

## Terms and Conditions ("TAC")

Standard Service Subscription Agreement - itslearning AS STANDARD TERMS AND CONDITIONS

This SERVICE SUBSCRIPTION AGREEMENT ("Agreement") is entered into between the itslearning representative ("Partner") denoted in the Order Form and itslearning AS, a Norwegian Corporation located at Edvard Griegs vei 1, 5059 Bergen, Norway ("itslearning AS") (collectively, "ITSL"), on the first part, and the customer as specified in the Order Form ("Customer"), on the second part Collectively known as the Parties.

WHEREAS, itslearning AS is the owner of the intellectual property of the itslearning learning platform, and is the contract party for the licenses of the learning platform and the associated hosting services.

And

WHEREAS, the Partner is itslearning AS representative in the customers location/country ("Territory") and will have service and support deliveries to the customer WHEREAS the customer has initiated an agreement with the itslearning representative

And

WHEREAS, the parties now wish to enter into a definitive service subscription agreement governing Customer's use of the Software and Services

And

WHEREAS, the Partner is authorized, through a Partner agreement, to sign a license agreement on behalf of itslearning AS.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

## **1. Subject – Standard Terms and Conditions**

- 1.1. Upon signing of the applicable Order Form (the “Order Form”) the Customer and ITSL agree to the terms and conditions (“TAC”) as set out herein. The current TAC is found at the following URL: <https://itslearning.com/global/your-data-matters/terms/>
- 1.2. ITSL may modify these terms to, for example, reflect changes to the law or changes to our Services. ITSL will post new modified terms on <https://itslearning.com/global/your-data-matters/terms/> . Changes will not apply retroactively. If the Customer does not agree to the modified terms, the Customer must discontinue using the Services.

## **2. Right to Use**

### **2.1. Services**

- 2.1.0. The Customer is hereby granted a time limited, non-exclusive, non-transferrable right to use the software itslearning (the “Software”) and the corresponding hosting services which is developed and maintained by itslearning AS. The software and services governed by this agreement will hereinafter be jointly referred to as the “Service”.
- 2.1.1. Applications from ITSL partners or other third parties specified in the Order Form are also covered by these terms and conditions unless additional terms have been provided. This does not apply to third-party applications not purchased from ITSL or applications developed by the Customer. Interoperability services used in such applications however may be subject to additional fees specified in the Order Form.
- 2.1.2. These TAC will also apply to any other products, components and/ or features selected in the Order Form, additional TAC might be applicable.
- 2.1.3. ITSL may from time to time and at its own discretion make commercially reasonable modifications to the Service.
- 2.1.4. The Customer is aware of the requirements to its own hardware and software (including other licenses) imposed by use of the Service, and accepts all risks for the functionality of its own hardware and software, including the network solutions of the Service directly or indirectly interface with it. ITSL is not responsible for the compatibility between the Service and the Customers software and / or hardware.
- 2.1.5. ITSL may deliver information to Customer regarding products, services and tools of ITSL and third parties associated with ITSL. This information can be submitted by e-mail or communicated electronically in other channels.
- 2.1.6. ITSL may from time to time present anonymous in-product satisfaction surveys to end users regarding products, services and tools of ITSL.

### **2.2. Authorised Users and user accounts**

- 2.2.0. The Customer is authorized to give persons that belong to their organisation access to the Service (“Authorised Users”) by creating a user account for them. Each user account must be associated with a unique individual person. User accounts cannot be re-used, shared or used anonymously. User accounts cannot be given to persons that are not naturally affiliated with their organisation.

