



**learninsights**

**TERMS & CONDITIONS**

This Agreement sets out the terms and conditions which govern the use of the Material and the provision of Services by LearnInsights. By registering as a Subscriber and/or otherwise using the Material and the Services you acknowledge to have read and understood the terms and conditions of this Agreement and agree to be bound by them. If you do not agree you should not register as a Subscriber and you are not permitted to use the Material or the Services for any purpose whatsoever.

**Pay particular attention to Disclaimers and Limitations of Liability.**

**IT IS AGREED AS FOLLOWS:**

## **1. DEFINITIONS**

“Agreement” means the terms and conditions set out in this document, as amended from time to time, which constitutes a fully binding and enforceable agreement.

“Affiliates” means, with respect to each person, entities that control, are controlled by, or are under common direct or indirect control of such person.

“Authorised Users”, where the Subscriber is a natural person, it means the Subscriber, and where the Subscriber is a legal person it means any natural person employed by the Subscriber who was granted an individual username and password by LearnInsights and for which Fees apply.

“LearnInsights” ( “we”, “our” and “us”) is a brand under Sesto Media & Marketing Inc., with its registered address address at 50-31 39th Place, Sunnyside, New York, 11104, United States.

“Fees” means the fees payable for the Services, as indicated upon subscription.

“Licence” means the licence to the Materials granted pursuant to clause 4 of this Agreement.

“Materials” means educational documents, videos, audio, multimedia, software or any other material of written, electronic or any other nature whatsoever through LearnInsights website, as such materials are updated, modified, amended, replaced or supplemented from time to time.

“Privacy Policy” means LearnInsights' privacy policy, set out in LearnInsights' website, as amended from time to time, forming an integral part of this Agreement.

“Services” means the subscription based services of providing access and or otherwise making the Materials available in the website of LearnInsights, the provision of educational services such a mentoring, coaching, training the provision of access to educational software, chat rooms, networks, channels and other individuals and any other services offered by LearnInsights from time to time for a Subscription Term, as subscribed by the Subscriber.

“Subscriber” means the person or entity which has subscribed for Services and has been granted a Licence by entering into this Agreement.

“Subscription Term” means the period set upon subscription by the Subscriber and LearnInsights, for which period the Subscriber will receive the Services and Fees are payable.

## **2. INTELLECTUAL PROPERTY RIGHTS**

The Materials are proprietary to LearnInsights and its licensors and are protected throughout the world by copyright and other intellectual property rights. The Subscriber shall not to remove any document identification or notices of proprietary restrictions. The Subscriber hereby acknowledges and agrees that the right, title and interest in the Materials and in any modifications made by Subscriber to the Materials, as provided for below in this Agreement, is retained by, and absolutely remains with, LearnInsights and its licensors, as applicable. No license, right or interest in LearnInsights' logos or trademarks is granted to Subscriber under this Agreement. The Materials are licensed, not sold. Except as expressly stated in this Agreement, no licence or right is granted directly or by implication, inducement, estoppel, or otherwise.

## **3. TERM**

This Agreement is effective from the moment of becoming a Subscriber, thus accepting the terms and conditions herein, and shall remain in force until the earlier of (i) expiry of the Subscription Term, or (ii) termination of this Agreement in accordance with the terms and conditions herein.

## **4. LICENCE**

4.1. In consideration of the payment of the Fee by the Subscriber and receipt of the corresponding payment by LearnInsights, LearnInsights hereby grants to the Subscriber a non-exclusive and non-transferable licence to use the Materials and shall otherwise provide the Services to the Subscriber strictly for the duration of the Subscription Term, subject to the terms and conditions of this Agreement.

4.2. The Subscriber shall not copy, re-produce, make available or otherwise use the Material except as expressly permitted by this Agreement.

4.3. The licence granted to the Subscriber under this Agreement is strictly limited to Authorised Users and the Subscriber shall not, and shall ensure its Authorised Users do not, make available or grant access to the Material to any other person, whether by disclosing Subscriber username(s) or password(s) or otherwise.

4.4. The licence granted to the Subscriber may not be assigned, sub-licensed, sold, transferred or otherwise disposed to any person, including Affiliates of the Subscriber, without the written consent of LearnInsights.

