

## Act on Exploitation eLearning, Subscription Terms:

By purchasing a Subscription on The Children's Society website, Customer agrees to these Subscription Terms, which, once Customer receives a confirmation email from us, creates a binding contract between The Children's Society (Trading Limited) incorporated and registered in the United Kingdom with company number 00885496 and whose registered office is at Whitecross Studios, 50 Banner Street, London, EC1Y 8ST ("**TCS**", "**us**", "**we**", and/or "**our**") and the Customer ("**you**"). The Customer should print a copy of these Subscription Terms or save them to a computer for future reference.

TCS has developed the eLearning Service as educational training content intended to assist organisations in identifying and reducing child exploitation.

The Customer is subscribing to the LMS Supported eLearning Service accessible [here](#), which allows the Customer, during the Annual Subscription, to access the eLearning Service on Supported Devices and in accordance with these Subscription Terms.

These Subscription Terms grant you a personal, non-exclusive, non-transferrable, revocable license to access and use the eLearning Service.

### Key Terms of the Subscription

- 1.1 The Subscription begins on the Purchase Date and will continue for the Term.
- 1.2 There is a limit on the usage of the eLearning Service agreed through the selections you made in the sign-up journey as specified in the applicable confirmation email and associated invoice ("**Usage Limit**"). The Customer is unable to use the eLearning Service if the number of Authorised Users exceeds the agreed Usage Limit. Where usage beyond the Usage Limit has been identified, the eLearning Service may be suspended until payment has been made for the relevant increase in Authorised Users.
- 1.3 The content of the eLearning Service may be updated from time to time. We may add or remove content from the eLearning Service, provided that such changes do not materially affect the user experience.
- 1.4 We may suspend or terminate the Subscription if the Customer is in serious breach of these Subscription Terms.
- 1.5 The eLearning Service is intended for use only in the UK. We do not warrant that the eLearning Service complies with standards outside the UK.
- 1.6 Details regarding the Subscription can be viewed and managed in the Customer's account settings.
- 1.7 To use the eLearning Services, the Customer must have internet access, a Supported Device and a Subscription.
- 1.8 The Customer will be granted a Subscription after paying the Annual Subscription Fee using one of the Payment Methods described below in section 2 (Payment, Billing, & Price Changes).

## 2 Payment, Billing, & Price Changes

- 2.1 **Placing Orders.** Please follow the onscreen prompts to place an order. Each order is an offer by you to buy the relevant eLearning Service subject to these Subscription Terms. After you have placed your order, you will receive a confirmation email which shall include personalised log in details to access eLearning Service.

- 2.2 **Payment Methods.** The Customer may pay for Customer Subscription using a valid Visa, MasterCard, Maestro UK or Visa Electron credit card or debit card, each a ("**Payment Method**").
- 2.3 **Tax.** If the payment of the Annual Subscription Fee is subject to any tax liability within any jurisdiction (for example, withholding tax) then it bears sole responsibility for meeting this liability, and no deductions must be made in the amount paid to us. We do not accept liability for any tax liabilities that may arise from the Customer's purchase of the eLearning Services.

### 3 Liability

- 3.1 We will always be responsible to the Customer for the following: (a) death or personal injury arising as a result of our negligence; (b) fraud; or (c) any other liability that cannot be excluded or limited under applicable law.
- 3.2 Subject to section 3.1, we shall have no responsibility to the Customer for any: (a) loss of turnover, sales or income; (b) loss of business profits or contracts; (c) business interruption; (d) loss of the use of money or anticipated savings; (e) loss of information; (f) loss of opportunity, goodwill or reputation; (g) loss of, damage to or corruption of software or data; or (h) indirect, consequential or special losses arising out of, or in connection with this agreement.
- 3.3 Subject to sections 3.1 and 3.2, our maximum aggregate liability under or in connection with these Subscription Terms whether in contract, tort (including negligence) or otherwise, shall be limited to a sum equal to 100% (one hundred per cent) of the Annual Subscription Fee.

### 4 Our commitment to you

- 4.1 We will provide the eLearning Service in compliance with applicable laws within the UK and these Subscription Terms.
- 4.2 If you notify us in writing of any defect or fault in the eLearning Service in consequence of which it fails to perform substantially in accordance with these Subscription Terms, and such defect or fault does not result from you having amended the eLearning Service or used it in contravention of these Subscription Terms, we will, at our sole option, either repair or replace the eLearning Service, provided that you make available all the information that may be necessary to help us to remedy the defect or fault, including sufficient information to enable the us to recreate the defect or fault and the circumstances leading up to the defect or fault.