- 2.2.1. The Customer is responsible for implementing appropriate security measures and terms of use for its user accounts to prevent any unauthorized access or use of the service. Any unauthorised access or use must be terminated and reported to ITSL immediately.
- 2.2.2. The first time a user account is logged into the platform, it is considered activated for the current License Period. Should the number of activated user accounts exceed the number of Licenses in the Order Form, the customer will be invoiced in increments of 100 additional licenses. The cost for such additional licenses is 150% of regular license price, unless otherwise specified on the Order Form.
- 2.2.3. ITSL may collect information on the Customer's use of the Service for invoicing purposes and gathering statistics for internal use or for the performance of its obligations under these terms.
- 2.2.4. The Customer will at its own expense respond to questions and complaints from its Authorised Users or third parties relating to the Customer's or its Authorized Users' use of the Service. Customer will use commercially reasonable efforts to resolve support issues brought to its attention on its own, without escalating them to ITSL.

### ***2.3. Service Period and License period***

- 2.3.0. The Service is available for the Service Period specified in the Order Form, which can consist of multiple License Periods, each of equal or different length. The default License Period is 12 months, unless otherwise agreed. As an example, a customer can order the service for a period of 30 months, with license periods of 6 + 12 + 12 months.
- 2.3.1. The Service will be automatically renewed for another 12 months if it has not been terminated in writing by one of the parties at least 60 days prior to expiry of the Service Period.

### ***2.4. Service Fee***

- 2.4.0. The Customer shall pay the Service Fee as specified in the Order Form (adding any applicable VAT) in advance for the first License Period of the Service Period.
- 2.4.1. The remaining Service Fee (if the Service Period consists of multiple License Periods or the Period is renewed) will be invoiced 30 days prior to the expiry of the previous Licence Period. Purchases in excess of basic amounts in the Order Form will be invoiced at the beginning of each month.
- 2.4.2. All payments shall be made with reference to the invoice number. In case of late payment, the Customer will be charged a penalty interest of 1.25 % per commenced month and / or collection fees according to provisions in the relevant national legislation. ITSL will claim a collection fee equal to NOK 60 charged in the currency agreed upon in the Contract in connection with late payment notice.
- 2.4.3. All fees may be changed by ITSL 1 January each year with effect from the next License Period, such annual increase to be limited to a maximum of 10%.
- 2.4.4. ITSL might outsource or delegate its invoicing to a partner or third party dependent on its instructions for each country.

## **2.5. Rights to the Service, Intellectual Property Rights**

- 2.5.0. ITSL and its Partners will retain all rights, titles and interests in and to the Services, all appurtenant documentation and any other intellectual property rights. Nothing in the Contract or in these TAC shall impair or alter ITSL's rights to the Service or Software, including copyright and other intellectual property rights, or be construed so as to constitute a sale or transfer of such rights to the Customer.
- 2.5.1. The Customer is not allowed to perform any reverse engineering on any of the Service elements, including but not limited to reconstructing, back transfer, decompile, disassemble, modify, make derived versions of, or in any other way attempt to discover or find the source code for any of the Service elements.
- 2.5.2. The Customer is only given a right to use the Service in its own business and is under no circumstances allowed to copy, sell, transfer, sublicense or in any other way distribute any of the Service elements to others.
- 2.5.3. If the Customer infringes upon ITSL's copyrights or other interests in the Software, Customer shall pay a fee equivalent to fifteen times the annual Service Fee. If ITSL suffers a loss that is higher than fifteen times the annual Service Fee as a result of the infringement, ITSL can also demand compensation for the uncovered loss.

## **3. SaaS**

### **3.1. Support Services**

- 3.1.0. End User support is the responsibility of the Customer. It is not included in this SLA.
- 3.1.1. ITSL Support categorises Support Tickets based on the type of the ticket into Incidents, Questions, Feature Requests and Requests for additional services. Terms and conditions for additional services are described in the Appendix for Service Delivery.
- 3.1.2. Customer support is delivered from ITSL to Customers in the scope of this agreement. Support Tickets can be raised via the Provider's web-based support portal 24/7/365.
- 3.1.3. Unless otherwise specified in the Order Form, two System Administrators, trained by ITSL, per Customer shall be nominated to have the right to use the support services. Optionally, the Provider can offer access to additional admins as an Additional Service.

