, by the nature of the circumstances surrounding disclosure, ought in good faith to be treated as proprietary or confidential. Notwithstanding the foregoing, this Agreement, all Interplay Learning Services and all information regarding the performance of the Interplay Learning Services (including availability, uptime, and performance benchmarks) will be deemed to be Interplay Learning Confidential Information whether or not so marked. In addition, all Customer Data will be deemed Customer Confidential Information whether or not so marked.

14.2 Non-Confidential Information. Notwithstanding the foregoing, Confidential Information will not include information that: (a) has entered the public domain through no action or failure to act by the Receiving Party; (b) before disclosure hereunder was already lawfully in Receiving Party's possession without any obligation of confidentiality; (c) subsequent to disclosure hereunder is obtained by the Receiving Party on a non-confidential basis from a third party who has the right to disclose such information to the Receiving Party; or (d) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information.

14.3 Obligation of Non-Disclosure. The Receiving Party will (a) not disclose the Confidential Information of the Disclosing Party to any third parties (except to the Receiving Party's subcontractors or professional advisors who are bound by an obligation of confidentiality no less restrictive than this provision), and (b) use the Confidential Information solely for the purpose of performing its obligations and exercising its rights under this Agreement. The Receiving Party will safeguard the Confidential Information of the Disclosing Party with at least the same degree of care that it utilizes to safeguard its own Confidential Information, but in any event not less than a reasonable degree of care. The Receiving Party will not remove or alter any copyright, trademark, service mark or other proprietary rights notice attached to or included in any Confidential Information furnished by Disclosing Party.

14.4 Return of Confidential Information. The Receiving Party will destroy or return to the Disclosing Party all Confidential Information of the Disclosing Party that the Receiving Party possesses upon the expiration or termination of this Agreement. Notwithstanding the foregoing, the Receiving Party may retain copies of Confidential Information to the extent such copies are electronically stored pursuant to the Receiving Party's ordinary course back-up procedures, and otherwise as may be required by applicable law or regulation, so long as such Confidential Information is kept confidential as required under this Agreement and is used for no other purpose.

14.5 Disclosure Required by Law.

(a) Notwithstanding anything otherwise set forth herein, the parties may disclose Confidential Information: (i) where required by law; (ii) to the extent required by a government agency or regulatory authority with regulatory or oversight jurisdiction over such party or any of its Affiliates; (iii) in the course of fulfilling any of such party's or any of its Affiliate's regulatory responsibilities under applicable law; and/or (iv) for the purpose of performing its obligations and exercising its rights under this Agreement.

(b) If the Receiving Party is compelled by law, regulation, or a court of competent jurisdiction to disclose any of the Disclosing Party's Confidential Information, to the extent permitted by law, the Receiving Party will promptly notify the Disclosing Party so that it may seek a protective order or other appropriate remedy. The Receiving Party agrees to cooperate at the Disclosing Party's expense in seeking such order or other remedy. If disclosure is ultimately required, the Receiving Party will furnish only that portion of the Confidential Information that is legally required, exercise reasonable efforts to obtain assurance that it will receive confidential treatment and continue to treat such Confidential Information in accordance with its obligations under this Section. Each party may disclose the terms and conditions of this Agreement: (a) on a confidential basis to legal or financial advisors; (b) pursuant to reports, applications or similar filings submitted to regulatory agencies and governing authorities as required by applicable law; or (c) on a confidential basis in connection with any financing transaction or due diligence inquiry.

15. VIRTUAL REALITY WAIVER AND RELEASE OF LIABILITY. Some of our training simulations offered through the Site may be accessible using virtual reality ("VR") headsets. While Interplay Learning hopes that training using Interplay Learning's VR simulations will improve a User's training experience, for some individuals under certain circumstances, training using a VR simulation or using a VR headset can, potentially, have harmful effects on an individual's health or safety. Interplay Learning asks that Customer and each User understands the inherent risks of using VR equipment, assesses their vulnerability to those risks,

and either choose not to use VR equipment in accessing Interplay Learning training simulations or waive Interplay Learning's liability for injury or sickness that results from those inherent risks. **Please carefully read through the information found at <https://www.interplaylearning.com/virtual-reality-waiver-and-release-of-liability/> before deciding to use Interplay Learning's training simulations using a VR headset. Each User must review and agree to the waiver and release before such User is authorized to access or use the Site using VR equipment**

16. GENERAL

16.1 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.

