

Adapt Authoring Tool Terms & Conditions

I. **Description of Work or Services:** Kineo will provide the tool and services (the “Services”) as further detailed below.

A. Overview

Client have commissioned Kineo to implement and host an instance of the Adapt Authoring Tool (AAT), which is an open source tool. Client will be using the AAT to develop new courses

B. Scope of Services.

Implementation of the AAT

- Kineo will set up a single AAT instance for the use by the client
- AAT warranty and licensing information is referenced in Appendix A

Maintenance of the AAT

- Kineo will maintain the AAT for Client to ensure it is up-to-date and bug-free
- Maintenance Details are further referenced in Appendix B

Annual Hosting of the AAT

- The AAT will be Cloud Hosted on an Azure or AWS server. The physical server will be located with in EEA
- Microsoft or Amazon will be responsible for the maintenance of the server hardware and physical security of the datacentre
- Kineo are responsible for the maintenance, monitoring and security of the hosting platform and the AAT
- The Client team will be responsible for downloading any final courses packages from the AAT for upload onto the Client LMS environment
- Client will be able to build unlimited courses (subject to our ‘fair use’ policy)

Ongoing support for named AAT users

- Client AAT team will have access to an always-on support portal (JIRA) for entering support tickets - queries, questions, issues
- Support responses will be provided through Kineo’s global team as per SLAS (refer to Appendix C)

II. Assumptions:

The scope and cost of this service are based on the following assumptions.

- a. All services provided by Kineo are based upon information provided by Client
- b. All meetings will be conducted virtually unless otherwise agreed with Client
- c. Kineo reserves the right to hold development should a valid, undisputed invoice remain unpaid ninety (90) days from Client's receipt
- d. Client will provide a single point of contact for the management and filtering of feedback and communication with Client's wider stakeholder group
- e. Changes in key Client personnel during the lifecycle of the project may result in additional costs depending on the training needs for these individuals

Appendices

Appendix A: AAT Warranty and Licensing

The warranty period as agreed with Kineo for the hosting and maintenance of the AAT is for the full duration of the contract period. Any issues with the application setup and hosting configuration or arising from server maintenance or upgrades including but not limited to any 'site down' issues will be resolved by Kineo at no extra cost to the Client.

The AAT is an open-source application maintained by the Adapt community, of whom Kineo is a leading member. Any bugs or issues will be addressed by the community and a patch will be applied by Kineo in accordance with our update policy. If a fix is required more urgently the Client can choose to commission Kineo to expedite the issue to a mutually agreed timescale.

Note that changes in the technical specification (e.g., new releases of operating systems or browsers) which introduce issues with the performance of the content will be addressed by the Adapt community and will be resolved by a patched update. Again, these types of updates can be expedited by Kineo for an additional fee.

Warranties

- A.1. Each Party represents and warrants that it has the legal power and authority to enter into this Agreement
- A.2. Software described as Adapt or Adapt Authoring Tool is Open-Source software. Kineo may also use other Open-Source software in the Deliverables. Neither Kineo nor the original authors of Open-Source software provide any warranty in respect of such Open-Source software. Open-Source software is provided under the GNU General Public License ("GPL") and as such explicitly provides no warranty
- A.3. The GPL is subject to future change that is beyond the control of Kineo. The GPL licence agreement can be viewed at <http://www.gnu.org/licenses/gpl.html>
- A.4. All Services provided by Kineo are based upon information provided by the Client. Kineo will not verify information provided by the Client and accordingly gives no warranty, implied or otherwise, that the Services provided by Kineo are the only or best solution for the purposes of the Client
- A.5. Kineo warrants that it will provide all Services in a manner consistent with general industry standards applicable to the provision thereof and that the Services and Deliverables will perform substantially in accordance with Kineo documentation provided to the Client under normal use and circumstances
- A.6. The Client warrants that it has obtained all necessary consents, approvals and licenses for the use of all Client Materials and Third-Party Property provided by the Client. Further the Client warrants that the use of Client Materials and Third-Party Property in the Deliverables do not violate the terms of any such consent, approval, or licence or the Intellectual Property Rights of any third party

Appendix B: Hosting Service

B.1. Hosting Service

If agreed between the Parties, Kineo is providing a hosting service with the following specification (the “Hosting Service”):

Server type	Cloud Hosted
Server location	EEA
User account allowance	As agreed by Client’s selection of agreed number of seats
SSL certificate	Yes
Backup frequency and retention period	Nightly incremental, weekly full, overwritten on a fortnightly basis
Service Availability guarantee	99.5%
Party responsible for DNS management	Kineo

B.2. Definitions

In addition to the definitions in the standard terms and conditions, the words and phrases identified in bold type below shall have the following meanings when used in conjunction with this Appendix B:

Acceptable Use Policy	the software providing the primary functionality to the Client and described as Adapt Authoring Tool (AAT)
Business Hours	09:00-17:30 hrs Monday-Friday UK time excluding UK Holidays
Hosting Service Commencement Date	the date on which the Hosting Service commences
Concurrent Users	the number of Users who are simultaneously accessing the Hosting Service
Domain Name	the domain name as the parties may agree in writing
Go-Live Date	the date on which the AAT is made available to Client for use
Hosting Plan	the service outlined in B.1 that the Client procures from Kineo
Hosting Service Levels	those standards of performance to be achieved by Kineo in performing the Support Services as set out in the Hosting Service Level Agreement
Inappropriate Content	material which infringes any applicable laws, regulations or third-party rights (such as material that is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred or acts of terrorism, menacing, blasphemous or in breach of any Third-Party Property)

Kineo Material	any software, code or other material owned or developed by Kineo and which is not subject to the terms of any Open Source Licence
Named Site Administrator	the named administrator(s) of the Client who are advised to Kineo
Portal	https://support.kineo.com
Server	the computer equipment (and associated operating systems) provided by Kineo that is designed to be permanently connected to the internet and accessible to Users at all times (save for notified periods of downtime)
Service Level	the uptime for the Server as specified at B1
Solution	the AAT when installed on the serve together with any Client Materials or Third-Party Property that operates through the AAT
Term	12 months
Unavailable	unavailable for internet access, as measured from the router providing internet access to the User to the local area network upon which a Server is located

B.3. The Kineo Hosting Service

Kineo shall provide the Hosting Services so that the Solution can be accessed by a User using a computer connected to the Internet.

Kineo shall ensure that backups are created in accordance with the schedule identified in B.1 above. Unless otherwise stated, the backup copies created will be stored at the datacentre.

Kineo will provide a Server suitable for the Parameters. The standard operating software on the Server will include Linux, Apache, Mongo and Node.js. . Kineo will be responsible for the installation of the operating software on the Server.

Kineo will monitor the Server(s) it provides for compliance with the Service Levels and implement upgrades, patches and other enhancements to the Server that in its sole opinion are appropriate to deliver the Hosting Service it provides.

The Client will be able to raise hosting issues via the Kineo support desk portal.

B.4. Go-Live Date

The Parties shall jointly agree a Go-Live date from which the AAT shall be made available by Kineo.

The hosted AAT Service shall start on the Go-Live Date and continue for the Term. This Agreement shall renew automatically at the first anniversary of the Go-Live Date for further periods of 12 months, each to begin on the anniversary of the Go-Live Date.

Opting out of renewal will result in removal of ability to author new courses and access or edit existing courses. However, you can opt to change your licence type from authoring to maintenance-only, which will reinstate access to existing courses. If this is of interest, please contact Kineo for pricing and implementation ahead of the renewal date.

B.5. Maintenance Releases

Kineo will be responsible for patching all elements of the AAT Framework, plugins and the AAT itself. Patches will be rolled out on a monthly basis. If a critical security issue is identified, the fix will be rolled out within 14 days.

B.6. Software Support

Other than updates, patches (and similar such items) being applied to Server operating systems, Kineo shall not provide any form of software support under this Appendix B.

Support for the AAT is provided in accordance with Appendix C.

B.7. The Client Obligations

In connection with the Solution, the Client shall provide Kineo with such information, permissions and/or licenses as Kineo may reasonably request in order to efficiently and effectively provide the Solution to the Client.

The Client and the Users shall use reasonable efforts to keep secure any identification, password(s) and other confidential information relating to the Solution and shall notify Kineo immediately of any known or suspected unauthorized use of the Client's account or breach of security, including loss, theft or unauthorized disclosure of the Client's password(s) or other security information.

The Client acknowledges that the Hosting Services are provided in relation to the AAT only.

B.8. Suspension of Hosting Service

Kineo may suspend the Hosting Service and/or make any part of the Solution unavailable to the Clients and Users on the occurrence of any of the following events:

- a breach of the Acceptable Use Policy by the Client or the Users;
- a third party initiates a court claim that any part of the Solution breaches Intellectual Property Rights;
- the non-payment of valid Charges; or
- the Client requests suspension; or
- the Client exceeds one of the Parameters.

When the issue causing the suspension of the Hosting Service is resolved then Kineo will agree with the Client the re-commencement of the Hosting Service.

Suspension of the Hosting Service does not constitute the giving of notice to terminate the Hosting Agreement and charges continue to accrue until the Agreement is properly terminated.

Kineo reserves the right to remove content from the Hosting Service where it reasonably suspects such content is Inappropriate Content. Kineo shall notify the Customer if it becomes aware of any allegation that content on the Solution may be Inappropriate Content.