## **5. DISCLAIMERS**

5.1.The Services provided to the Subscriber is not exclusive and thus the Subscriber acknowledges and agrees that LearnInsights may provide Services to other persons who may be in competition or otherwise have conflicting interests with the Subscriber.

5.2.Use of the Material and the Services is the absolute and sole responsibility of the Subscriber and LearnInsights does not represent, warrant or guarantee appropriateness of the Material or the Services for any purpose whatsoever.

5.3.The Materials constitute educational material and resources and is not advice. The Materials are not personal recommendations and do not take into account Subscriber specific circumstances.

5.4.LearnInsights is not a university, a college, a school or any other licensed educational institution under any laws worldwide and neither the Materials or Services are approved by any regulatory authority. Certifications by LearnInsights are not recognised by any organisation public or private in the world.

5.5. The Materials may be incorrect, inadequate, insufficient, misleading, incomplete, out of date, may not reflect recent developments or practices, may not be appropriate or applicable for specific facts or circumstances and may otherwise be inappropriate for the uses of the Subscriber. LearnInsights gives no warranty or assurance whatsoever about the Material, or the Services and expressly waives all implied warranties and accepts no responsibility whatsoever for reliance or use of the Material or the Services by the Subscriber.

5.6.The Materials may be amended, supplemented, replaced, deleted, or treated otherwise by LearnInsights from time to time, at its sole discretion, unilaterally and without the requirement to notify or obtain consent from the Subscriber.

## **6. LIMITATION OF LIABILITY**

6.1.The Subscriber assumes sole responsibility for the use of the Materials and the Services and for any acts performed or any conclusion and inferences arising from such use.

6.2.LearnInsights shall not be liable for any damages, including loss of profit, loss of investment or other economic loss or any loss whatsoever whether direct or indirect, consequential loss, charges, or expenses however arising in connection with the use of the Materials and the Services by the Subscriber and the Subscriber hereby absolutely waives any such claims whatsoever against LearnInsights for any such loss whether arising in contract,

tort (including negligence or breach of statutory duty), misrepresentation, equity, restitution or otherwise.

6.3. LearnInsights' entire aggregate liability in connection with breach of this Agreement shall be limited to the Fees paid by the Subscriber for the 12 months preceding the date of this Agreement.

6.4. The limitation of liability under this clause and waiver of claims by the Subscriber shall extend to LearnInsights', employees, directors, agents, consultants, sub-contractors, Affiliates and all contributors of the Material and the Services who shall be entitled to enforce this clause.

6.5. LearnInsights shall have no liability under this Agreement where it is prevented from performing its obligations for reasons outside its reasonable control.

6.6. The Subscriber acknowledges and hereby represents and warrant that the limitations under this clause are reasonable and that it was secured the advice of legal counsel in entering into this Agreement.

## **7. WARRANTIES AND INDEMNITY**

7.1. LearnInsights shall defend, indemnify, and hold Subscriber harmless from any claim or proceeding alleging that Subscriber's use or possession of the Materials in accordance with the terms and conditions of this Agreement infringes any third party patent, trademark or copyright.

7.2. The Subscriber shall not be entitled to the benefit of the indemnity in clause 7.1 above Subscriber fails to notify LearnInsights in writing within ten (10) days of Subscriber being notified of any such claim or proceeding, (ii) Subscriber does not at the written request of LearnInsights immediately cease to use or possess the Material on any such claim being made, (iii) the Subscriber, without the prior written consent of LearnInsights, acknowledges the validity of or takes any action which might impair the ability of LearnInsights to contest the claim or proceedings if it so elects, (iv) the infringement arises due to modification of the Materials by anyone other than LearnInsights, use of the Materials other than in accordance with this Agreement and the infringement would not have arisen without such use or modification, or (v) the claim is raised based on use or possession in a country that is not a party to the World Intellectual Property Organisation (WIPO) treaties on patents, trademarks and copyrights.

