Gomo Learning Limited

SOFTWARE-AS-A-SERVICE AGREEMENT

For Gomo Learning (Gomo authoring and/or Gomo hosting) and/or Gomo Video

Standard Terms and Conditions Schedule

This Software-as-a-Service Agreement is between Gomo Learning Limited ("Gomo") and the entity that wishes to use Gomo's Gomo Learning and/or Gomo Video Software-as-a-Service (as identified in the Sales Order Form) ("Client") strictly as stated herein, and describes the terms and conditions pursuant to which Gomo will provide the Services to the Client. By usage of the Services, the Client agrees to be bound by the terms and conditions of this Agreement.

1   DEFINITIONS AND INTERPRETATION

1.1   In this Agreement, unless the context otherwise requires, the following words and expressions shall have the following meanings:

"Affiliate" means at any time a party that, directly or indirectly, partially or fully controls, is partially or fully controlled by, or is under partial or full common control with, either of the parties to this Agreement, including but not limited to direct and indirect subsidiaries of an ultimate parent holding company.

"Agreement" means this Gomo Learning Limited Software-as-a-Service Agreement for Gomo Learning and/or Gomo Video to which the Client is required to agree before using the Services comprising the Sales Order Form(s) and this Standard Terms and Conditions Schedule.

"Application" means the software application(s) Gomo Learning and/or Gomo Video, each time as applicable, as licensed by the Client and made available by Gomo through the Software-as-a-Service.

"Authorized Users" means employees, agents or contractors of the Client and its Affiliates issued with passwords by the Client's Gomo account or system owner to access the Software-as-a-Service and use the Software-as-a-Service in accordance with this Agreement. Authorized Users include the Client's administrator(s), editors, reviewers and/or learners/students (as applicable).

"Authorized Support Contacts" means in the case of Gomo Learning, any administrator(s), editor(s) and reviewer(s), and, in the case of Gomo Video, a reasonable number of system administrators (normally no more than 5 system administrators, unless otherwise agreed in the Sales Order Form).

"Bandwidth" means the rate of data transfer, bit rate or throughput to Gomo's systems paid for by the Client as identified in the Sales Order Form and/or as may be varied by Gomo pursuant to this Agreement.

"Client Content" means the (personal) data, information and (video) material uploaded, created in or input to Gomo Learning and/or Gomo Video and stored by Gomo or its Affiliates on behalf of the Client within Gomo Learning and/or Gomo Video.

"Confidential Information" means all (1) Client Content and (2) information concerning the business, finances, technology, clients or commercial affairs of a party or its clients which, by its nature, would be reasonably known to be confidential.

"Fees" means the annual fees or other fees payable for the Services by the Client to Gomo specified in the Sales Order Form or separately agreed upon, as may be varied by Gomo pursuant to clause 6.5 of this Agreement.

"Gomo Learning" means, as applicable and as further defined in the Sales Order Form, the Gomo software application(s) Gomo authoring and/or Gomo hosting, as licensed by and made available to the Client by Gomo through the Software-as-a-Service, including the editing, publishing, hosting, and/or analytics service and functionality, as more specifically described in the Service Documentation, as such Application may be varied, updated, upgraded, enhanced and/or amended by Gomo from time to time.

"Gomo Video" means, as applicable and as further defined in the Sales Order Form, the Gomo software application Gomo Video, as licensed by and made available to the Client by Gomo through the Software-as-a-Service, including the video creation, editing, and publishing service and functionality, as such Application may be varied, updated, upgraded, enhanced and/or amended by Gomo from time to time.

"Hosting Facility" means any third party hosting facility or facilities used by Gomo or its Affiliates hosting Gomo Learning, Gomo Video and/or the Portal (currently with Amazon Web Services) as may be changed from time to time by Gomo in accordance with this Agreement.

"Initial Term" means as defined in the Sales Order Form.

"Intellectual Property Rights" means patents, trademarks, internet domain names, service marks, registered designs, applications for registration of any of the foregoing, copyright, database rights, design rights, trade and business names and any other similar protected rights in any country.

"Normal Business Hours" means, for non-US Clients, between 09:00 and 17:00 UK time and, for US Clients, between 09:00 and 17:00 EST on weekdays, not including any UK and US (as applicable) public holidays.

"Portal" means the point of access to Gomo Learning located at the web address provided to the Client for that purpose as the same may be varied by Gomo from time to time subject to prior notice to the Client.

"Renewal Term" means as outlined in clause 13 or as otherwise defined in the Sales Order Form.

"Sales Order Form" means the quotation, order form, signature page, webpage, statement of work, or other document referencing this Agreement and specifying the relevant agreed commercial terms (including the Fees, and detail of the Application(s) licensed to be made available through the Software-as-a-Services and the Services) as accepted by the Client prior to the Start Date. The Sales Order Form may be attached to this Agreement or may be included in a separate (digital) document(s) or website making reference to this Agreement.

"Services" means any service rendered to Client by Gomo under this Agreement as specified in the Sales Order Form or agreed upon separately, including (1) providing the Client access to the Software-as-a-Service, and (2) the Support Services.

"Service Documentation" means the applicable parts of the description of Gomo Learning and/or Gomo Video (as applicable) supplied to the Client as may be varied or amended from time to time by Gomo.

"Service Level Terms" means the service level terms specified in clauses 4 and 5 as part of the Services under this Agreement.

"Software-as-a-Service" means Gomo Learning (as made available to the Client through the Portal) and/or Gomo Video, each time as applicable, as hosted from, and made available to the Client by Gomo through the Hosting Facility, subject to the terms and conditions of this Agreement.

"Start Date" means the date set out above, or as included in a Sales Order Form, or, if earlier or in the absence of a date being specified, the first date on which one or more Authorised Users are given access to the Software-as-a-Service.

"Storage Capacity" means the maximum authoring data and/or video storage capacity within the Software-as-a-Service to be used by, and paid for by the Client as identified in the Sales Order Form, or, where not so specified, as determined by Gomo.

"Support Services" means the support services described in this Agreement.

"Year" means a 12 month period starting on the Start Date or any anniversary thereof.

