

TERMS AND CONDITIONS OF USE

The following Terms and Conditions of Use dated as of May 2016, govern use by all Authorised Users of the Implementation Plans. Please read the following carefully because by using the Implementation Plans you are agreeing to abide by these Terms and Conditions of Use. We may modify any of these terms and conditions at any time by providing notice on our website. An Authorised User's continued use of the Implementation Plans and the Services shall be conclusively deemed acceptance of such modification.

1. DEFINITIONS

- 1.1. **You or Your:** The party entering into this Agreement with Us by accepting these terms. Where the context so requires, You or Your includes your Authorised Users.
- 1.2. **Us, We, or Our:** EC Online Limited incorporated and registered in England and Wales with company number 10133014 whose registered office is at 20 Imperial Square, Cheltenham, England, GL50 1QZ.
- 1.3. **Agreement:** the terms and conditions set out in this document, any variations agreed between Us and any additional terms notified before use of the Services.
- 1.4. **Authorised Users:** Authorised Users includes any person in the business unit or units that We have agreed with You is or are to benefit from the subscription.
- 1.5. **Implementation Plans:** the library of online-learning modules for the provision of know-how available from Us on our website.
- 1.6. **Intellectual Property Rights:** These rights include, without limitation, patents, trademarks, trade names, design rights, copyright (including rights in computer software), database rights, rights in know-how and other intellectual property rights, in each case whether registered or unregistered, which may subsist anywhere in the world.
- 1.7. **Services:** includes hosting services and provision of know-how, as the context requires, that We provide to allow You to access and use the Implementation Plans.
- 1.8. **Software:** The software provided by Us or by Our suppliers which enables You to use the Services, including data schemas, data models, databases and the like.
- 1.9. **Start Date:** The date the Subscription Period starts.
- 1.10. **Subscriber Data:** The data input by You for use in conjunction with the Implementation Plans.
- 1.11. **Subscription Fee:** The subscription fee for the Services to be provided under this Agreement, as specified on our website.
- 1.12. **Subscription Options:** the subscription options set out in clause 2.
- 1.13. **Subscription Period:** The 12 month period in respect of which a Subscription Fee is payable for any Service.

2. SUBSCRIPTIONS

- 2.1. Depending on Your requirements, You can choose the following Subscription Options for You and Your Authorised Users:
 - a) **Annual Subscription:** this will grant access to the full library of all Implementation Plans for 12 months; or
 - b) **Individual Subscription:** this will grant access to a single Implementation Plan for 12 months; and
 - c) **Standard Subscription:** up to a maximum of 5 Authorised Users only; or
 - d) **Corporate Subscription:** more than 5 Authorised Users. If You are on a Standard Subscription, You must update to a Corporate Subscription if You wish to have more than 5 Authorised Users. Unauthorised access or use is prohibited and Implementation Plans will be monitored to ensure they are not being used by You or the recipient as a substitute for a subscription.
- 2.2. You can subscribe to any of Our Subscription Options by registering online via Our website using our online ordering process. We will send You written confirmation of your order, the Start Date and an account name and password for You and any Authorised Users.
- 2.3. If you need to upgrade or change your Subscription Option, please contact Us by writing to Us at the address above or telephone Us on 0121 765 5551 (Monday to Friday between 9:00am and 5:00pm).

3. AUTHORITY AND LICENCE

- 3.1. We authorise You and Your Authorised Users to have access to the Implementation Plans in accordance with your chosen Subscription Option and for which You agree to pay Us the Subscription Fee.
- 3.2. This Agreement (including the licences hereunder) starts on the Start Date and ends on the first of the following events:
 - a) the end of the Subscription Period (unless renewed in accordance with clause 5.6); or
 - b) termination of this Agreement under clause 10.
- 3.3. We hereby grant You on the terms and conditions of this Agreement a non-exclusive, non-transferable licence to access the Implementation Plans solely for Your business purposes (and for the avoidance of doubt, nothing in this Agreement grants to You any rights whatsoever in or relating to the source code of the Software or the Intellectual Property Rights).
- 3.4. We confirm We have all the rights in relation to the Software that are necessary to grant all the rights We purport to grant under the terms of this Agreement.
- 3.5. You may search, view, copy and print out material from the Implementation Plans for Your own business purposes only.

