

## Education Perfect Limited – Platform Terms of Use

### PLEASE READ THESE TERMS OF USE CAREFULLY

Education Perfect Limited (NZCN 6584033) and its affiliates and partners ("**Education Perfect**") provide an online learning platform, software and related components, products and services on [www.educationperfect.com](http://www.educationperfect.com) and subdomains, mobile applications and other media managed by Education Perfect, including access to all of the Education Perfect e-learning competitions (collectively, the "**Online Learning Tool**") that can be used by schools/organisations, teachers/trainers, students/learners and their parents, (collectively, the "**Users**").

These Terms of Use are entered into by and between you as a User and Education Perfect, and together with [Education Perfect's Privacy Policy](#), govern your access to the Online Learning Tool and its content and functionality.

**Your use of the Online Learning Tool, and its content, constitutes your agreement to be bound by these Terms of Use.** The offering of the Online Learning Tool to you is conditional on your acceptance of these Terms of Use. If you do not agree to these Terms of Use, you must not access or use the Online Learning Tool.

**If you are under the age of 18, you must have the permission of your parent or guardian to use the Online Learning Tool and by using the Online Learning Tool you promise that you have such permission.**

#### 1. USER ACCOUNT

- 1.1 You will be given an account ("**User Account**") to access the Online Learning Tool. Registration of the User Account will require you to provide a valid e-mail address for the communication between Education Perfect and you related to the Online Learning Tool and will require you to create a password for log in purposes.
- 1.2 By using the User Account, you will be responsible for maintaining the security of your User Account, for all activities that occur under the User Account and any other actions in relation to the User Account. You should not share your log in details with any other person.
- 1.3 You must immediately notify Education Perfect at [privacy@educationperfect.com](mailto:privacy@educationperfect.com) of any unauthorised uses of your User Account or any other breaches of security. Education Perfect will not be liable for any acts or omissions by you, including any damages of any kind incurred as a result of such acts or omissions.
- 1.4 Education Perfect will have the right to suspend access to your User Account, or to terminate your User Account, at any time if you are in violation of any of the provisions in this Term of Use.

## 2. **YOUR RESPONSIBILITIES**

### 2.1 **Your Use of the Online Learning Tool**

You are solely responsible for your use of, and actions on, the Online Learning Tool and use it at your own risk. In using this Online Learning Tool, you must behave in a civil and respectful manner at all times and agree not to:

- (a) use the Online Learning Tool in a way that infringes the rights of other Users, or restricts or inhibits any other User or person from using or enjoying the Online Learning Tool, including but not limited to actions which harass or cause distress to any other User or person;
- (b) use the Online Learning Tool in any way that violates applicable laws, rules or regulations or otherwise to exploit or harm (or attempt to exploit or harm) any other person;
- (c) probe, scan or test the vulnerability of the Online Learning Tool or any network connected to it, nor breach the security or authentication measures on the Online Learning Tool or any network connected to it (including but not limited to distributed denial-of-service ("**DDOS**") attacks or the introduction of viruses or other destructive code); or
- (d) interfere by any automatic or manual device, program, algorithm or methodology with the proper working of the Online Learning Tool or with any other User's use of the Online Learning Tool.

### 2.2 **User Generated Content**

Where you create content and submit or upload this to the Online Learning Tool (for example, learning resources, assessments, homework assignments etc) ("**User Generated Content**"), you are responsible for ensuring that such User Generated Content complies with all applicable laws, rules and regulations. You expressly agree not to submit or upload any User Generated Content which:

- (a) contains material that is defamatory, discriminatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory or otherwise objectionable;
- (b) you do not have the right to submit or upload, including where the content may infringe any patent, trademark, trade secret, copyright, or other intellectual property or proprietary right ("**Intellectual Property Rights**") of any party;
- (c) impersonates any person or entity or otherwise associates, infers, or misrepresents the User's affiliation with a person or entity;
- (d) contains the personal information of any third party unless that third party has expressly consented to such use and disclosure;

- (e) contains viruses, corrupted data, or other harmful, disruptive, or destructive files;
- (f) constitutes unsolicited promotions, campaigning, advertising or solicitations, or other types of content which constitute "spam"; or
- (g) may expose Education Perfect or other Users to any harm or liability of any kind.