1.2   Headings contained in this Agreement are for reference purposes only and shall not be deemed to be an indication of the meaning of the clause to which they relate.

1.3   Where the context so implies, words importing the singular number shall include the plural and vice versa and words importing the masculine shall include the feminine and vice versa.

1.4   Anything agreed in a Sales Order Form takes priority over the terms and conditions set out in this Standard Terms and Conditions Schedule. Except as set out in this Agreement, no other terms shall apply, even where specified in the Client's purchase order or otherwise.

2   PROVISION OF THE SERVICES

2.1   In consideration of the payment of the applicable Fees and subject to the terms and conditions (including any license restrictions) of this Agreement, Gomo shall for the duration of this Agreement provide the Client with, as applicable:

2.1.1   access to the Software-as-a-Service and the right to use the Software-as-a-Service by its Authorized Users;

2.1.2   the Support Services;

2.1.3   the Storage Capacity;

2.1.4   the hosting, video and/or analytics capability (as applicable) up to the agreed Bandwidth level and, where so agreed in the Sales Order Form, for distribution to (up to) the licensed number of students/learners; and

2.1.5   such other Services as may be agreed in the Sales Order Form, or otherwise agreed between the parties in writing.

2.2   Any services or resources provided by Gomo in addition to those referred to in clause 2.1 shall be charged to the Client on a time and materials basis (on Gomo's standard rates notified to the Client or published on Gomo's website) or on such other basis and subject to such terms and conditions as may be mentioned on the Sales Order Form or separately agreed between the parties.

2.3   Client Content is only available through the Software-as-a-Service for the term of this Agreement and, subject to the terms and conditions of this Agreement, including but not limited to clause 11, shall be deleted by Gomo after the termination of this Agreement.

2.4   Gomo may make changes, updates, upgrades and/or enhancements to Gomo Learning, Gomo Video, the Portal, the Support Services, the Service Level Terms and/or the Services from time to time. Changes to Gomo Learning and Gomo Video as made in accordance with this clause shall normally be scheduled in advance, and be communicated to the Client by posting revised Service Documentation to the Gomo launch pad and/or the relevant Gomo website (as applicable), or in such other way as determined by Gomo.

3   ACCESS TO THE SOFTWARE-AS-A-SERVICE INCLUDING GRANT OF LICENCE

3.1   Gomo hereby grants to the Client, on and subject to the terms and conditions of this Agreement, from the Start Date, a non-exclusive, limited, non-transferable, non-sublicensable right and licence to access and use the Services and to allow Authorised Users to access and use the Software-as-a-Service throughout the term of this Agreement for its legitimate Client

Content creation and publishing (and related hosting and analytics, as applicable) purposes, subject however to the specific license restrictions included in this Agreement.

3.2	Gomo will provide the Client with access to the Software-as-a-Service from the Start Date at the administrator level which will allow the Client to configure the Application(s) and assign usernames and passwords ("Log-ins") that will allow access to the Software-as-a-Service at the level selected by the administrator.

3.3	The Client shall be responsible for any unauthorized use of the Log-ins to the Software-as-a-Service. Gomo will take reasonable steps to prevent unauthorized use of the Software-as-a-Service upon being notified of any misuse of Log-ins by the Client.

3.4	The Client is responsible for ensuring that: (i) the Authorized Users have adequate access to the internet, (ii) the Client's systems and firewalls do not hinder or prevent access to the Software-as-a-Service, (iii) the Authorized Users have an up to date browser supported by the Application(s) and Software-as-a-Service (as identified in the Service Documentation).

3.5	Gomo shall use up to date industry recognised virus protection software in the operation the Software-as-a-Service.

3.6	Gomo shall be entitled to suspend the Client's access to the Software-as-a-Service: (i) on reasonable notice to the Client for such period as may be reasonably required for maintenance, repairs and/or improvements; and (ii) without prior notice to the Client for exceptional operational reasons, and in such circumstances Gomo shall, if requested, provide the Client with an explanation for any such suspension.

3.7	Gomo shall use commercially reasonable efforts to prevent unauthorised access to the Client Content and Software-as-a-Service, and Gomo will notify the Client of any material security breaches or holes in connection with the Services known to it. The Client acknowledges that the Software-as-a-Service and data transmitted to the Services are provided via the internet, a publicly-available computer network, and that such publicly-available networks are susceptible to failure, attack and hacking.

## 4	MAINTENANCE AND AVAILABILITY

4.1	Maintenance for the Software-as-a-Service is included as part of the Services. Maintenance includes Application software upgrades, bug-fixes, patches, error corrections and enhancements, at no additional charge, when any of them are developed by Gomo and made available, without customisation, to Gomo's clients generally at no additional cost, AND ANY SUCH SOFTWARE UPGRADES, BUG FIXES, PATCHES, ERROR CORRECTIONS AND ENHANCEMENTS SHALL BE APPLIED BY GOMO AT ITS SOLE DISCRETION AT SUCH TIME AND IN SUCH WAY AS IT DEEMS BEST, and shall become part of (the relevant component of) the Application(s) and the Software-as-a-Service, the Intellectual Property Rights in which shall remain with and vest in Gomo and/or its licensors.

4.2	Gomo reserves the right to amend the Service Level Terms at any time, so long as the amendment does not have a material adverse effect on the Client. The Service Level Terms are limited to those events and service levels within Gomo's commercially reasonable control and do not include events or services or security failures resulting from any actions or inactions of the Client or any third parties not under Gomo's direct control (including but not limited to Client or third party equipment and internet or telecommunications providers).

4.3	Service availability is defined as the amount of time that the Software-as-a-Service is available to the Client and capable of performing operations, excluding Scheduled Maintenance Down Time (as defined below) and non-availability caused by actions or inactions of the Client. Non-availability is the amount of time (excluding Scheduled Maintenance Down-Time) that the

Software-as-a-Service is either not available or not capable of performing operations. The Software-as-a-Service will be available 99% of the time calculated over each Year. Scheduled Maintenance Down-Time will not be included when calculating the availability of the Software-as-a-Service.