3.1.4. Incidents captured by the Provider’s own internal monitoring processes or from Tickets submitted by Admins will be investigated and categorized according to the following severity matrix:

	All customers	Multiple Customers	Single Customer
<ul style="list-style-type: none"> <li>▪ All users</li> <li>▪ Service unavailable</li> <li>▪ Breach of privacy *</li> <li>▪ Breach of security **</li> </ul>	Crisis (P1)	Crisis (P1)	Crisis (P1)
<ul style="list-style-type: none"> <li>▪ All Users</li> <li>▪ Major degradation or disruption of service</li> <li>▪ Major problem with key features</li> <li>▪ Major security vulnerability</li> <li>▪ Major privacy vulnerability</li> </ul>	Crisis (P1)	Crisis (P1)	Major (P2)
<ul style="list-style-type: none"> <li>▪ Some users</li> <li>▪ Disruption of service</li> <li>▪ Problem with key features</li> <li>▪ Security vulnerability protected by other measures</li> <li>▪ Privacy vulnerability protected by other measures</li> </ul>	Major (P2)	Major (P2)	Normal (P3)
<ul style="list-style-type: none"> <li>▪ Some users</li> <li>▪ No disruption of service</li> <li>▪ Problem of less impact/UX</li> </ul>	Normal (P3)	Normal (P3)	Minor (P4)

\* an incident that disclosed or is suspected to have disclosed personal data to an unauthorized 3rd party.

\*\* an incident that disclosed or likely disclosed customer data that is unlikely to contain personal data.

3.1.5. The provider shall ensure that the support staff is given the training to be competent to answer any question related to the Services. The System Admins contacting the support service must immediately inform the provider of any specific circumstances that might affect the handling of the Ticket.

### **3.2. Application Management**

3.2.0. ITSL operates the Services for the Customer as a managed, hosted service and provides access to the latest version of the Services at any given time.

3.2.1. Information about downtime, operational disturbances, planned maintenance and other circumstances influencing the quality of the Services will be posted to our status pages [status.itslearning.com](https://status.itslearning.com).

3.2.2. The hosting services are designed to avoid downtime during upgrades or maintenance of the service. In exceptional cases where planned downtime is needed, information will be provided 14 days in advance. The Services are monitored and managed by the Provider 24/7/365.

### **3.3. Data Center**

3.3.0. The Customer's data will be stored in ITSL and its supplier’s network of data centers. ITSL and its suppliers maintain several geographically distributed data centers. ITSL computing clusters are designed with security, response time, resiliency, and redundancy in mind. Details about the data centers and the Providers organizational and technical security measures are outlined in a separate Data Processing Agreement.

### **3.4. Availability Guarantee and response time**

- 3.4.0. Below are a set of guarantees given and rebates offered should ITSL be in breach of this SLA. Should a Customer suspect that ITSL is in breach of its SLA, they must submit a claim to the Support Services within 30 days of the disruption. Rebates are given as a credit to future payments. Credits are calculated from the platform license fee specified in the Order Form. For a given month the credit will be  $X\% * \text{Annualized license fee} / 12 \text{ months}$ . Maximum credit given for one month is 10%.
- 3.4.1. The guarantees do not apply to planned downtime, force majeure, delays or outages caused by technical issues outside the Provider's control.

### **3.5. Tickets – response times**

- 3.5.0. The provider guarantees that 90% of tickets raised to the support services will be answered within the next Business Day, and, if applicable, raised and categorized as an Incident.
- 3.5.1. If ITSL fails to meet its guaranteed response time within a given calendar month, the Customer can claim a rebate of 3% of the monthly costs.

### **3.6. Incidents – Problem severity and response times**

- 3.6.0. ITSL guarantees to start triage and mitigation of problems occurring from incidents at its earliest convenience and no later than:
- Crisis (P1) = 2 hours
  - Major (P2) = 4 hours
  - Normal (P3) = 5 Business Days

- 3.6.1. If, for a P1 or P2 Incident, ITSL fails to meet the above guarantee, the Customer can claim a rebate of 3%.