Education Perfect reserves the right to judge in its sole discretion whether any submitted User Generated Content infringes any of the above restrictions. Education Perfect has the right, but not the obligation, to monitor all conduct and content submitted to the Online Learning Tool, and may in its sole discretion remove or disable access to User Generated Content that breaches these Terms of Use.

If you believe that any other User's User Generated Content, third party's content or Education Perfect's content violates any applicable laws, rules or regulations, including, without limitation, any copyright laws, you should report it to Education Perfect.

### 3. **INTELLECTUAL PROPERTY**

#### 3.1 **Education Perfect's Intellectual Property Rights**

All of the Intellectual Property Rights in the Online Learning Tool (except the User Generated Content) are owned by Education Perfect, its licensors and other providers of such material and are protected by applicable Intellectual Property Rights. Users may not engage in any activity on or through the Online Learning Tool, including transmitting or using User Generated Content, that infringes or otherwise makes unauthorised use of another party's Intellectual Property Rights.

#### 3.2 **Licence to Use the Online Learning Tool**

Education Perfect grants each User a limited, non-exclusive, non-sublicensable and non-transferable license to access and use the Online Learning Tool (excluding the User Generated Content) (together the "**Platform Content**") for their own personal and commercial (in the case of teachers/trainers and schools/organisations) purposes subject to the following conditions:

- (a) Users may only view, copy, and print such portions of the Platform Content for their own personal use and may not copy or distribute any Platform Content to any other person or for commercial use;
- (b) Users may not modify or otherwise make derivative works of the Platform Content, or reproduce, distribute, or display the Platform Content except as expressly permitted in these Terms of Use;
- (c) Users may not remove or modify any copyright, trademark, or other proprietary notices that have been placed in the Platform Content;

- (d) Users may not use any data mining, robots, or similar data gathering or extraction methods; and
- (e) Users may not use the Platform Content other than for their intended purposes.

This licence shall terminate upon the termination of a User's User Account.

### 3.3 **User Generated Content**

Where you generate or upload User Generated Content on our Online Learning Tool, you retain the ownership in the intellectual property you generate.

By posting or otherwise providing User Generated Content to or through the Online Learning Tool, the User grants Education Perfect a non-exclusive, royalty-free, transferable, irrevocable, perpetual (or if not permitted under applicable laws, for the term of your use of our Services plus twenty (20) years) worldwide license and right to use, display and otherwise make available such User Generated Content on the Online Learning Tool for the purpose of providing the Online Learning Tool to Users.

Where the User is a school/organisation or teacher/trainer who has chosen to share User Generated Content posted or otherwise provided to or through the Online Learning Tool with other Users, the User grants Education Perfect, and any other Users to whom the User Generated Content is shared with, a non-exclusive, royalty-free, transferable, irrevocable, perpetual (or if not permitted under applicable laws, for the term of your use of our Services plus twenty (20) years) worldwide license and right to use, display, publicly perform, reproduce, distribute, publish, modify, adapt, translate, create derivative works of, make available and sublicense and otherwise use and exploit such User Generated Content.

The User represents and warrants that it owns and controls all of the rights to the User Generated Content, and has the lawful right to post the User Generated Content on the Online Learning Tool and otherwise provide Education Perfect with the User Generated Content.

Aside from the rights specifically granted in these Terms of Use, you retain ownership of all Intellectual Property Rights in your User Generated Content. Where applicable and permitted under applicable law, you also agree to waive any “moral rights” (or the equivalent under applicable law) such as your right to be identified as the author of any User Generated Content, and your right to object to derogatory treatment of such User Generated Content.