4.4 The Client accepts that Gomo will require scheduled down-time periods from time to time to perform system maintenance, backup and upgrade functions for the Software-as-a-Service ("Scheduled Maintenance Down-Time"). Scheduled Maintenance Down-Time will usually take place between the hours of 6am and 8am UK time and will typically take between 30 minutes and one hour, and is aimed to minimise disruption to the Client's use of the Services.

4.5 Gomo will use its reasonable endeavours to ensure that Scheduled Maintenance Down-Time is at times and for periods which minimise inconvenience to the Client. The measurement for Scheduled Maintenance Down-Time is the time elapsed from when the Software-as-a-Service becomes unavailable to perform operations to the time when the Software-as-a-Service becomes available to perform operations again.

5   SUPPORT SERVICES

5.1 Gomo's Support Services consist of the services set out in this clause 5 and as may be further specified in the Sales Order Form.

5.2 Gomo shall only provide support to the Client's Authorized Support Contacts (subject to purchase of the appropriate support service as included in the Sales Order Form), as stated below.

5.3 Support is provided by Gomo to the Authorized Support Contacts during Normal Business Hours, and may be provided via the following channels (as applicable, and as may be varied from time to time):

5.3.1 Gomo ticketing system: as made available by Gomo to all Authorized Support Contacts and in the case of Gomo Learning also available via the accounts portal in Gomo Learning, through such means as communicated by Gomo to the Client, and as may be changed by Gomo from time to time;

5.3.2 live chat: available to all Authorized Support Contacts in Gomo Learning or through such other means as may be communicated by Gomo to the Client from time to time, generally during Normal Business Hours;

5.3.3 email: Authorized Support Contacts may raise tickets by emailing support@Gomolearning.com;

5.3.4 knowledge base: the Gomo website features a comprehensive knowledge base of support articles and tutorials on how to use the Application(s) available to all Authorized Support Contacts;

5.3.5 Telephone support: only where so expressly agreed in the Sales Order Form, at the telephone number provided by Gomo from time to time.

5.4 Support requests should be made by Authorized Support Contacts through one of the applicable channels stated above. Requests can be made and shall be responded to by Gomo between Normal Business Hours.

5.5 Gomo will in its sole discretion prioritize support requests related to the Software-as-a-Service into four levels, as follows:

LEVEL	DESCRIPTION	RESPONSE TIME

CRITICAL	All users and/or critical functions affected. Software-as-a-Service completely unavailable	30 minutes
SEVERE	Large number of users and/or critical functions affected	1 hour
MEDIUM	Limited number of users and/or functions affected. Business processes can continue	4 hours
MINOR	Few users and/or functions affected. Business processes can continue	2 working days

5.6   "Response Time" refers to the response time by which Gomo shall endeavour to communicate (by email, online case management system or telephone) with the Client in respect of the reported problem. It does not refer to the time in which the reported problem will be resolved by Gomo. Response Times are calculated on the basis of Normal Business Hours, e.g., if Gomo receives a Medium ticket from a non-US client at 17:00 BST, it shall endeavour to respond before 1pm BST the next business day.

5.7   Subject to clause 5.9, Gomo shall provide its reasonable efforts to resolve Critical and Severe tickets as soon as possible and any other tickets as soon as practicable always during Normal Business Hours. Gomo shall also provide its reasonable efforts to communicate ticket progress to the Client from time to time.

5.8   When reporting an error or fault in, or connection with the Application(s) or Software-as-a-Service, the Client shall provide sufficient material and information to enable Gomo to duplicate or identify the error or fault being reported by the Client, and Gomo shall only be held to address such error or fault after notification of the same by the Client.

5.9   Gomo shall not be obliged to provide support in respect of:

5.9.1   any error or fault attributable to Force Majeure (as defined below);

5.9.2   incorrect use of, or damage to the Application(s) or the Services from whatever cause other than any act or omission by Gomo or any party under its control;

5.9.3   Client's failure to maintain the necessary environmental conditions for use of the Services; and/or

5.9.4   breach of the Client's obligations under this Agreement.

5.10   Unless where so explicitly stated in a Sales Order Form, Support Services do not include:

5.10.1   Client or Authorized Users training;

5.10.2   Client custom themes and functionality; and/or

5.10.3   Third-party functionality that has been developed and made available to the Client within or in conjunction with the Software-as-a-Service.

5.11   To the extent additional Support Services have been agreed upon in a Sales Order Form or otherwise (including the services mentioned under 5.10.1, 5.10.2 and 5.10.3), Gomo shall provide its reasonable efforts to provide such services in accordance with the relevant Sales Order Form, statement or work and/or agreed levels of service without any guarantee that results envisaged by the Client will be achieved, except where so expressly otherwise agreed in writing.

6   FEES AND PAYMENT

6.1   The Client shall pay Gomo all Fees within 30 days of the date of receipt invoice, without deduction, set-off or counterclaim. All Fees are exclusive of all applicable taxes such as VAT which shall, if applicable, be payable in addition. Unless expressed otherwise in the Sales Order Form, the Fees shall be payable annually in advance.

6.2   If the Client does not make payment by the due date, Gomo may, without prejudice to any other rights and remedies at its option, suspend the Client's access to the Software-as-a-Service.

6.3   Gomo reserves the right to charge the Client interest in respect of the late payment of any sum due under this Agreement (as well after as before judgment) at the rate of 4% per cent per annum above the base rate from time to time of Barclays Bank plc from the due date therefore until payment.

6.4   Where the Client wishes to dispute an invoice or part of an invoice it will do so as soon as reasonably practicable and in any event within 15 working days of receipt of the applicable invoice after which period its right to dispute an invoice shall lapse.

6.5   Gomo may at the end of the Initial Term, applicable Renewal Term and/or applicable subscription period, increase the Fees with at least 90 days' advance notice in writing.

7   WARRANTIES

7.1   Gomo hereby warrants to the Client that it will provide the Services:

7.1.1   with reasonable skill and care;

7.1.2   using appropriately qualified and experienced personnel; and

7.1.3   in accordance with all applicable laws.

