

XUNLOCKED – INSTITUTION TERMS

These terms (the "**Terms**") set out the terms and conditions on which xUnlocked Ltd, a company incorporated in accordance with the laws of England and Wales with company number 11004242, registered at 24-28 Bloomsbury Way, London, WC1A 2SN, United Kingdom (the "**Company**") provides its education content services (the "**Services**") through its website xunlocked.com (the "**Platform**") to the Institution.

1. USER SUBSCRIPTIONS

- 1.1** Subject to (i) the payment of the Subscription Fee, (ii) the restrictions set out in this clause 1 and (iii) the other terms and conditions set out in these Terms, the Company hereby grants to the Institution a non-exclusive, non-transferable right, without the right to grant sub-licences, to permit the Authorised Users to use the Services during the Subscription Term.
- 1.2** In relation to the Authorised Users, the Institution undertakes that:
- 1.2.1** no person other than an Authorised User shall be permitted to view or access the Services;
 - 1.2.2** the maximum number of Authorised Users that are authorised to access and use the Services shall not exceed the number of User Subscriptions paid for from time to time;
 - 1.2.3** it will not allow any User Subscription to be used by more than one individual Authorised User;
 - 1.2.4** each Authorised User shall keep a secure password for their use of the Services, and that each Authorised User shall keep their password confidential; and
 - 1.2.5** if any password has been provided to any individual who is not an Authorised User, then without prejudice to the Company's other rights, the Company shall be entitled to disable such passwords and not issue any new passwords to any such individual.
- 1.3** The Institution shall not (and shall procure that its Authorised Users shall not), except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under these Terms, including, for the avoidance of doubt, clause 7.2:
- 1.3.1** attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Platform and/or Content (as applicable) in any form or media or by any means; or
 - 1.3.2** attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Platform; or
 - 1.3.3** access all or any part of the Services and Content in order to build a product or service which competes with the Services and/or the Content; or
 - 1.3.4** use the Services and/or Content except as permitted under these Terms; or
 - 1.3.5** licence, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Content available to any third party; or
 - 1.3.6** attempt to obtain, or assist third parties in obtaining, access to the Services and/or Content, other than as provided under these Terms.
- 1.4** The Institution shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Content and, in the event of any such unauthorised access or use, promptly notify the Company.

2. THE PLATFORM

- 2.1** The Company shall provide the Institution with all necessary access to the Platform and the Content for the purposes of the Authorised Users accessing the Platform and viewing the Content.
- 2.2** The Company makes no warranty that the Platform will provide an uninterrupted service or be error free, or that any defects will be corrected. The Institution is advised to always use up-to-date firewalls and anti-malware software to protect its equipment and data.
- 2.3** The Company does not warrant that the Services will meet the Institution's requirements; or that the Platform or the Services will be free from Vulnerabilities; or that the Platform or Services will comply with any Heightened Cybersecurity Requirements.
- 2.4** The Company warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under these Terms.

3. ADDITIONAL USER SUBSCRIPTIONS

- 3.1** Subject to clause 3.2 and clause 3.3, the Institution may, from time to time during the Subscription Term, purchase additional User Subscriptions in excess of the number set out in the Subscription Form, in consideration for which the Company shall grant access to the Services to such additional Authorised Users in accordance with the provisions of these Terms.
- 3.2** If the Institution wishes to purchase additional User Subscriptions, the Institution shall notify the Company in writing. The Company

shall, subject to clause 3.3, activate the additional User Subscriptions within 5 Business Days of the Institution's request.

- 3.3** The Institution shall, within 30 days of the date of the Company's invoice, pay to the Company the relevant fees for such additional User Subscriptions as set out in the Subscription Form and, if such additional User Subscriptions are purchased by the Institution part way through the Minimum Subscription Term or any Renewal Period (as applicable), such fees shall be prorated from the date of activation by the Company for the remainder of the Minimum Subscription Term or then current Renewal Period (as applicable). In the event that the Subscription Form does not set forth fees for additional User Subscriptions, no additional User Subscriptions shall be activated until such time as the Institution and the Company have agreed the applicable fees.