### **3.7. Hosting services – Uptime and response times**

- 3.7.0. Availability is measured on a monthly basis. Availability is defined as the period when users of the Service are able to handle and receive transactions with defined functionality and response times.
- 3.7.1. ITSL guarantees that the Service is 99,9% available 24 hours a day, seven days a week, except for notified periods of updating and maintenance. ITSL guarantees that the response time of the Service should be no more than 2 seconds (server side) for a minimum of 99% of requests.

3.7.2. This uptime guarantee does not include loss of access to the Service caused by circumstances beyond ITSL's control, or loss of access to the Service that is of little or no significance in the Customer's day-to-day operation.

3.7.3. The Customer will be entitled to rebates in case of deviation from uptime.

Availability Rebate

- 98,0% - 99,9% = 3%
- 97% - 98% = 5%
- 96% - 97% = 7%
- < 96% = 10%

3.7.4. Availability measured below 95% for more than one month in a row, constitutes a material breach, and the Customer may choose to terminate the Contract with immediate effect and receive a refund proportionate to the charges of the remaining Service Period.

### **3.8. Storage Capacity and backup**

3.8.0. ITSL will provide Initial Storage Capacity as set out in the Contract. Additional capacity is automatically made available as needed (in steps of 1 GB), at a specified fee specified in the Order Form.

3.8.1. ITSL backs up databases and file storage daily. Full databases are replicated daily to a datacentre in a different region. The retention time is 6 months. The database backups are verified automatically. All files are versioned, and each version is kept for 180 days after deletion. File recovery is performed at a standard hourly rate for consultant services specified in the Order Form.

## **4. General Provisions**

### **4.1. "As is" and transfer**

4.1.0. Without prejudice to the SLA guarantees in clause 3, the Service is delivered "as is" with no representation, guarantee or warranty of any kind as to further functionality of the Service.

4.1.1. The Customer may not assign, sublet or sell his rights and / or obligations under the Contract, temporarily or permanently, to any third party.

### **4.2. Warranty**

4.2.0. ITSL agrees to use commercially reasonable efforts to deliver the software and the services in accordance with the software specifications and service specifications listed herein.

4.2.1. ITSL hereby disclaims all other warranties and representations with regard to the software, services and/or the website, whether express, implied or statutory, including, but not limited to, any implied warranties of merchantability or fitness for a particular purpose.

### **4.3. Limitations on liability**

- 4.3.0. ITSL and its employees, officers, directors, contractors, distributors, partners and agents, will not be liable for any indirect, direct, special, incidental, consequential or punitive damages, including, but not limited to, lost profits or lost data, arising out of or in connection with the software, services and/or the website caused by incorrect or incomplete information in the service, lack of or insufficient functionality of the service, loss of data hosted by ITSL, unauthorized use of data hosted by ITSL or any other circumstances connected to the service that may bring financial loss, damages and/or inconvenience upon the customer or third parties even if ITSL has actual or constructive knowledge of the possibility of such damages and regardless of whether such damages were foreseeable.
- 4.3.1. ITSL shall not be held responsible for the customers direct or indirect losses incurred by reasons of the service not being available (partly or in its entirety) and reduced response time, for technical or other causes.
- 4.3.2. ITSL shall not be responsible for any infringement of the copyright of a third party in respect of information made available in or through the service by the customer.
- 4.3.3. ITSL undertakes no responsibility for, and disclaims all liability arising from, any defects or failures in any communications lines, the internet or internet service provider, the computer hardware or software of customer or its authorized users, or any other service or device used to access the software or to authenticate any user as an authorized user. Customer acknowledges and agrees that ITSL is not responsible for the customer data and/or any thirdparty content, and ITSL shall not be liable for any losses or damages resulting from reliance on any such information or data under any circumstances.
- 4.3.4. Subject to the limitations set out in this clause 5.2, the maximum aggregate liability of ITSL under this agreement shall under no circumstances exceed 50 % of the yearly service fee paid by customer hereunder.