7.2   The Client hereby warrants to Gomo that:

7.2.1   it will use reasonably commercial endeavours, including using up-to-date virus-checking routines, to ensure that its data and content transmitted to the Services remain free from viruses and other malicious code;

7.2.2   in using the Services it will comply with all applicable laws; and

7.2.3   it will not upload any material or content through the Software-as-a-Service which causes or may reasonably cause harm to Gomo's servers or to the provision of the Services.

8   THE CLIENT'S PARTICIPATION

8.1   The Client shall ensure that its computer systems used for accessing and using the Software-as-a-Service meet the minimum requirements as required by and made known to the Client by Gomo.

8.2   The Client shall each time provide Gomo in a timely fashion with such assistance and information as Gomo may reasonably require in the set up and provision of the Services.

8.3   The Client is responsible for all Client Content and acknowledges that Gomo is not obliged to, but may screen and/or monitor the Client Content. The Client shall ensure that:

8.3.1   Client Content does not contain any material that is defamatory, discriminatory, obscene of offensive or reasonably likely to cause offence;

8.3.2   It has all necessary rights, authorisations, licences and consents to upload, input and/or create the Client Content to/in the Software-as-a-Service; and

8.3.3   is the Software-as-a-Service is not to be used for file sharing purposes or any other purposes that may adversely impact Gomo's servers and systems.

Gomo may temporarily suspend or limit all or any part of the Services where it, in its sole option, determines that this clause is being breached by the Client.

8.4 Gomo reserves the right, in its sole discretion, to take such action as it considers appropriate with regard to any Client Content which may give rise to a claim against Gomo or which it considers to be defamatory, discriminatory, obscene, offensive, illegal or reasonably likely to cause offence.

8.5 A fair use policy shall apply in regard to all aspects of the Services and Gomo may temporarily suspend or limit all or any part of the Services where it, in its sole option, determines that such policy is being violated.

9 INTELLECTUAL PROPERTY RIGHTS

9.1 The Client acknowledges that all Intellectual Property Rights in (any and all parts of) Gomo Learning, Gomo Video, the Documentation, the Software-as-a-Service and all other parts of the Services, including but not limited to the structure and arrangement of the Client Content within the Software-as-a-Service, shall vest in and be the property of Gomo or its licensors (as applicable). The Client will not obtain any rights in (any part of) Gomo Learning, Gomo Video, the Documentation, the Software-as-a-Service or any other parts of the Services other than those expressly granted to it under this Agreement.

9.2 Subject to clause 9.1, nothing in this Agreement or the use of (any part of) the Services by the Client and its Authorized Users shall transfer ownership of any Intellectual Property Rights in the Client Content to Gomo. All Intellectual Property Rights in the Client Content shall be and remain the property of the Client or its licensors (as applicable). The Client hereby grants Gomo a revocable, non-exclusive, limited, royalty free, non-transferable licence to publish and store the Client Content as part of the Services for the duration of, and the purposes as envisaged by this Agreement.

10 INDEMNITIES

10.1 Gomo shall defend and indemnify the Client and keep the Client indemnified against any and all losses, damages and reasonable and verifiable costs and expenses incurred by the Client and arising out of any and all actions, claims or proceedings by a third party alleging that use by the Client of the Application(s) (but not any Client Content stored therein) in accordance with this Agreement infringes such third party's Intellectual Property Rights ("a Claim") provided that: (i) the Client shall immediately notify Gomo if a Claim is made against the Client and agrees to grant to Gomo exclusive control of the Claim including the settlement thereof; (ii) the Client shall at the request and expense of Gomo afford to Gomo all reasonable assistance for the purpose of contesting, negotiating or settling the Claim; (iii) the Client shall not make any admissions (save where required by court order or governmental regulations) which may be prejudicial to the defence or settlement of the Claim without the approval of Gomo (not to be unreasonably withheld or delayed). If there is a Claim, Gomo may: (a) take such action as it considers appropriate in its sole discretion including but not limited to changing the Application(s) to avoid or settle any such Claim, (b) (partly) suspend the Client's use of the Software-as-a-Service in which case Gomo shall extend the contracted subscribed-for period of use by the period of suspension and the renewal date shall be adjusted accordingly, and/or (c) (partly) terminate Client's use of the Software-as-a-Service in which case Gomo shall pay the Client an amount equivalent to the unused part of the contracted subscription period calculated on a straight line basis.

10.2   The Client shall indemnify Gomo and keep Gomo indemnified against any and all losses, damages and reasonable and verifiable costs and expenses incurred by Gomo and arising out of any and all actions, claims or proceedings by a third party alleging that the possession, processing, publishing, storage or use by Gomo of the Client Content in accordance with this Agreement infringes such third party's Intellectual Property Rights ("a Claim") provided that: (i) Gomo shall as soon as reasonably practicable notify the Client if a Claim is made against Gomo and agrees to grant to the Client exclusive control of the Claim including the settlement thereof (not to Gomo's detriment); (ii) Gomo shall at the request and expense of the Client afford to the Client reasonable assistance for the purpose of contesting, negotiating or settling the Claim; (iii) Gomo shall not make any admissions (save where required by court order or governmental regulations) which may be prejudicial to the defence or settlement of the Claim without the approval of the Client (not to be unreasonably withheld or delayed).

11 DATA PROTECTION

11.1   As part of the Services, Gomo processes certain personal data as defined in the EU General Data Protection Regulation (Regulation 2016/679) ("GDPR") on the Client's behalf. The parties agree in this regard that the Client shall be considered the data controller and Gomo the data processor, and the following shall apply:

11.1.1 The nature and purpose of the personal data processing hereunder shall comprise the storage and processing of Client personal data in and through the Services as stated herein, for the duration of this Agreement and for the Client's legitimate content and video creation and publishing (and related hosting and analytics, as applicable) purposes. Gomo may also provide Support Services to the Client's Authorized Users as outlined herein which may comprise Gomo accessing and processing Client personal data;

11.1.2 The categories of personal data included in the processing hereunder may, depending on the Application(s) used, include Authorized Users' names, email addresses and assessment results, video images, as well as other elearning related personal data of Authorized Users;