16.2 Governing Law; Jurisdiction; Dispute Resolution.

(a) If any dispute arises with regard to this Agreement the parties will first work in good faith to resolve such dispute, and neither party may commence any action with regard to such dispute until 30 days have passed from the time such party has provided written notice to the other party of the nature of such dispute, provided that nothing herein will prevent a party from seeking injunctive relief for any breach or anticipated breach of any provisions of this Agreement which may cause either party irreparable injury.

(b) This Agreement will be governed by and construed in accordance with the laws of the State of Texas, without reference to conflict of laws principles. Each party irrevocably submits to venue and exclusive personal jurisdiction in the federal and state courts in Austin, Travis County, Texas, for any disputes or claims arising out of this Agreement, and waives all objections to jurisdiction and venue of such courts; provided that nothing in this Section will restrict either party from seeking injunctive relief in a forum of its choice. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. In the event a party brings any action or claim to enforce any provision or for a breach of this Agreement, such party, if it prevails, will be entitled to recover, in addition to any other amounts awarded, reasonable fees of attorneys and experts and other related costs and expenses.

16.3 Changes to the Site, Platform and Interplay Learning Products. Interplay Learning may at any time, without notice or liability, modify, in whole or in part, any content or feature of the Site, Platform or Interplay Learning Products, and may discontinue, in whole or in part, the Interplay Learning Products. If Interplay Learning discontinues an Interplay Learning Product and such discontinuance materially and adversely affects Customer, then Interplay Learning may, at its sole option, replace such Interplay Learning Product with an appropriate Interplay Learning Product or terminate this Agreement with respect to such discontinued Interplay Learning Product.

16.4 Assignment. Customer may not assign or transfer this Agreement (in whole or in part) without Interplay Learning's prior written consent and any attempt to do so without such consent will be void; provided, however, upon written notice to Interplay Learning Customer may assign and transfer this Agreement in whole without Interplay Learning's prior written consent to any Customer Affiliate or pursuant to a corporate reorganization, merger, acquisition or sale of all or substantially all of Customer's assets to which this Agreement pertains. Interplay Learning may assign or transfer its rights and delegate its obligations (in whole or in part) under this Agreement, without Customer's consent, to an Interplay Learning Affiliate or pursuant to a corporate reorganization, merger, acquisition or sale of all or substantially all of its assets to which this Agreement relates. Any attempted assignment in violation of this Section 16.4 will be void. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

16.5 Force Majeure. Except with respect to any payment to be made to Interplay Learning hereunder, neither party will be liable under this Agreement for any failure, deficiency or delay in the performance of its obligations under this Agreement due to any force majeure event, including natural catastrophe, fire, explosion, electrical or communication line failure, disturbance, war or military action, acts of terrorism, epidemic, pandemic, government acts, orders, or regulation, equipment failure, or any cause or matter whatsoever not within the reasonable control of such party.

16.6 Subscription Service Analyses. Interplay Learning may (a) compile statistical and other information related to the performance, operation and Customer's use of the Interplay Learning Products, and (b) use, and share data from the Interplay Learning Products and Site environment in aggregated form for security and operations management, to create statistical analyses, and for research and development purposes (collectively the "**Service Analyses**"). Service Analyses will not incorporate any information, including Customer Data, in a form that could serve to identify Customer, a User or any other individual. Interplay Learning retains all intellectual property rights in Service Analyses.

16.7 Insurance. During the term of this Agreement and until one year after the termination of this Agreement, Interplay Learning will procure, and maintain in full force and effect, the insurance coverage in the types and amounts as are reasonable and customary in the industry for comparable businesses. Upon request, Interplay Learning will provide Customer with Certificates of Insurance evidencing its then-current insurance coverage. To the extent that Customer is provided with ILeased or subscription-based Hardware under this Agreement, Customer shall, at its sole cost and for the duration of its possession of such Hardware, maintain insurance coverage reasonably sufficient to cover the replacement value of such Hardware. Upon request by Interplay Learning, Customer shall provide a certificate of insurance or other documentation evidencing such coverage. This obligation shall survive termination of this Agreement until all leased or subscription-based Hardware is returned to Interplay Learning in accordance with Section 7.4

16.8 English Language. This Agreement is in the English language only, which language will be controlling in all respects. No translation, if any, of this Agreement into any other language for convenience or to meet local requirements will be of any force or effect in the interpretation of this Agreement or in determination of the interests of either party hereto. Furthermore, all correspondence, notices, claims, suits and other communication between the parties hereto will be written or conducted in English. It is the express wish of the parties that this Agreement and/or any related documents have been drawn up in a language other than French. French translation: *Il est de la volonté expresse des parties que le présent contrat et/ou tous les documents qui s'y rattachent soient rédigés dans une langue autre que le français.*