### **4.4. Indemnification/Customer Representations**

- 4.4.0. Requisite Authority. Customer represents and warrants that it is a company duly organized, validly existing and in good standing under the laws of its territory and that it has all requisite power and authority to enter into and perform this Agreement in accordance with its terms and provisions without violating, to the best of its knowledge, the rights of any other person or entity.
- 4.4.1. Customer Data. Customer represents and warrants that the content of the Customer Data, and the processing and/or storage thereof by ITSL hereunder, will not violate, to the best of its knowledge, the rights of any other person or entity.
- 4.4.2. Customer will defend, indemnify and hold ITSL harmless from any loss, damage, costs, liability and expense (including reasonable attorneys' fees) resulting from any action or claim of a third party (the "losses") arising from customer's breach of sections 1 or 2 above (the "customer indemnification"). The customer shall indemnify and hold harmless ITSL from any claim resulting from infringement of any third party's rights arising as a result of the customer's use of the service in a manner contrary to this agreement or the user documentation.



#### **4.5. Personal information and content**

- 4.5.0. The Customer or its Authorized Users own the content and the personal information stored and/or processed in the system and the Customer holds the sole responsibility for the personal information stored on the Service as "Data Controller". The Customer is responsible for meeting any public requirements under the jurisdiction of the Customer to ensure that the processing of personal data is lawful and does not infringe on the rights or freedoms of its Authorized Users. ITSL may collect information on the Customers use of the Service for invoicing purposes and for gathering statistics.
- 4.5.1. In performing the Services ITSL undertakes to comply with provisions set out in the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) as "Data Processor", including implementing adequate measures for preventing third party access to the information, protection against unintended changes or loss of the information and ensuring that the processing is based on sufficient and relevant information.
- 4.5.2. For customers required to comply with the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679), the following applies: ITSL and the Customer must enter into a separate Data Processing Agreement (DPA). The DPA is available as an attachment to the Agreement. By entering into the Agreement, the terms and conditions of the DPA forms a part of the Agreement. ITSL shall not process or use the personal information received from the Customer in any other way than in accordance with what has been agreed in this Contract. ITSL shall also maintain a log and document all attempts at unauthorised access and other breaches of system security. The Customer accepts however that ITSL can subcontract the safekeeping of the personal information, provided such sub-contracting does not abrogate ITSL's responsibilities.
- 4.5.3. If ITSL is obligated to process personal information on behalf of the Customer, such personal information shall not be handled in any other manner than strictly required to comply with the provisions of the Contract and / or the TAC.
- 4.5.4. ITSL (as Data Processor) and the Customer (as Data Controller) shall, through planned and systematic efforts, ensure the satisfactory securing of information in terms of confidentiality, integrity and availability with regard to personal information.
- 4.5.5. The Customer shall not use the Service to store, distribute or transmit viruses or any other unlawful and / or harmful material or use the Service in any manner that threatens the integrity, performance or availability of the Service.

#### **4.6. Termination/Suspension**

- 4.6.0. Either party may terminate the Contract immediately upon the other party's (including any Authorised User's) material breach of its commitments according to the Contract and the TAC, subject to such breach not being remedied within 30 calendar days after receipt of a written notice specifying such failure.
- 4.6.1. ITSL may also suspend the provision of its services (or any part of them) if the Customer fails to make payment in accordance with the Contract or clause 2.4 herein or if suspension is necessary for security reasons.
- 4.6.2. If the Contract is terminated by the Customer, the Customer is entitled to a return of the Service Fee proportionate to the remaining Service Period.

4.6.3. Neither party to this Contract will be deemed to be in breach of this Contract or otherwise liable to the other party in any manner whatsoever for any failure or delay in performing its obligations under this Contract due to circumstances beyond the party's control, provided that it gives written notice to the other party, specifying the nature and extent of the circumstances and prospective recommencement of the party's obligations hereunder.