11.1.3 The Client, as data controller, has processed and will continue to process the relevant personal data in accordance with the relevant provisions of the applicable data protection laws and confirms that the processing does not violate those laws. The Client warrants that it is entitled to transfer the relevant personal data to Gomo and any of its Affiliates under the Clauses so that Gomo and its (sub-)processors may lawfully process the personal data in accordance with this Agreement on the Client's behalf. No special categories of personal data shall be used within the Services by the Client;

11.1.4 Gomo will process the personal data only in accordance with the terms of this Agreement and any lawful instructions reasonably given by the Client from time to time. The parties agree that the documented instructions are set out in this Agreement or may otherwise be agreed in connection with the performance of this Agreement, such as pursuant to support requests raised by the Client;

11.1.5 Each party shall take and maintain throughout the term of the Agreement appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage, and Gomo shall take any measures required pursuant to Article 32 of the GDPR;

11.1.6 taking into account the nature of the processing, Gomo shall assist the Client by appropriate technical and organizational measures, insofar as this is reasonably possible

and each time subject to such reasonable charge as may be agreed, for the fulfilment of the Client's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of the GDPR;

11.1.7 Gomo shall reasonably assist the Client (at the Client's costs and expense) in ensuring compliance with the obligations pursuant to this clause 11 and Articles 32 to 36 of the GDPR, taking into account the nature of the processing and the information available to Gomo;

11.1.8 Gomo shall ensure that persons authorized to process the Client's personal data have committed themselves to appropriate obligations of confidentiality;

11.1.9 Gomo shall promptly inform Client if any of the Client's personal data processed by it are lost or destroyed or become damaged, corrupted, or unusable due to Gomo's fault or omission and it becomes aware of the same;

11.1.10 Gomo shall promptly inform the Client if, in its opinion, an instruction by the Client in regard to processing of the Client personal data infringes the GDPR or other applicable data protection laws or regulations;

11.1.11 Gomo shall not engage another processor without the prior written consent of the Client (not to be unreasonably withheld or delayed) and only on terms which reflect the provisions of this Agreement, provided that the Client hereby provides its general consent to Gomo's engagement of:

11.1.11.1 any other processor that is also a member of the Learning Technologies Group of companies (www.ltgplc.com) (Gomo currently uses LEO Learning Limited (www.leolearning.com), Gomo Learning, Inc. Rustici Software LLC (www.rusticisoftware.com) and PeopleFluent, Inc. (www.peoplefluent.com) in the performance of the Services);

11.1.11.2 EastBanc Technologies, LLC, of 3312 M. Street, NW, Washington DC 20007, United States (www.eastbanctech.com);

11.1.11.3 any third party hosted infrastructure provider it may require in the performance of the Services (Gomo currently uses Amazon Web Services (www.aws.amazon.com) and Rackspace (www.rackspace.com));

11.1.11.4 any processor involved in the provision of a client support ticketing system to register Client support queries under this Agreement (Gomo currently uses Freshworks (www.freshworks.com), Jira (www.atlassian.com) and zendesk (www.zendesk.com));

11.1.11.5 any processor involved in the provision of Customer Relationship Management (and related) systems (Gomo currently uses Salesforce (www.salesforce.com) and Pardot (www.pardot.com)); and

11.1.11.6 any processor involved in the provision of payment gateway services (Gomo currently uses Recurly (www.recurly.com) and Stripe (www.stripe.com) for online purchases of the Application(s)).

Where any change in the use of the (sub)processors named under 11.1.11.1-11.1.11.6 is planned, Gomo shall inform the Client in advance, and where the Client objects to such a change (acting reasonably), the Client shall need to promptly notify Gomo and in such case the parties shall have a good faith discussion to determine how such objections may be addressed;

11.1.12 Gomo shall comply with its obligations included in Art. 28(4) of the GDPR;

11.1.13 Gomo shall, at the option of the Client, following expiry or earlier termination of this Agreement, either delete or return to the Client all Client Content, and shall delete all

existing copies of such Client Content unless otherwise required by law, provided that where the Client within 30 days from expiry or earlier termination of this Agreement has not indicated its choice to Gomo, its choice shall be deemed to be deletion of all Client Content, and Gomo shall in such case delete all Client Content in its possession in accordance with its internal data retention policies;

11.1.14 Gomo shall reasonably assist the Client (at a reasonable charge, each time as to be agreed) in fulfilling its obligations to respond to requests for exercising the data subjects' (as defined in the GDPR) rights set out in Chapter III of the GDPR; and

11.1.15 Gomo shall make available to the Client all information reasonably necessary, and, subject to reasonable advance written notice and not more than once a year, contribute to audits and inspections reasonably carried out by the Client or on its behalf, at the Client's cost (reasonable charges as to be agreed shall apply), to demonstrate Gomo's compliance with Article 28 of the GDPR and this clause 11.

11.2 Some of the processing Services referred to in this clause 11 may require transfer of personal data to servers, offices or facilities of Gomo outside of the European Economic Area. Also, some of Gomo's (sub-)processors as listed above are based outside of the European Economic Area. To provide for this, and in accordance with the requirements included in the GDPR, the parties agree on the attached Standard Contractual Clauses ("the Clauses") in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the Client to Gomo the personal data specified in Appendix 1 to the Clauses. For the avoidance of doubt, Gomo has the authority to enter into the Clauses on behalf of all data importers included in the Clauses.

12 LIMITATION OF LIABILITY

12.1 This clause 12 sets out the full extent of the entire financial liability of Gomo (including any liability for the acts or omissions of its employees, agents, Affiliates and sub-contractors) to the Client under or in connection with this Agreement no matter how such liability arises and whether for breach of contract, tortuous acts or omissions (not limited to negligence) or breach of statutory duty.

12.2 A party's liability to the other party for death or personal injury resulting from its negligence or for fraudulent misrepresentation shall not be limited.

12.3 Gomo shall have no liability to the Client in respect of the Client's or Authorized Users' inability to access the Software-as-a-Service, or errors in the functioning of the Software-as-a-Service or Application(s) which are attributable to: (i) an Event of Force Majeure (see clause 155); (ii) Client's violation of, or non-compliance with clause 8.1; (iii) operator error; and/or (iv) provision of insufficient and/or incorrect information by the Client to Gomo.