B.9. Exceeding Parameters of Acceptable Use

Our AAT licensing plans include generous amounts of storage and monthly bandwidth as standard. Rather than set hard limits, Kineo operates a ‘fair use policy’ but if you have unusually high bandwidth or storage needs then please let us know and we can provide you with options for additional storage and bandwidth.

B.10. Hosting Support

Kineo will endeavour to give the Client at least 72 hours’ notice of any times at which the Solution is expected to be unavailable to Users as a result of routine maintenance or administration work. There may be situations when Kineo changes are required, and 72 hours’ notice cannot be given.

If the Client requires Kineo to make changes to the AAT, then Kineo will propose a Schedule of Work to be undertaken and will detail any additional Charges. Kineo will not make any changes to the AAT unless approved by the Client.

Where an issue is identified that causes adverse performance of the AAT, Kineo will respond according to the category of the issue.

In all cases the Named Site Administrator should register the issue using the Kineo Support Portal.

Priority	Description	Kineo response
Critical	Service stopping issue (e.g., server outages)	Solution proposed within 1 working hour
Major	Time dependent issue	Solution proposed within 5 working hours
Other	Routine administrative matters	Solution proposed within 1 working day

* The Kineo response is dependent upon active co-operation and assistance from the Client. Delays may occur if Client assistance is unavailable.

Kineo shall respond by performing root cause analysis in conjunction with the Named Site Administrator (as appropriate), generating a proposed resolution to the issue and a proposed timescale and resolving the problem.

Non-qualifying Service Breaks

Kineo shall have no obligation to provide Hosting Services where faults or problems arise from:

- misuse, incorrect use of, or damage to the AAT by the Client (including its Named Site Administrator and Users);
 - input of incompatible or corrupted data or information into the AAT by the Client (including its Named Site Administrator and Users);
 - use of the AAT in combination with any equipment or software not approved for use in advance by Kineo, or any fault in such equipment or software;
 - relocation or re-installation of the AAT by any person other than Kineo, unless acting on the explicit instructions of Kineo;
 - changes to the configuration of the Server undertaken by the Client;
 - any failures or faults concerning the Domain Name(s) and DNS management; or
 - any breach of this Agreement by the Client, Named Site Administrator or Users.
- Kineo shall not be responsible for breaks in service caused by the physical damage or destruction occurring at a data centre or to the internet infrastructure not directly under its control, unless caused by the negligence of Kineo.

Escalation

If you have concerns about the level of service being provided, then you can request that the issue be escalated by submitting a formal request to your Client Success Manager (CSM), who will seek to respond within one business day. Where your CSM is not in a position to respond in this timescale, an alternate contact will be provided.

Should the complaint concern your CSM then it can be escalated directly to a Senior Client Success Manager or your Solutions Consultant.

In the first instance this should be communicated by email. A formal response will be sent via email, followed by a telephone call as appropriate, within 1 working day of our investigations concluding.

B.11. Service Levels

Kineo shall ensure that the Server is available at least 99.5% of the time. Availability refers to the ability for Users to connect to the Server for the purposes of using the Software. For the avoidance of doubt the Client is responsible for its own Internet access.

Kineo monitor availability at approximately 5-minute intervals consciously during the Term and the availability percentage is calculated as the total actual uptime minutes divided by total possible uptime minutes in the year. The total possible uptime minutes shall be the total minutes during the year, less the any planned downtime and non-qualifying service breaks.

Appendix C: Support Services

C.1. Support Service

Kineo is providing a Support Service with the following specification:

Named Site Administrators (NSAs)	1
Defined Service Level Agreement	Yes
Named Client Services Manager	Yes
Quarterly AAT Maintenance release updates (e.g., v.1.1.x)	N/A (part of hosting plan)
AAT Version release updates (e.g. v.1.x.1)	N/A (part of hosting plan)

For EMEA customers, Kineo provides a UK-based support service for client administrators. We do not currently offer a support service for end-users of the system.

Kineo provides an online support portal, through which you can raise requests for support. Our service is backed by a comprehensive Service Level Agreement (SLA), ensuring quality and efficiency from our team of skilled technicians.

Our online portal uses a web-based 'ticketing system' for tracking issues and queries and reporting against the KPIs and SLAs. It can be accessed by Kineo Client Services staff as well as your Named Site Administrator. The portal is easy to use, and you'll benefit from being able to log in at any time to review progress on your issues. You will also receive an automated email update whenever your open tickets are updated.

Our support team uses the portal to maintain and log communication during issue resolution. This enables us to constantly improve on the service we offer, through routine reviews. Client Success Managers also use the system to monitor responses, generate reports and track Support Hour use.