#### **4.7. Confidential Information**

4.7.0. Each party agrees to keep strictly confidential all non-public information in respect of the business of the other party, and not to use such information save for complying with its obligations under the Contract and / or the TAC. Customer hereby agrees to hold in strict confidence any nonpublic information about the Software, Services and Website that is disclosed to Customer in connection with Customer's use of the Software, Services and Website as authorized hereunder (the "ITSL Confidential Information"), and agrees not to make the ITSL Confidential Information available to any third party or to use such ITSL Confidential Information for the benefit of anyone other than ITSL. ITSL agrees to hold in strict confidence any nonpublic information that is disclosed to ITSL in connection with Customer's use of the Software, Services and Website hereunder, including, but not limited to, the Customer Data (the "Customer Confidential Information"), and agrees not to make the Customer Confidential Information available to any third party or to use such Customer Confidential Information for the benefit of anyone other than Customer. The foregoing restrictions will not apply to information which is available to the public, or is proven to be independently developed or is lawfully received from a third party or is required to be disclosed by law, court order, subpoena or other legal process.

#### **4.8. Governing Law and legal venue**

4.8.0. The Parties shall seek to solve through negotiations any dispute, controversy or claim arising out of or relating to the Contract or the TAC, or the breach, termination or invalidity hereof. If the parties fail to solve such dispute, the dispute shall be subject to the legal venue as specified below. ITSL may choose to pursue claims against the Customer before the Customer's legal domicile. This Agreement and its interpretation and performance will be governed by, and construed under, the applicable laws of Norway. All disputes arising with respect to this Agreement will be settled by arbitration in subject to the ordinary courts of Norway with Bergen tingrett as the legal venue.

4.8.1. Injunctive Relief. Notwithstanding Section 1 hereof, the parties acknowledge that violations of ITSL's intellectual property rights may cause irreparable damage to ITSL. Accordingly, it is understood and agreed that, in ITSL's sole discretion, ITSL's claims or actions seeking equitable relief under this Agreement may be brought in any court of competent jurisdiction and fully and finally adjudicated in such court, which shall have the full power to grant such equitable remedies, provisional and final, as may be sought by ITSL.

4.8.2. Performance. In connection with the Software and Services, ITSL will be entitled to act through or in concert with, or to assign some or all of its rights or obligations to, one or more of its affiliated companies. Without limitation to the foregoing, the Partner will have the right to act as agent for Itlsearning AS with regard to the Software licensed hereunder.

4.8.3. Binding Agreement. This Agreement shall be binding on the parties, their successors, affiliated companies, permitted assigns, employees, directors, officers and agents.

- 4.8.4. Counterparts. This Agreement may be signed in one or more counterparts, all of which will together constitute one and the same instrument.
- 4.8.5. Severability. If any portion of this Agreement is held to be invalid or unenforceable, said portion will be severed from this Agreement, the remainder of which will continue in effect.
- 4.8.6. Waiver. No failure of either party to exercise or enforce any of its rights under this Agreement will act as a waiver of those rights.
- 4.8.7. Force Majeure. Neither party will be liable to the other for any damages or delays in performance under this Agreement to the extent said damages or delays are proximately caused (i) by causes beyond that party's reasonable control and occurring without its fault or negligence, or (ii) by the failure of the other party to substantially meet his or its performance obligations hereunder, provided that as a condition to the claim of non-liability, the party experiencing the difficulty will give the other party prompt written notice, with full details, following the occurrence of the cause relied on.
- 4.8.8. Entire Agreement/Amendment. This Agreement supersedes all prior oral or written agreements and understandings between the parties relating to the subject matter hereof, constitutes the entire agreement among the parties, and cannot be amended unless mutually agreed upon in writing by all parties.
- 4.8.9. Survival of Terms. Sections 2.5, 5.3, 5.4, 5.5 and 5.6 of this Agreement shall survive any termination thereof.
- 4.8.10. Titles. The titles used in this Agreement are for convenience only and are not to be considered in construing the terms of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by duly authorized representatives of the parties, by signing the Order Form as of the Effective Date.

Last updated: 31 May 2024