12.4 Subject to clause 12.2, Gomo shall not be liable to the Client for: any indirect or consequential loss or damage; loss of profit; loss of business; loss of reputation; depletion of goodwill; and, subject to clause 12.5 (ii), any loss of, damage to or corruption of Client Content.

12.5 Subject to clause 12.2, Gomo's liability in respect of: (i) damage to the Client's tangible property resulting directly from Gomo's negligence or that of its employees shall not exceed £500,000 for any one event or series of connected events; (ii) any loss of, damage to or corruption of Client Content due to Gomo's fault or omission shall be limited to reconstituting the same so far as is reasonably possible from Gomo's back-up facilities (iii) impaired or no access to the Software-as-a-Service which exceeds the availability levels stated in clause 4 in any Year shall not exceed the total of Fees paid by the Client to Gomo for the Software-as-a-Service for such Year proportionate to such excess calculated on a straight line basis; (iv) any indemnity

obligation under this Agreement shall be limited to £100,000; and, (v) any other and all losses not covered by the foregoing shall not exceed, in aggregate, 100% of the Fees paid by the Client for the Software-as-a-Service under this Agreement for the Year in which the incident giving rise to the liability occurred and if more than one incident gives rise to the same liability then the Year in which the first in the series of incidents occurred.

12.6 Unless expressly set out in this Agreement, all conditions, warranties, representations (unless made fraudulently) or other terms implied by statute or law are excluded to the fullest extent permitted by law.

13 TERM AND TERMINATION OF THIS AGREEMENT

13.1 This Agreement shall come into force on the Start Date and will, subject to the remainder of this clause, continue for the Initial Term, and, unless otherwise agreed in writing, any Renewal Term, unless terminated earlier pursuant to this clause 13. For monthly subscriptions, this Agreement shall following the Initial Terms continue on a month-to-month basis (each subsequent month in such case being a "Renewal Term") unless or until terminated by either party effective the last day of a contract month on not less than 30 days' prior written notice to the other party. For annual subscriptions, this Agreement shall following the Initial Term continue on a Year-to-Year basis (each subsequent Year in such case being a "Renewal Term") unless or until terminated by either party effective the last day of a Year on not less than 30 days' written notice to the other party. Gomo may terminate this Agreement immediately by notice to the Client if the Client: (i) fails to pay to Gomo any amounts payable under this Agreement as they fall due (provided that Gomo, prior to exercising this right, has given the Client written notice of its intent to exercise this right, and has given the Client at least 30 business days to remedy such breach); or, (ii) has repeatedly used or permitted access to the Software-as-a-Service otherwise than in accordance with the terms of this Agreement.

13.2 Either party may terminate this Agreement immediately by written notice to the other party if:

13.2.1 The other party commits any material breach of any term of this Agreement which (in the case of a breach capable of being remedied) shall not have been remedied within 30 days of a written request to remedy the same; or

13.2.2 an order is made or a resolution is passed for the winding-up of the other party or an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or such an administrator is appointed or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by the other or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the other party's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or the other party takes or suffers any similar or analogous action in consequence of debt.

13.3 Any termination of this Agreement shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law, and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

14 CONFIDENTIALITY

14.1   Each party shall appropriately protect all Confidential Information received directly or indirectly from the other party. Such Confidential Information shall not be disclosed to any third party other than the employees, agents and authorized subcontractors of the receiving party without the prior written consent of the party to whom such Confidential Information belongs. Neither the party receiving Confidential Information nor its employees or authorized subcontractors shall use any such Confidential Information for any purpose other than the performance of this Agreement. Further, each party shall procure that such employees, agents and subcontractors act in a manner consistent with the obligations of confidentiality set out herein. This clause shall not apply to Confidential Information if and to the extent that: (i) it is required to be disclosed by any court of competent jurisdiction or by a governmental or regulatory authority or where there is a legal right, duty or requirement to disclose, provided that where possible and without breaching any such requirements, 2 days' prior notice is given to the other party of such disclosure; (ii) it is information which is, at the date of this Agreement or subsequently, in the public domain through no fault of the party receiving such information; (iii) the receiving party can demonstrate subsequently came into its knowledge by means of disclosure by a third party free from any obligation of confidentiality; (iv) the receiving party can show it was information in the possession of the receiving party prior to disclosure under this Agreement; and/or (v) it is information that is independently developed by personnel of the receiving party having no access to the other party's Confidential Information.

14.2   The obligations of this clause shall survive termination of this Agreement.

15 FORCE MAJEURE

15.1   Neither party shall have any liability to the other under this Agreement to the extent that the performance of its obligations is delayed, hindered or prevented by an Event of Force Majeure. "Event of Force Majeure" shall mean fire, storm, flood, earthquake, accident, adverse weather conditions, explosions, Acts of God, terrorism or the threat thereof, nuclear, chemical or biological contamination, compliance with any law, governmental controls, restrictions or prohibitions, strikes, lock-outs, industrial action, employment dispute, protests, public disorder, traffic congestion, accident, breakdown, vandalism, interruptions in communications or power supply, shortages of materials or supplies, failure or malfunction of computer systems or any other event or circumstance outside the control of a party to this Agreement.

16 NOTICES

16.1   Any notice, request, instruction or other document to be given by a party under this Agreement shall be delivered by hand, sent by pre-paid first class post, or by facsimile or e-mail transmission to the recipient's usual address, fax number or e-mail address or such other address, fax number or e-mail address which may be notified by that party in accordance with this clause 16.1.

16.2   Unless proved otherwise, a notice shall be deemed to have been received if delivered by hand, at the time of delivery; if sent by facsimile or e-mail during the day of transmission as long as the sender can show satisfactory transmission on a UK week day (not a public holiday) between 9.00am and 5.00pm UK time; and if sent by post, 48 hours after posting.

17 GENERAL

17.1   The terms and conditions of this Agreement are the entire agreement between the parties with regard to their subject matter.