C.2. Definitions

In addition to the definitions in the standard terms and conditions, the words and phrases identified in bold type below shall have the following meanings when used in conjunction with this Appendix C:

Annual Service Fee	The annual charge payable by Clients. The fee must be paid at the beginning of each Term to continue access to the Portal and accordingly utilize Support
Application Software	the software providing the primary functionality to the Client and described as Adapt Authoring Tool or AAT
Business Hours	09:00 - 17:30hrs Monday-Friday UK time excluding UK Bank Holidays
Support Service Commencement Date	the date on which this Support Service commences
Domain Name	the domain name as the parties may agree in writing
Named Site Administrator	the named individual at the Client who is authorized to liaise with Kineo regarding content and technical issues
Portal	https://support.kineo.com
Server	the computer equipment (and associated operating systems) provided by that is designed to be permanently connected to the internet and accessible to Users at all times (save for notified periods of downtime)
Solution	the AAT when installed on the Server together with any Client Materials or Third-Party Property that operates through the AAT
Term	12 months

C.3. Commencement Date

The Parties shall jointly agree a Support Service Commencement Date from which the Support Service shall be made available by Kineo.

The Support Service shall start on the Support Service Commencement Date and continue for the Term. Following the Term, this Agreement shall renew automatically on the first anniversary of the Commencement Date, for successive periods of 12 months, each 12-month period to begin on the anniversary of the Support Service Commencement Date.

C.4. Stability Monitoring

Kineo shall put in place processes and procedures to monitor the Application Software to ensure that it is performing in an appropriate manner, primarily that it is available to an authenticated User, the Application Software provides the appropriate functionality and that back-ups are taken in a format that is capable of re-deployment if required.

C.5. Support for Named Site Administrator

The Client should designate a Named Site Administrator. This person should be sufficiently experienced and have received suitable training to make them proficient in using the Application Software as an Admin User as well as able to perform initial diagnostics on issues experienced by Admin Users when required.

Kineo will respond to this person and provide verbal or written assistance on tasks such as creating, editing or troubleshooting courses, managing the addition or deletion of user accounts.

C.6. Other matters

Where the Client wishes to receive help and support from Kineo for matters that are not covered by this Appendix C, then Kineo will clearly outline the proposed services, the timescale and any additional Charges applicable. Kineo will not action or implement any work unless specifically instructed by the Client.

C.7. Support Process

The Client should report all issues via the Portal and assign each issue a priority. Kineo will respond to the issues raised as follows:

Description	Priority 1 Critical priority	Priority 2 Major priority	Priority 3 Major priority
Solution proposed *	Within 1 working hour	Within 5 working hours	Within 1 working day
Begin work	Within 2 working hours	Within 3 working days	Within 7 working days
Progress updates	Every 0.5 working days	Every 3 working days (following start)	Every 5 working days (following start)

* The solution may require information concerning the technical environment and/or technical specification of the networks (including internet connectivity) operated by the Client. Achievement of these objectives is dependent upon the timely, reasonable help and assistance from the Client when required.

Where the client experiences an issue that is inconsistent with the normal operation of the Solution, the Named Site Administrator should register the issue using the Portal.

Kineo shall reply to the Named Site Administrator in accordance with the timescales set out above with proposed solution to the issue and a proposed timescale for resolving the issue.

Kineo shall have no obligation to provide Support Services where faults or problems arise from:

- misuse, incorrect use of or damage to the Solution by the Client, Named Site Administrator or Users;
- input of incompatible or corrupted data or information into the Solution by the Client, Named Site Administrator or Users;
- use of the Solution in combination with any software not approved for use in advance or recommended by Kineo;
- relocation or re-installation of the Solution by any person other than Kineo, or by any person other than the Named Site Administrator acting on the explicit instructions of Kineo;
- any fault or unavailability of the Domain Name(s).

Escalation

If you have concerns about the level of service being provided, then you can request that the issue be escalated by submitting a formal request to your Client Success Manager (CSM), who will seek to respond within one business day. Where your CSM is not in a position to respond in this timescale, an alternate contact will be provided.

Should the complaint concern your CSM then it can be escalated directly to a Senior Client Success Manager or your Solutions Consultant.

In the first instance this should be communicated by email. A formal response will be sent via email, followed by a telephone call as appropriate, within 1 working day of our investigations concluding.

C.8. Suspension of Support Service

Kineo may suspend the Support Service if the Client fails to pay any amount validly due to Kineo.

When the issue causing the suspension of the Support Service is resolved, then Kineo will agree with the Client the re-commencement of the Support Service.

Suspension does not constitute the giving of notice to terminate the Support Service and charges continue to accrue until the Agreement is validly terminated.