4. YOUR OBLIGATIONS

- 4.1. You will, and will take reasonable steps to ensure that Authorised Users will, comply with the terms of use of the Services in this Agreement and do not copy, distribute, transmit or otherwise reproduce, sell or resell material from the Implementation Plans; store such material in any form or medium in a retrieval system; download and/or store an entire issue of an Implementation Plan or its equivalent; or transmit such material, directly or indirectly, for use in any paid service such as document delivery or list serve, or for use by any information brokerage or for systematic distribution, whether or not for commercial or non-profit use or for a fee or free of charge.
- 4.2. You will take reasonable steps to ensure that nobody other than Authorised Users accesses the know-how or Services using accounts created with Your username and password.
- 4.3. You acknowledge and agree that We and Our licensors own all Intellectual Property Rights in the Software, the Implementation Plans, the know-how and the Services. Except as expressly stated in this Agreement, this Agreement does not grant You any rights to, or in, patents, copyrights, database rights, trade secrets, trade names,

trade marks (whether registered or unregistered), or any other rights or licences in respect of the Software, Implementation Plans, know-how, Services or any related documentation.

- 4.4. You are solely responsible for the appropriate use and adaptation of Our know-how for Your own use.
- 4.5. You recognise and accept that in Our Know-how We are not providing professional advice (e.g. such as would be given by a solicitors' firm or accountant). You must ensure that You seek independent professional advice before implementing any know-how in the Implementation Plans.
- 4.6. You are responsible for configuring Your information technology, computer programmes and platform in order to access the Services. You should use Your own virus protection software.
- 4.7. By submitting Yours and Authorised Users' personal information to Us or Our affiliates, service providers and agents, You agree, and confirm Your authority from such other individual, to Our collection, use and disclosure of such personal information in accordance with Our privacy policy available at [<http://entrepreneurscircle.org/page/privacy/>].
- 4.8. In the event that we provide links to third-party websites, We disclaim all responsibility and liability for the content of such third-party websites. Authorized Users assume the sole responsibility for the accessing of third-party websites and the use of any content appearing on such websites.

5. **CHARGES AND PAYMENT**

- 5.1. The Subscription Fee will depend on which Subscription Option You choose. The prices for each Subscription Option are as set out on Our website from time to time.
- 5.2. Payment is due at the check-out process of the online registration process.
- 5.3. Should You choose to cancel Your subscription before the end of the Subscription Period, You are still liable to pay the Subscription Fee in full. We do not give, and you are not entitled to, any pro-rata refunds.
- 5.4. **Instalments:** You can choose to pay in instalments by selecting the Instalment Option during the online ordering process. When We confirm Your order, We will send You an invoice showing the instalment payment amounts and dates for payment.
- 5.5. **Late Payment:** See clause 10.1 and 10.2 for what will happen if you miss a payment due for the Subscription Fee.
- 5.6. **Renewal:** Your subscription will renew automatically at the end of each Subscription Period. We will write to You prior to the renewal date to remind you about this. If You do not want to renew Your subscription for another Subscription Period, please contact Us by writing to Us at our head office address at 2635 Kings Court, Birmingham Business Park, B37 7YE or telephone Us on 0121 765 5551 (Monday to Friday between 9:00am and 5:00pm). Subject to Us receiving such notice from you, Your subscription will end on the last day of the Subscription Period. You must tell Us if You do not want to renew Your subscription before the renewal date as payment for renewals is processed automatically and once processed is non-refundable.

6. **OUR OBLIGATIONS**

- 6.1. We warrant that You will not infringe any third party intellectual property rights by using the material and know-how provided in the Implementation Plans and We will indemnify You against losses, costs or expenses You may incur as a result of any claim that the use by You of the know-how and material infringes any third party intellectual property rights, provided You notify Us within a reasonable time of any such claim being made. This warranty and indemnity are unlimited.
- 6.2. We will take reasonable steps to ensure that Software and data files We supply to You as part of the Service are virus-free. However, You should use Your own virus protection software.
- 6.3. We will use our best endeavours to ensure that Subscriber Data is maintained securely and is properly backed-up. In the event of any loss or damage to Subscriber Data, Your sole and exclusive remedy shall be that We use Our best endeavours to restore the lost or damaged Subscriber Data from the latest back up of such Subscriber Data. We shall not be responsible for any loss, destruction, alteration or disclosure of Subscriber Data caused by any third party (except those third parties sub-contracted by Us to perform services related to Subscriber Data maintenance and back-up).
- 6.4. We will use Our best endeavours to ensure that the Services are provided continuously and that access to Our website is not interrupted by any event within Our control. We will notify You in advance of planned downtime, which, if reasonably practicable, will be scheduled outside normal United Kingdom office hours. However, we assume no liability for any losses you may suffer as a result of any downtime and the Subscription Fee is non-refundable.

7. **CONFIDENTIALITY**

- 7.1. You acknowledge that Our Confidential Information includes the Implementation Plans and Software.
- 7.2. We acknowledge that the Subscriber Data is Your Confidential Information.
- 7.3. Each party shall use its best endeavours to ensure that the other's Confidential Information to which it has access is not disclosed or distributed in violation of the terms of this Agreement.
- 7.4. Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party (except, in Our case, those third parties sub-contracted by Us to perform services related to Subscriber Data maintenance and back-up).
- 7.5. This clause shall survive termination of this Agreement, however arising.