### 5 Your commitment to us

- 5.1 You undertake to:
- (a) use and access the LMS Supported eLearning Service purely for the purposes of receiving the eLearning Service;
  - (b) make use of the eLearning Service within the agreed Usage Limits; and
  - (c) to keep confidential any credentials used to access the eLearning Service.
- 5.2 You undertake not to allow any:
- (a) rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the eLearning Service;
  - (b) use the eLearning Services as part of an offering (for commercial purposes or otherwise) to third parties;
  - (c) electronic or printed copies to be taken or made of the eLearning Service (including screen shots);

- (d) film to be made of the eLearning Service or any person giving instructions or training based upon, or using, the eLearning Service;
- (e) reverse engineering of the eLearning Service;
- (f) the creation of any training aids based on the eLearning Service that are delivered in a manner similar to the eLearning Service.

5.3 You are expected to act in good faith and notify us as soon as you become aware of any fact, matter, event or circumstance that would constitute a breach of the foregoing provisions and take all such steps as may reasonably be necessary to stop and prevent any behaviour in breach of the foregoing obligations.

## 6 Third Party Software

6.1 The eLearning Service makes use of third-party technology which will be accessible by the Customer under separate terms and conditions available on the relevant provider's website as updated from time to time.

## 7 Intellectual Property

7.1 You acknowledge that all intellectual property rights in the eLearning Service and the supporting documentation (including but not limited to all information, software, text, displays, images, video and audio, design, selection and arrangement thereof) anywhere in the world belong to us and that you have no rights in, or to, the eLearning Service or any associated documentation other than the right to use them in accordance with the Subscription Terms.

7.2 All registered and unregistered intellectual property rights created and/or owned by TCS shall remain the property of TCS ("**TCS IPR**"). These Subscription Terms do not grant you a right to use or acquire TCS IPR without the prior written consent of TCS.

7.3 We will defend you against any claim, demand, suit or proceeding made or brought against you by a third party alleging that any element of the eLearning Service infringes or misappropriates such third party's intellectual property rights (a "**Third Party IPR Claim**"), and will indemnify you from any direct damages, finally awarded against you as a result of, or for amounts paid by you under a settlement approved by us in writing of, a Third Party IPR Claim, provided that, in each case you:

- (a) promptly gives us written notice of the Third Party IPR Claim;
- (b) give us, at our sole option, the sole control of the defence and settlement of the Third Party IPR Claim; and
- (c) gives us all reasonable assistance in defending the Third Party IPR Claim, at our expense.

If TCS receives information about a claim alleging infringement or misappropriation of intellectual property rights related to the eLearning Service, we may in our discretion and at no cost to you, (i) modify the eLearning Service so that it is no longer claimed to infringe or misappropriate such intellectual property rights, (ii) obtain a license for your continued use of the eLearning Service in accordance with these Subscription Terms, or (iii) terminate your Subscription and the Subscription Terms for such eLearning Service upon 30 days' written notice and refund you any prepaid fees covering the remainder of the Term.

7.4 The above defence and indemnification obligations do not apply if:

- (a) the allegation does not state with specificity that the eLearning Service is the basis of the Third Party IPR Claim;

- (b) a Third Party IPR Claim arises from the use or combination of the eLearning Service (or any part thereof) with software, hardware, data, or processes not provided by us, if the eLearning Service or use thereof would not infringe without such combination;
- (c) a Third Party IPR Claim arises from the eLearning Service for which there is no charge or has been provided on a free trial or community licence basis; or
- (d) a Third Party IPR Claim arises from your or a third party's materials or application or your breach of these Subscription Terms.

This clause provides our sole liability to, and your exclusive remedy against us for any Third Party IPR Claim.

## **8 Events outside of our control**

- 8.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these Subscription Terms that is caused by events outside of our reasonable control (including, but not limited to, any unavailability of the third-party technology addressed in section 6).
- 8.2 From the date of the occurrence of any event outside of our reasonable control, our performance under these Subscription Terms is deemed to be suspended for the period that such an event continues, and we will have an extension of time for such performance for the duration of that period. We will use our reasonable endeavours to bring such an event to a close or to find a solution by which our obligations under these Subscription Terms may be performed.