4. INSTITUTION DATA

- 4.1** The Institution shall own all right, title and interest in and to all of the Institution Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such data.
- 4.2** The Institution acknowledges and agrees that if the Company processes any personal data on the Institution's behalf when performing its obligations under these Terms, the Institution is the controller and the Company is the processor for the purposes of Data Protection Legislation.
- 4.3** The Company's [Privacy Policy](#), applies to the Institution's and Authorised Users' use of the Platform. It sets out the terms on which the Company processes any personal data collected from the Institution's and Authorised Users' use of the Platform, or that the Institution provides to the Company.
- 4.4** The Institution will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Company for the duration and purposes of these Terms so that the Company may lawfully use, process and transfer the personal data in accordance with these Terms on the Institution's behalf.
- 4.5** The Institution acknowledges and agrees that the Company may use the Institution's name and logo for marketing purposes.
- 4.6** Both parties will comply with all applicable requirements of Data Protection Legislation.
- 4.7** The Company shall:
- 4.7.1** process the Institution Data only in accordance with the written instructions of the Institution from time to time unless required to do so by law and subject to notifying the Institution (save where by law the Company is prohibited from so notifying the Institution);
 - 4.7.2** take reasonable steps to ensure the reliability of its employees, staff, officers and agents who may have access to, or be involved in, the processing of the Institution Data;
 - 4.7.3** ensure that the Company personnel who have access to and/or process the Institution Data are obliged to keep it confidential or are under an appropriate statutory obligation of confidentiality;
 - 4.7.4** ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Institution Data and against loss or destruction of, or damage to, Institution Data, appropriate to the harm that might result from unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the Institution Data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - 4.7.5** assist the Institution, by having appropriate technical and organisational measures, in responding to any request from a data subject;
 - 4.7.6** assist the Institution in its compliance with Data Protection Legislation by:
 - keeping the Institution Data secure;
 - notifying the Institution promptly of any Institution Data breaches;
 - conducting data protection impact assessments; and
 - supporting the Institution's interaction with supervisory authorities or regulators where the data protection risk assessment indicates that there is a high risk to the processing;
 - 4.7.7** at the written direction of the Institution, delete or return Institution Data and copies thereof to the Institution on termination or expiry of these Terms unless the Company is required to store the Institution Data by law;
 - 4.7.8** maintain complete and accurate records and information to demonstrate its compliance with this clause 4.7 and shall allow the Institution at reasonable times and from time to time to audit and review the Company's compliance with this clause 4.7 and the Data Protection Legislation;
 - 4.7.9** inform the Institution immediately if (in the Company's opinion) an instruction for the processing of Institution Data given by the Institution infringes Data Protection Legislation; and
 - 4.7.10** not transfer any of the Institution Data outside the European Economic Area, unless the Company has first entered into the Standard Contractual Clauses with the Institution.
- 4.8** The Company shall, on the Institution's request, provide the Institution with such information about the Company's processing of the Institution Data to allow the Institution to meet its obligations under Data Protection Legislation.
- 4.9** The parties shall agree to any reasonable amendment to this clause 4 necessary to:

- 4.9.1 bring these Terms into line with Data Protection Legislation; or
- 4.9.2 allow the Company to comply with Data Protection Legislation and the requirements and recommendations of the UK Information Commissioner, the EU Commission, or any other data protection supervisory authority or regulator.

5. CONFIDENTIALITY

- 5.1 Each party shall ensure that any Confidential Information it obtains under these Terms is kept strictly confidential, safe and secure.
- 5.2 Neither party will copy, reproduce, distribute or disclose (or allow to be disclosed) any Confidential Information obtained under these Terms to any person without the other party's prior written consent unless required to do so by law, statutory instrument or regulation.
- 5.3 Neither party shall use any Confidential Information obtained under these Terms for any purpose other than as envisaged under these Terms.

6. THE INSTITUTION'S OBLIGATIONS

The Institution undertakes to (i) ensure that each Authorised User complies with these Terms (and shall be responsible for any Authorised User's breach of these Terms); and (ii) cooperate with the Company in all matters relating to the Services.

7. CONTENT ON THE PLATFORM

- 7.1 The Company is the owner or the licensee of all intellectual property rights in the Platform and the Content, and in the material published on it, including but not limited to the Content.
- 7.2 The Authorised Users may play the Content; take notes; download extracts (if applicable) of any page(s) from the Platform for educational purposes and may draw the attention of other Authorised Users within the Institution to content posted on the Platform.
- 7.3 The Authorised Users must not modify any materials and Content downloaded in any way.
- 7.4 The Company's status (and that of any of its identified contributors) as the authors of Content on the Platform must always be acknowledged.
- 7.5 The Institution shall indemnify and hold the Company harmless for any breach by the Institution or any Authorised User of the provisions of clause 1 and this clause 7.

8. INFORMATION ON THE PLATFORM

- 8.1 The Content is provided solely for training and educational purposes only. It does not constitute advice or promotion of any kind (including investment, financial, regulatory or legal advice) and should not be construed as such or relied upon in any way in making or refraining from making any investment or other decision. The Company shall have no liability for any action taken by the Institution or any Authorised User on the basis of the Content.
- 8.2 Although the Company makes reasonable commercial efforts to update the information on the Platform and ensure its accuracy, the Company makes no representations, warranties or guarantees, whether express or implied, that the Content or the Platform is accurate, complete or up to date.