7.3. If any such claim or proceeding referred to in clause 7 is made against Subscriber,

LearnInsights alone shall have the right (in its sole discretion):

7.3.1. to defend and/or settle any such third party claim or proceedings and/or to initiate counter-proceedings, and to require the Subscriber to join and co-operate with the defense, settlement and/or counter proceedings at LearnInsights' reasonable cost. If LearnInsights elects to not assume the defense of, settle such claims and/or initiate counter-proceedings, the Subscriber may proceed with defending the claim in good faith and LearnInsights will reimburse all claims, damages, charges, expenses and liabilities (including reasonable counsel fees and costs) finally awarded or agreed to in a monetary settlement. LearnInsights shall have the right to approve Subscriber's chosen counsel under this clause, such approval not to be unreasonably withheld;

7.3.2. to (i) procure a license so that Subscriber's use, possession and distribution of the Materials in accordance with the terms and conditions of this Agreement does not infringe any third party patents, trademarks or copyrights, or (ii) modify or replace or remove the Materials with a functionally equivalent Materials so that it no longer infringes a third party's patents, trademarks or copyrights.

7.4. Clause 7.3 above sets out the Subscriber's sole remedy and the whole liability of LearnInsights in the event that the products infringe any copyright or other intellectual property rights of third parties. The Subscriber must, in any event, mitigate losses to the fullest extent possible.

## **8. SERVICES CHANGES**

The Subscriber acknowledges and agrees that LearnInsights may vary, update, add, supplement or discontinue any feature of the Services from time to time for any reason including but not limited to changes in demand, security and technology.

## **9. TERMINATION**

9.1. This Agreement and the Subscriber's rights under it will terminate immediately if (i) the Subscriber fails to pay Fees to LearnInsights which become due or (ii) Subscriber breaches any of the terms and conditions of this Agreement.

9.2. Subject to clause 9.5, the Subscriber may terminate this Agreement at any time by cancelling its subscription.

9.3. Subscriber's right to use and access the Material and the Services will automatically terminate on expiry of the applicable Subscription Term or termination of this Agreement in accordance with its terms.

9.4. On the date of termination of this Agreement or the applicable Subscription Term, the Subscriber must cease all further use of the Materials downloaded, printed, saved or otherwise in the possession of the Subscriber and destroy all copies of any Material whatsoever held by the Subscriber.

9.5. Except as expressly set forth herein, all Fees paid are non-refundable.

## **10. CONFIDENTIALITY**

10.1. Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 10.2 below.

10.2. Each party may disclose the other party's confidential information to its employees, officers, representatives or advisers, provided such party ensures compliance to this Agreement by any such person; and as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

10.3. No party shall use the other party's confidential information for any purpose other than the performance of this Agreement.

10.4. Subscriber acknowledges and agrees that LearnInsights may collect the following types of information: (i) Materials, Materials version, Material features being used by Subscriber, (ii) processing times taken, (iii) Subscriber's customer identification code and company name, and (iv) IP address and/or ID of the machine which returns the above listed information.

10.5. The information collected under Clause 10.4 may be used for the purposes of (i) providing the Materials and performing this Agreement, (ii) verifying Subscriber's compliance with the License entitlement, (iii) evaluating and improving the performance of the Materials, (iv) preparing statistical analysis, (v) planning development roadmaps and strategies, (vi) issuing alerts and notices to Subscriber about incidents which affect the Materials being used by Subscriber.

10.6. LearnInsights may also require the Subscriber's contact details and (where applicable) payment information for the purposes of (i) providing technical support, (ii) billing, (iii) verifying Subscriber's credentials and License entitlement, (iv) issuing license expiry and renewal notices, (v) carrying out compliance checks, and (vi) providing account management.

10.7. Subscriber expressly gives LearnInsights permission send promotional emails to Subscriber to provide information about other LearnInsights services and features of the Services. If Subscriber does not wish to give LearnInsights permission for the uses described

under this Clause 10.7, Subscriber may notify LearnInsights in writing which permission is not granted.

10.8. LearnInsights will process any personal data in accordance with the Privacy Policy, forming an integral part of this Agreement, and the provisions of the General Data Protection Regulation.

10.9. By subscribing for the Services or accepting this Agreement, the Subscriber expressly confirms its consent to the use of data and information as set forth herein and in the Privacy Policy, and Subscriber further warrants that it has obtained all necessary consents and provided all necessary notifications to share such data and information with LearnInsights.