## **9 Data Protection**

- 9.1 For the purposes of this section 9 the following terms shall have the following meanings:
  - (a) Controller, Data subject, Personal Data, Processing, shall have the meaning given to them in the UK GDPR (having the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018); and
  - (b) Data Protection Laws means the UK GDPR and other applicable privacy and data protection laws relevant to the processing of personal data under these Subscription Terms.
- 9.2 The parties acknowledge that in connection with delivery of the eLearning Service, we are a Controller in relation to any Personal Data Processed by us (including, for example (i) the business contact information shared with us through your Subscription to and use of the eLearning Service; and (ii) the usage data related to Customer's access to and use of the eLearning Service).
- 9.3 In delivering the eLearning Service we shall therefore comply with the obligations of a Controller under the Data Protection Laws.
- 9.4 Further details of the use of data collected for these purposes are available in our privacy notice and should be made available by the Customer to any personnel accessing the services: [TCS privacy policy](#).

## **10 Customer Support**

- 10.1 Please contact our corporate engagement inbox for any enquiries: [corporateengagementteam@childrenssociety.org.uk](mailto:corporateengagementteam@childrenssociety.org.uk)
- 10.2 For basic technical issues in relation to the LMS Supported eLearning Service please contact [support@spongelearning.com](mailto:support@spongelearning.com).

## **11 Changes to these Subscription Terms**

- 11.1 We may need to update our Subscription Terms from time to time. We will provide the Customer with at least 30 days' notice before the date the new Subscription Terms become effective, unless a change is needed by law or for emergency reasons. Unless we assess, in our sole opinion, that such changes have a material impact on the Customer (in which case we will negotiate the changes in good faith), the changes will take effect after the expiry of the 30 days' notice.

## **12 Termination**

- 12.1 We may terminate this Agreement upon 3 month's written notice to the Customer.
- 12.2 Either party may terminate the Subscription immediately by written notice to the other if the other party, or in the case of the Customer any of its users, commit a material or persistent breach of these Subscription Terms and which the breaching party fails to remedy (if remediable) within 14 days after the service of written notice requiring the breaching party to do so.
- 12.3 Upon expiry or termination of the Subscription for any reason:
- (a) all rights granted to the Customer under these Subscription Terms shall cease; and
  - (b) the Customer must cease all activities authorised by these Subscription Terms.

## **13 Notice**

- 13.1 Any notice given under or in connection with the Subscription Terms must be sent by email and is deemed to have been received at 9.00 am on the next working day after transmission.
- 13.2 This section 13 shall not apply to the service of any proceedings or other documents in connection with any legal action.

## **14 Other Important Terms**

- 14.1 The Subscription is for the benefit of the Customer only and is not intended to benefit, or be enforceable by, any other third party.
- 14.2 We may assign or transfer our rights and obligations under these Subscription Terms to another entity and will always notify you in writing or by posting on our website if this happens.
- 14.3 Each section of these Subscription Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining sections will remain in full force and effect.
- 14.4 If we fail to insist that the Customer perform any of the Customer obligations under these Subscription Terms, or if we do not enforce our rights against the Customer, or if we delay in doing so, that will not mean that we have waived our rights against the Customer and will not mean that the Customer does not have to comply with those obligations. If we do waive a default by the Customer, we will only do so in writing, and that will not mean that we will automatically waive any later default by the Customer.
- 14.5 These Subscription Terms are governed by the laws of England and Wales. This means that the Subscription, and any dispute or claim arising out of or in connection with the Subscription (including non-contractual disputes or claims) will be governed by the laws of England and Wales.

## **Annex 1: Definitions**

**“Annual Subscription”** means a Subscription lasting one (1) year from the Start Date;

**“Annual Subscription Fee”** means the fee for providing the Annual Subscription as stipulated and paid by you when you placed the order for the eLearning Services in accordance with section 2.1;

**“Authorised Users”** means the employees, agents and independent contractors of the Customer, who have been authorised to access and/or receive the eLearning Service.

**“LMS Supported eLearning Service”** means the Subscription delivered through our third-party learning management system;

**“Term”** is one (1) year from the Start Date;

**“Payment Methods”** means the payment methods set out in section 2.2;

**“eLearning Service”** means the education content provided as part of the Subscription, including the LMS Supported eLearning Service and the eLearning Service Content and any supporting documentation;

**“Start Date”** means the date the Customer receives confirmation from us that the Subscription has started following payment of the Annual Subscription Fee;

**“Subscription”** means for the provisions of access to the eLearning Service on an Annual Subscription basis as governed by the Subscription Terms;

**“Supported Device”** means internet-connected mobile devices, desktop computers, and other supported devices.