9. THE COMPANY'S LIABILITY

- 9.1 The Company does not exclude or limit in any way its liability to the Institution where it would be unlawful to do so. This includes, but is not limited to, fraud and fraudulent misrepresentation.
- 9.2 The Company does however exclude all implied conditions, warranties, representations or other terms that may apply to the Platform or any Content on it or the Services.
- 9.3 The Company's maximum liability to the Institution will be limited to the amount of any licence fee received by the Company from the Institution in the period of 12 calendar months before the occurrence of any claim, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, even if foreseeable, arising under or in connection with: use of, or inability to use, the Platform; use of or reliance on any content displayed on the Platform. In particular, the Company will not be liable for: loss of profits, sales, business, or revenue; business interruption; loss of anticipated savings; loss of business opportunity, goodwill or reputation; or any indirect or consequential loss or damage. For the avoidance of doubt, any indemnity set forth herein shall not be subject to this limitation of liability.

10. CHARGES AND PAYMENT

- 10.1 The Institution shall pay the Subscription Fee to the Company for the User Subscriptions within 30 days of issue of an invoice by the Company.
- 10.2 Unless the amounts due are disputed between the Institution and the Company, if the Company has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of the Company:
 - 10.2.1 the Company may disable access to the Services to the Institution and the Authorised Users and the Company shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

10.2.2 the Company may charge interest which shall accrue on a daily basis on such due amounts at an annual rate equal to 4%, commencing on the due date and continuing until fully paid, whether before or after judgement.

10.3 All amounts and fees stated or referred to in these Terms:

10.3.1 shall be payable in £ pound sterling;

10.3.2 are non-cancellable and non-refundable and

10.3.3 are exclusive of value added tax, which shall be added to the Company's invoice(s) at the appropriate rate.

10.4 The Company shall be entitled to increase the Subscription Fee by 4.5% each year, effective from the start of the next Subscription Term and subject to the Company giving the Institution not less than 90 days' prior notice, and the Subscription Form shall be deemed amended accordingly.

11. INTELLECTUAL PROPERTY

The Institution acknowledges that all present and future copyright and other intellectual property rights subsisting in, or used in connection with, the Platform and the Content (the "**Intellectual Property**") is the Company's property (or that of the Company's licensors), and nothing in these Terms (other than the right in clause 1.1) shall be taken to transfer any of the Intellectual Property to the Institution.

12. TERM AND TERMINATION

12.1 This Contract shall, unless otherwise terminated as provided in this clause 12, commence on the Commencement Date and shall continue for the Minimum Subscription Term. Thereafter, for successive Renewal Periods, agreement must be made in writing, at least 60 days before the end of the Minimum Subscription Term or any Renewal Period. If a new agreement is not reached, this Contract shall terminate upon the expiry of the applicable Minimum Subscription Term or Renewal Period.

12.2 Either party may terminate this Contract with immediate effect by giving written notice to the other party if:

12.2.1 either commits a material breach of these Terms and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;

12.2.2 either takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring) or having a receiver appointed to any of its assets; or

12.2.3 either suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.

12.3 Without limiting the Company's other rights or remedies:

12.3.1 the Company may terminate this Contract and the Services with immediate effect by giving written notice to the Institution if the Institution fails to pay any undisputed fee due under these Terms on the due date for payment and fails to pay all outstanding undisputed fees within 30 days after being notified in writing to do so; and

12.3.2 the Company may suspend provision of the Services to the Institution under these Terms if the Institution becomes subject to any of the events listed in clause 12.2.2 or the Company reasonably believes that the Institution is about to become subject to any of them, or if the Institution fails to pay any fees due under these Terms in accordance with these Terms (save where disputed in good faith).

12.4 Termination of these Terms does not affect the Institution's ongoing obligation to pay any fees due under these Terms. Terms 4 to 12 (inclusive) and 14 shall survive the termination of these Terms and continue in full force and effect and:

12.4.1 the Institution shall immediately pay to the Company all outstanding unpaid, undisputed invoices and interest in respect of the period up to the date of termination and, in respect of the fees due in respect of the period up to the date of termination but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Institution within 30 days of receipt; and

12.4.2 the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of these Terms which existed at or before the date of termination or expiry.

13. FORCE MAJEURE

The Company shall have no liability to the Institution under these Terms if it is prevented from or delayed in performing its obligations under these Terms, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, pandemic, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors, provided that the Institution is notified of such an event and its expected duration.

14. GENERAL

14.1 Assignment and other dealings

- 14.1.1 The Company may, with the Institution's prior written consent (not to be unreasonably withheld or delayed), assign, transfer, subcontract or deal in any other manner with all or any of its rights under these Terms and may subcontract or delegate in any manner any or all of its obligations under these Terms to any third party or agent.
- 14.1.2 The Institution may, with the Company's prior written consent (not to be unreasonably withheld or delayed), assign, transfer, subcontract, or deal in any other manner with any or all of the Institution's rights or obligations under these Terms.