16.9 Compliance with Laws. Customer represents and warrants that, to the best of Customer's knowledge, the provisions of this Agreement, and the rights and obligations of the parties hereunder, are enforceable under the laws of the countries within which the Interplay Learning Services will be accessed and used by Customer. Each of Interplay Learning and Customer will comply with all applicable export laws, restrictions, and regulations of the United States or foreign agency or authority. Customer will not use the Interplay Learning Services, or allow the transfer, transmission, export, or re-export of the Interplay Learning Services or portion thereof, in violation of any export control laws or regulations administered by the U.S. Department of Commerce, OFAC, or any other government agency or authority. Customer will obtain and bear all expenses relating to any necessary licenses or exemptions with respect to the export from the U.S. of the Interplay Learning Services and Customer Data to any location so as to be in compliance with all applicable laws and regulations. By signing this Agreement, Customer confirms that Customer is not a resident or citizen of any country currently embargoed by the U.S. and that Customer is not otherwise prohibited from receiving the Interplay Learning Services.

16.10 U.S. Government Rights. If Customer is a U.S. federal government department or agency or contracting on behalf of such department or agency, the Interplay Learning Downloadable Material and the Documentation are each a "Commercial Item" as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as those terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Interplay Learning Downloadable Material and the Documentation are licensed to Customer with only those rights as provided under the terms and conditions of this Agreement.

16.11 No Other Terms. No terms, provisions or conditions of any purchase order, acknowledgement or other business form that Customer may use in connection with this Agreement will have any effect on the rights, duties or obligations of the parties under this Agreement, or otherwise modify this Agreement, regardless of any failure of Interplay Learning to object to such terms, provisions, or conditions. Any purchase order or similar document from Customer will be for billing reference only.

16.12 Notice. Except as otherwise specified in this Agreement, all notices required or permitted hereunder will be in writing and will be given: (a) by Interplay Learning to Customer via email to the email address Customer maintains in Customer's account settings or by notifying Customer electronically by displaying the notice in the Site; (b) by Customer to Interplay Learning to Customer's account manager, with a copy to finance@interplaylearning.com. Any notice given otherwise than in accordance with this Section will be deemed ineffective.

16.13 Order of Precedence. In the event of conflict, the following order of precedence will apply: (a) the Order, (b) the terms and conditions of this Agreement, (c) the exhibits, addenda and Interplay Learning policies attached or incorporated herein by reference, and (d) any Statement of Work attached or incorporated by reference to this Agreement.

16.14 Customer List. Interplay Learning may include and use Customer's name, trademarks, logos and designs on a list of customers and may refer to Customer as a user of the Interplay Learning Products and Services in its advertising, marketing, promotional and investor materials.

16.15 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

16.16 Waiver. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right. A waiver by a party of any provision of this Agreement in any one instance will not be deemed or construed to be a waiver of such provision for any similar instance in the future or of any subsequent breach.

16.17 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect. The parties agree to negotiate in good faith an enforceable substitute provision for any invalid or unenforceable provision that most nearly achieves the intent and economic effect of such provision.

16.18 Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which taken together will constitute one single agreement between the parties. This signed Agreement or counterparts may be exchanged electronically or stored electronically as a photocopy (such as in .pdf format). The parties agree that electronically exchanged or stored copies will be enforceable as original documents and consent to the use of electronic and/or digital signatures for the execution of this Agreement and further agree the use of electronic and/or digital signatures will be binding, enforceable and admissible into evidence in any dispute regarding this Agreement.

16.19 Entire Agreement. This Agreement, including the Mobile App usage terms, Orders, and the applicable exhibits, addenda, Statements of Work and Interplay Learning policies incorporated herein by reference, constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all previous and contemporaneous agreements and understandings, whether oral or written, between the parties with respect to the subject matter hereof. Except as otherwise provided in this Agreement, no modification, amendment, waiver, cancellation or any other change in any term or condition of this Agreement will be valid or binding on either party unless mutually assented to in writing by both parties. The term “including” and/or “includes” and the like means “including without limitation”. The headings used in this Agreement are for reference only and do not change the meaning of any provision of this Agreement, and will not be used in interpretation of any provision of this Agreement. This Agreement will be construed without regard to any presumption or rule requiring construction against the drafting party.

END

Signatures:

“Customer”

Interplay Learning

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____