8. **DISCLAIMER**

- 8.1. We give You no warranty or assurance, except as set out in clause 6.1 above. We declare and You acknowledge that all implied warranties and conditions are excluded to the maximum extent permitted by law.
- 8.2. Our policy is to conduct our business at all times in a professional manner and to best practice standards. We use our best endeavours to maintain the Implementation Plans and keep the know-how and materials up to date and to develop Our Services to meet subscribers' needs. However, You should note in particular:
 - a) the know-how is not intended to constitute a definitive or complete statement on any subject, nor is any part of it intended to constitute professional advice for any specific situation.
 - b) We do not undertake any obligation to consider whether the information provided to or by Us for the purpose of Our know-how is either sufficient or appropriate for any particular actual circumstances.
 - c) the Implementation Plans includes archived information and resources, which may be incorrect or out of date.
 - d) We are a provider of practical know-how and resources. We do not accept any responsibility for action taken as a result of information provided by Us. You should take specific advice when dealing with specific situations. The services are general and educational in nature, may not reflect all recent developments

and may not apply to the specific facts and circumstances of individual transactions and cases. We do not advise clients in any matter and are not bound by the professional responsibilities and duties of a professional advisor. Nothing in the Services or in these Terms of Use nor any receipt or use of such Services, shall be construed or relied on as advertising or soliciting to provide any professional advice services, creating any advisor-client relationship or providing any representation, advice or opinion whatsoever on behalf of Us or Our editorial staff.

- e) We give You no warranty or assurance that the Services and Our means of delivering them are compatible with Your software or computer configuration.
- f) We may change part or all of any Service at Our discretion.

9. LIABILITY

- 9.1. You assume sole responsibility for results obtained from the use of the Implementation Plans and the Services by You or any Authorised Users, and for conclusions drawn from such use. We shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided by You in connection with the Services, or any actions taken by Us at Your direction; and all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.
- 9.2. Nothing in this Agreement excludes Our liability for death or personal injury caused by Our negligence; or for fraud or fraudulent misrepresentation.
- 9.3. Subject to clause 6.1 and Clause 9.2 above:
 - a) We shall not be liable for any loss of profits, loss of business, depletion of goodwill or similar losses or pure economic loss, or for any special, indirect or consequential loss costs, damages, charges or expenses however arising; and
 - b) Our total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the Subscription Fee during the 12 months preceding the date on which the claim arose. You acknowledge that this limitation is reasonable.
- 9.4. We shall have no liability to You under this Agreement if We are prevented from or delayed in performing Our obligations under this Agreement or from carrying on business by acts, events, omissions or accidents beyond Our reasonable control, including without limitation default of sub-contractors, strikes, lock-outs or other industrial disputes, failure of a utility service or transport or communications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm.

10. TERMINATION

- 10.1. This Agreement will terminate if You are in material breach of any of its terms and if the breach is not remedied within the period of 20 working days after written notice of it has been given to the party in breach.
- 10.2. Notwithstanding clause 10.1, if payment of the Subscription Fee is not made in full by the due date(s), without prejudice to any rights or remedies otherwise available, We reserve the right to (a) charge interest on the outstanding balance of all overdue sums at the rate of 3% per annum above the current base rate at Barclays Bank or the maximum interest rate permitted by law, whichever is the greater; and (b) suspend or withdraw access to each relevant Service(s).
- 10.3. On termination of this Agreement for any reason:
 - a) all licences granted under this Agreement shall immediately terminate;
 - b) subject to the exceptions in this sub-clause, You will take reasonable steps to delete the know-how and any materials from Your electronic media, including Your intranet and electronic storage devices so that You no longer have an electronically functional copy of the Software or any part of the know-how and materials form the Implementation Plans.
 - c) termination shall not affect or prejudice the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination.

11. GENERAL PROVISIONS

- 11.1. The rights provided under this Agreement are granted to You only, and shall not without Our prior written consent be considered granted to any subsidiary or holding company. You may not, without Our prior written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of Your rights or obligations under this Agreement.
- 11.2. This Agreement is not intended to benefit anyone other than the parties to it and, in particular, no term of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.
- 11.3. If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 11.4. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 11.5. This Agreement, the Subscription Fee invoice and any agreed written record identifying Authorised Users constitute the entire agreement and understanding of the parties and supersede any previous agreement between the parties relating to the subject matter of this Agreement. Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently made or not) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement. The only remedy available to it for breach of the Agreement shall be for breach of contract under the terms of this Agreement.
- 11.6. English law governs this Agreement and the parties submit to the non-exclusive jurisdiction of the English courts.