14.2 Notices

- 14.2.1 A notice given to a party under or in connection with these Terms shall be in writing, sent to the address or email of the relevant party stated in the Subscription Form.
- 14.2.2 Any notice sent under or in connection with these Terms and the Services is deemed delivered on the next day following delivery.
- 14.2.3 This clause 14.2 does not apply to the service of any proceedings or other documents in any legal action.

14.3 Severance

If any provision or part-provision of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these Terms.

14.4 Waiver

A waiver of any right or remedy is only effective if given in writing. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy nor prevent or restrict the further exercise of that or any other right or remedy.

14.5 Third parties

A person who is not a party to these Terms shall not have any rights to enforce its terms.

14.6 Modern Slavery

In performing its obligations under these Terms, the Company shall comply with all applicable anti-slavery and human trafficking laws, statutes or regulations from time to time in force including, but not limited to, the Modern Slavery Act 2015.

14.7 Anti-bribery

Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that: all of that party's personnel; all others associated with that party; and all of that party's sub-contractors; involved in performing the Contract so comply.

14.8 Governing law and jurisdiction

This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales and each of the parties irrevocably agrees that the courts of London, England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract.

15. DEFINITIONS AND INTERPRETATION**15.1 Definitions**

"**Authorised Users**" means those employees, agents, consultants, graduates, interns and other persons who are authorised by the Institution to use the Services in accordance with the Terms.

"**Bribery Laws**" means the Bribery Act 2010 and all applicable laws in connection with bribery or anti-corruption.

"**Business Day**" means a day (other than a Saturday, Sunday or public holiday) when banks in London, England are open for business. "**Commencement Date**" means the commencement date for the Services as set out in the Subscription Form.

"**Confidential Information**" means any information (including personal data) obtained under these Terms by one party which relates to the other party and is identified as being confidential or should reasonably be considered as confidential due to the nature of the information, but shall exclude information (i) which is in the public domain, (ii) which was known by the receiving party before the date the information is disclosed by the disclosing party (and can be demonstrated as such beyond reasonable doubt) or is lawfully obtained by the receiving party thereafter, other than from a source which is subject to any obligation of confidentiality, and (iii) whose disclosure has been consented to in writing by the disclosing party

"**Content**" means all content made available by the Company online via the Platform.

"**Data Protection Legislation**" means all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including, without limitation: (i) any data protection legislation from time to time in

force in the UK including the Data Protection Act 2018 or any successor legislation, as well as; (ii) the General Data Protection Regulation, Regulation (EU) 2016/679, as it forms part of domestic law in the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom or of a part of the United Kingdom from time to time.

"Heightened Cybersecurity Requirements" means any laws, regulations, codes, guidance (from regulatory and advisory bodies, whether mandatory or not), international and national standards, industry schemes and sanctions, which are applicable to either the Customer or an Authorised User (but not the Customer) relating to security of network and information systems and security breach and incident reporting requirements, which may include the cybersecurity Directive ((EU) 2016/1148), Commission Implementing Regulation ((EU) 2018/151), the Network and Information systems Regulations 2018 (SI 506/2018), all as amended or updated from time to time.

"Minimum Subscription Term" means the minimum term subscription for the Services as set out in the Subscription Form.

"Institution Data" means the personal data inputted by the Institution, the Authorised Users, or the Company on the Institution's behalf for the purpose of using the Services or facilitating the Institution's and Authorised User's use of the Services.

"Renewal Period" means further successive periods of 12 months following the Minimum Subscription Term.

"Standard Contractual Clauses" means the UK standard contractual clauses published by the Information Commissioner's Office, as amended and updated from time to time.

"Subscription" means the subscription for the Services in accordance with these Terms.

"Subscription Fee" means the subscription fee for the Services payable by the Institution in accordance with these Terms.

"Subscription Term" means the Minimum Subscription Term and any subsequent Renewal Periods.

"User Subscriptions" means the user subscriptions purchased by the Institution in accordance with the Terms which entitle Authorised Users to access and use the Services in accordance with these Terms.

"Vulnerability" means a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term "Vulnerabilities" shall be construed accordingly.

15.2 Interpretation

- 15.2.1 References to clauses are to the clauses of these Terms.
- 15.2.2 Clause headings shall not affect the interpretation of these Terms.
- 15.2.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 15.2.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 15.2.5 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of these Terms.
- 15.2.6 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of these Terms under that statute or statutory provision.
- 15.2.7 A reference to writing or written includes e-mail.