17.2   Each party acknowledges that in entering into this Agreement it does not do so on the basis of, and does not rely on any representation, unless made fraudulently, warranty or other provision not expressly contained in this Agreement.

17.3   Any variation to this Agreement must be in writing and signed on behalf of both parties. If a court decides that any part of this Agreement cannot be enforced, that particular part of this Agreement will not apply, but the rest of this it will.

17.4   A waiver by a party of a breach of any provision shall not be deemed a continuing waiver or a waiver of any subsequent breach of the same or any other provisions. Failure or delay in exercising any right under this Agreement shall not prevent the exercise of that or any other right.

17.5   The Client may not assign or transfer any benefit, interest or obligation under this Agreement.

17.6   Gomo has the right to subcontract any part of the Services to an Affiliate or such third party service provider it deems appropriate. In the event of any such subcontracting, Gomo shall remain responsible for all acts and omissions of the applicable subcontractor subject to the terms of this Agreement.

18 RIGHTS OF THIRD PARTIES AND AFFILIATES

18.1   A person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This shall not affect any right or remedy of a third party that exists or is available apart from under that Act.

19 GOVERNING LAW AND JURISDICTION

19.1   This Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties hereby submit to the non-exclusive jurisdiction of the English Courts.

Appendix 1 – Standard contractual clauses (controller to processors)
(Issued by EC Decision of 5ᵗʰ February 2010)

BETWEEN:

(1)   **CLIENT** (referred to as "exporter" or "data exporter"); and

(2)   **Gomo Learning Limited**, acting in this regard on behalf of Gomo Learning Inc. (formally known as KZO Innovations, Inc.). Gomo Learning Inc. hereinafter referred to as "importer" or "data importer, and Gomo Learning Limited and Gomo Learning Inc. together also referred to as "Gomo";

in connection with the Agreement to which this is an attachment (hereinafter referred to as the "SaaS Agreement");

AGREED

Clause 1
Definitions

For the purposes of the Clauses:

(a)   'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);

(b)   'the data exporter' means the controller who transfers the personal data;

(c)   'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Regulation (EU) 2016/679;

(d)   'the subprocessor' means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e)   'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f)   'technical and organisational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2
Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

Clause 3
Third-party beneficiary clause

1.   The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

2.   The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3.   The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent. unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

4.   The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4
Obligations of the data exporter

The data exporter agrees and warrants:

(a)   that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;

(b)   that it has instructed and throughout the duration of the personal data-processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses:

(c)   that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;

(d)   that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful

destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

(e)   that it will ensure compliance with the security measures;

(f)   that, if the transfer involves special categories of data, the data subject has been informed or will be informed before. or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Regulation (EU) 2016/679;

(g)   to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

(h)   to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for sub-processing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i)   that, in the event of sub-processing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j)   that it will ensure compliance with Clauses 4(a) to (i).

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Clause 5
Obligations of the data importer

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The data importer agrees and warrants:

(a)   to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b)   that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware. in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c)   that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

(d)   that it will promptly notify the data exporter about:

(i)   any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;

(ii)   any accidental or unauthorised access; and

(iii)   any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e)   to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f)   at the request of the data exporter to submit its data-processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority:

(g)   to make available to the data subject upon request a copy of the Clauses, or any existing contract for sub-processing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h)   that, in the event of sub-processing, it has previously informed the data exporter and obtained its prior written consent;

(i)   that the processing services by the subprocessor will be carried out in accordance with Clause 11:

(j)   to send promptly a copy OR RELEVANT EXTRACT of any subprocessor agreement it concludes under the Clauses to the data exporter.

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Clause 6
Liability

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1.   The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.

2.   If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract of by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

4. NOTHING IN THE CLAUSES WILL EXCLUDE OR LIMIT LIABILITY RESULTING FROM:
    *   DEATH OR PERSONAL INJURY RESULTING FROM THE NEGLIGENCE OF EITHER OF THE PARTIES OR ITS EMPLOYEES WHILE ACTING IN THE COURSE OF THEIR EMPLOYMENT;
    *   FRAUD OR FRAUDULENT MISREPRESENTATION; AND/OR
    *   ANY CLAIM DIRECTLY BROUGHT TO THE DATA IMPORTER BY A DATA SUBJECT PURSUANT TO THE CLAUSES.

5. DATA EXPORTER AGREES AND ACCEPTS THAT IT SHALL NOT BE ENTITLED TO BRING A CLAIM UNDER BOTH THE SAAS AGREEMENT AND THE CLAUSES FOR DAMAGE OR LOSS CAUSED BY THE SAME EVENT GIVING RISE TO THAT CLAIM.

6. SUBJECT TO SECTIONS 4. AND 5. ABOVE, GOMO'S ENTIRE AGGREGATE LIABLITY UNDER THE SAAS AGREEMENT AND THE CLAUSES SHALL BE AS STATED IN THE LIMITATION OF LIABILITY PROVISIONS AGREED BETWEEN DATA EXPORTER AND GOMO LEARNING LIMITED IN THE SAAS AGREEMENT, AND GOMO'S (OVERALL) AGGREGATE LIABLITY EXPOSURE TOWARDS THE DATA EXPORTER SHALL THEREFORE NOT BE EXPANDED AS A RESULT OF ENTERING INTO THE CLAUSES.

7. FOR THE AVOIDANCE OF DOUBT, NO PARTY TO THE CLAUSES WILL, UNDER ANY CIRCUMSTANCES, BE LIABLE TO ANOTHER PARTY TO THE CLAUSES FOR ANY LOSS OF REVENUE, BUSINESS, CONTRACTS, ANTICIPATED SAVINGS, PROFITS, DATA OR INFORMATION, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGES, WHETHER ARISING FROM NEGLIGENCE, BREACH OF CONTRACT OR HOWSOEVER, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THE SAME.

Clause 7
Mediation and jurisdiction

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

    (a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

    (b) to refer the dispute to the courts in the Member State in which the data exporter is established.

2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8
Co-operation with supervisory authorities

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.

2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5(b).

Clause 9
Governing law

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

Clause 10
Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

Clause 11
Sub-processing

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.