## **11. GENERAL**

11.1. The Subscriber has no obligation to provide LearnInsights with ideas, suggestions, concepts, or proposals relating to LearnInsights' Materials, Services, or business ("Feedback"). However, if Subscriber provides Feedback to LearnInsights, Subscriber grants LearnInsights a non-exclusive, non-revocable, worldwide, royalty-free license that is sub-licensable and transferrable to any party, to make, use, sell, have made, offer to sell, import, reproduce, publicly display, distribute, modify, and publicly perform the Feedback, without any reference, obligation, or remuneration to Subscriber. All Feedback shall be deemed non-confidential to Subscriber. Subscriber shall not provide to LearnInsights any Feedback it has reason to believe is or may be subject to the intellectual property claims or rights of a third party.

11.2. To help manage Subscriber's use of the Services in compliance with this Agreement, Subscriber agrees that LearnInsights will perform audits from time to time, calculating the number of Users, Computers, Servers or other applicable units benefiting from the Services. If an audit reveals that Subscriber has underpaid Fees to LearnInsights, Subscriber shall be invoiced for and shall pay to LearnInsights within thirty (30) days of the date of invoice an amount equal to the shortfall between the fees which should have been paid by the usage revealed by the audit (according to prevailing applicable fees per user as at that time) and those paid by Subscriber. If the amount of the underpayment exceeds five percent (5%) of the fees due or the audit reveals a violation of any license restrictions pursuant to this Agreement then, without prejudice to LearnInsights' other rights and remedies, Subscriber shall also pay LearnInsights' reasonable costs of conducting the audit.

11.3. LearnInsights may in its sole discretion assign, novate, subcontract or otherwise transfer any of its rights or obligations hereunder.

11.4. LearnInsights may amend the terms and conditions of this Agreement and/or any documents and policies referenced herein at any time, including without limitation by posting revised terms and conditions on its website at and/or the location of such document or policy. Such amended terms and conditions shall be binding upon Subscriber with effect from the

date of such change. For the avoidance of doubt, such amended terms and conditions shall supersede any prior version of this Agreement.

11.5. Failure by either party to enforce any particular term or condition of this Agreement shall not be construed as a waiver of any of its rights under it.

11.6. The illegality, invalidity or unenforceability of any part of this Agreement will not affect the legality, validity or enforceability of the remainder.

11.7. This Agreement constitutes the entire agreement between the parties relating to the licensing and use of the Materials and the provision of the Services and supersede any other oral or written communications, agreements or representations made.

11.8. Subject to clause 6.4, a person who is not a party to this Agreement has no right to enforce any term or condition of this Agreement, and the parties to this Agreement do not intend that any third party rights are created by this Agreement.

11.9. The Subscriber shall ensure that its Authorised Users are aware of and comply with the terms and conditions of this Agreement, and, to the extent permitted by applicable law, the Subscriber shall be responsible for the acts and omissions of its Authorised Users relating to use of the Materials.

11.10. This Agreement and any dispute or claim arising out of or in connection with it, including without limitation non-contractual disputes or claims, shall be governed by and construed in accordance with the laws of the Cyprus. The courts of Cyprus shall have exclusive jurisdiction to determine any dispute or claim which may arise out of, under, or in connection with this Agreement.

11.11. Nothing in clause 11.10 shall limit the right of LearnInsights to initiate proceedings against Subscriber in any court of competent jurisdiction where deemed necessary by LearnInsights to (i) protect its intellectual property rights, (ii) protect its confidential information, and/or (iii) recover overdue payments.

11.12. Any notices required to be given to LearnInsights or any questions concerning this Agreement should be addressed to [info@LearnInsights.io](mailto:info@LearnInsights.io)

11.13. The following clauses shall survive any termination or expiration of this Agreement:  
2,5,6,10,11.

11.14. Where, for any reason that LearnInsights may at its sole discretion decide, the Services are offered for free, and thus Fees are zero, the validity and enforceability of this Agreement shall not be affected and these terms and conditions shall be legally binding and enforceable.