2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of

law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

3.   The provisions relating to data protection aspects for sub-processing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.

4.   The data exporter shall keep a list of sub-processing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

5.   THE DATA IMPORTER MAY NOT SUBCONTRACT ANY PART OF ITS OBLIGATIONS UNDER THE CLAUSES EXCEPT AS PROVIDED FOR AND CONSENTED TO IN THE SAAS AGREEMENT, OR AS OTHERWISE APPROVED BY THE CLIENT.

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Clause 12
Obligation after the termination of personal data-processing services

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1.   The parties agree that on the termination of the provision of data-processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2.   The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data-processing facilities for an audit of the measures referred to in paragraph 1 PROVIDED THAT SUCH AUDIT SHALL TAKE PLACE AS DESCRIBED IN, AND SUBJECT TO THE RELEVANT PROVISIONS INCLUDED IN THE SAAS AGREEMENT.

APPENDIX 1
to the Standard Contractual Clauses

This Appendix forms part of the Clauses

The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix

Data exporter
The data exporter is (please specify briefly your activities relevant to the transfer):

The client of Gomo under the SaaS Agreement.

Data importer
The data importer is (please specify briefly activities relevant to the transfer):

Like Gomo Learning Limited, part of the Learning Technologies Group of companies (www.ltgplc.com), a provider of technology based solutions.

Data subjects
The personal data transferred concern the following categories of data subjects (please specify):

Normally data exporter "Authorized Users" as such term is defined in the SaaS Agreement.

Categories of data
The personal data transferred concern the following categories of data (please specify):

As determined by the data exporter, but generally:
- Authorized Users' names, date of birth, job details including email addresses, telephone numbers, profile pictures, and other typical profile information;
- Video images of Authorized Users (or others) featuring in video content created using the Gomo Video software;
- Authorized Users' assessment results;
- Other elearning related personal data of Authorized Users;
- Courses taken or registered for by an Authorized User;
- Marks of Authorized Users for taken courses;
- Authorized Users' business department; and
- Authorized User attributes, certifications, licensing and performance histories in certain cases, responses to training and exercises, and session information

Special categories of data (if appropriate)
The personal data transferred concern the following special categories of data (please specify):

Not Applicable (the exporter shall inform the importer in writing if otherwise the case)

Processing operations
Any personal data transferred will be subject to the following basic processing activities (please specify):

In the course of data exporter's use of the Gomo Software-as-a-Service, based on the SaaS Agreement, the data exporter may transfer personal data of its Authorized Users to the data importer.

Gomo provides a hosted environment for the data exporter's use of the Software-as-a-Service and data importer may access the data exporter's personal data where so required in the performance of the Services (e.g. as part of Gomo's system administration responsibilities or client support provision).

APPENDIX 2
to the Standard Contractual Clauses

Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c).

1. Information Security Policies and Standards

The data importer will implement appropriate security requirements for staff and all subcontractors, service providers, or agents who have access to data exporter personal data ("Personal Data"). These are designed to:

- Prevent unauthorized persons from gaining access to Personal Data processing systems (physical access control);
- Prevent Personal Data processing systems being used without authorization (logical access control);
- Ensure that persons entitled to use a Personal Data processing system gain access only to such Personal Data as they are entitled to access in accordance with their access rights and that, in the course of Processing or use and after storage, Personal Data cannot be read, copied, modified or deleted without authorization (data access control);
- Ensure that Personal Data cannot be read, copied, modified or deleted without authorization during electronic transmission, transport or storage, and that the target entities for any transfer of Personal Data by means of data transmission facilities can be established and verified (data transfer control);
- Ensure that Personal Data are processed solely in accordance with the data exporter's instructions ("Instructions") (control of instructions); and
- Ensure that Personal Data are appropriately protected against accidental destruction or loss (availability control).

These rules are kept up to date, and revised whenever relevant changes are made to information systems that use, process, transmit or store Personal Data, or to how those systems are organized. Security policies and standards are monitored and maintained on an ongoing basis to ensure compliance.

2. Physical Security

The data importer will maintain effective security systems at all data importer sites at which information systems that use, process, transmit or store Personal Data are psychically located. The data importer restricts access to such Personal Data appropriately.

Physical access control has been implemented for all data centers used in the provision of the Services to prohibit unauthorized access. Accesses to all used data center sites are monitored 24x7 by security personnel and surveillance cameras. Visitor accesses to data importer sites are pre-registered.

3. Organizational Security

When media are to be disposed of or re-used, procedures have been implemented to prevent any subsequent retrieval of any Personal Data stored on them before they are withdrawn from the inventory. When media are to leave the premises at which the files are located as a result of maintenance operations, procedures have been implemented to prevent undue retrieval of Personal Data stored on them.

Data importer implemented security policies and procedures to classify sensitive information assets, clarify security responsibilities and promote awareness for employees.

4. Network Security

The data importer maintains network security using industry standard techniques, including firewalls, intrusion detection and prevention systems and access control lists.

5. Access Control

Access Personal Data is restricted to authorized users under secure protocols only. Only authorized staff can grant, modify or revoke access to information systems that use, process, transmit or store Personal Data.

User administration procedures define user roles and their privileges, how access is granted, changed and terminated; addresses appropriate segregation of duties; and defines the logging/monitoring requirements and mechanisms.

All relevant employees of the data importer are assigned unique user IDs. Access rights are granted based on "need-to-know" and "least privilege" principles. The data importer implements effective security measures on the whole lifecycle of user accounts and passwords.

6. Virus and Malware Controls

The data importer installs and maintains an appropriate anti-malware solution.

7. Personnel

The data importer implements a regular security awareness program to train relevant new joiners and existing personnel about their security obligations.

The data importer has clearly defined roles and responsibilities for the employees. Appropriate screening checks are implemented before employment with terms and conditions of employment applied appropriately. Processes are in place to ensure timely revocation of leavers' access to Personal Data.

8. Disaster Recovery

The data importer implements appropriate disaster recovery plans. Data importer reviews such plans regularly.

9. Compliance

The data importer has regular checks and security tests conducted to ensure continuous compliance and effectiveness of security controls over the Personal Data.