You are solely responsible for all User Generated Content that you submit or upload. Education Perfect is not responsible for User Generated Content nor does it endorse any opinion contained in any User Generated Content. You agree that if anyone brings a claim against Education Perfect (or its respective directors, officers, employees and agents) related to your User Generated Content, then, to the extent permissible under local law, you will indemnify and hold Education Perfect harmless from and against all damages, losses, and expenses of any kind (including reasonable legal fees and costs) arising out of such claim.

## **4. DISCLAIMERS AND LIMITS OF LIABILITY**

### **4.1 Availability and Accuracy**

Education Perfect will make reasonable efforts to ensure that the Online Learning Tool is available to you. However, access to the Online Learning Tool may be disrupted from time to time due to necessary maintenance, technical issues or events outside of Education Perfect's control. Education Perfect will use commercially reasonable efforts to avoid downtime of the Online Learning Tool during peak hours, but assumes no liability if the Online Learning Tool or any part thereof is unavailable at any time or for any period.

Education Perfect does not guarantee that the Online Learning Tool, or any content, service or feature of the aforementioned, will be error-free, compliant with all hardware and software, that any defects will be corrected or that your use of the Online Learning Tool will provide expected results. Although we endeavour to provide the best service we can, you understand and agree that the Online Learning Tool is delivered to you on an "as-is" and "as available" basis, and to the extent permissible under local laws, Education Perfect disclaims all warranties of any kind, express or implied, including without limitation, warranties of fitness for a particular purpose, accuracy or reliability of content and non-infringement of proprietary rights.

Some aspects of this section may not apply in some jurisdictions if prohibited by local laws. Nothing in these Terms of Use affects your statutory rights as a consumer under relevant local laws.

### **4.2 User Generated Content**

Education Perfect has not reviewed the User Generated Content posted on the Online Learning Tool and is not responsible for the User Generated Content, or the use or effects of the Platform Content or User Generated Content. Furthermore, Education Perfect makes no representations, warranties or guaranties, whether express or implied, that the User Generated Content is accurate, complete or up to date.

### **4.3 Security**

You understand that we cannot and do not guarantee or warrant that files available for downloading from the Online Learning Tool will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for antivirus protection and accuracy of data input and output, and for maintaining a means external to the Online Learning Tool for any reconstruction of any lost data.

Education Perfect will not be liable for any loss or damage caused by a DDOS attack, viruses or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of the Online Learning Tool or your downloading of any material posted on the Online Learning Tool or on any sites linked to on the Online Learning Tool.

### **4.4 External Website Links**

Education Perfect has not reviewed all of the material made available through the other websites that the Online Learning Tool may link to. Education Perfect does not have any control over these other websites and is not responsible for their contents or their use. By linking to such other websites, Education Perfect does not represent or warrant that it endorses such websites. When you leave the Online Learning Tool, our terms and policies (including these Terms of Use) no longer apply. You should review applicable terms and policies, including privacy and data gathering practices, of any other websites and perform your own investigations before entering into any transactions with any third parties.

#### **4.5 Limitation of Liability**

You agree that, to the fullest extent permissible by applicable local laws, your sole and exclusive remedy for problems or dissatisfaction with the Online Learning Tool is to stop using the Online Learning Tool. In any event, Education Perfect's aggregate liability to you for claims related to the Online Learning Tool shall be limited, to the fullest extent such limit is permissible by applicable local laws, to the lower of: (a) the annual subscription fee payable by you or on your behalf in connection with your access to the Online Learning Tool; and (b) NZ\$100.00 (one hundred New Zealand Dollars).

To the fullest extent permissible by applicable local laws, Education Perfect excludes all liability for damages and direct, indirect or consequential loss or otherwise incurred by you or any third party and arising out of or in any way connected with the use of the Online Learning Tool. However, nothing in these Terms of Use should be deemed to exclude or limit Education Perfect's liability where it would be unlawful under any applicable local laws to do so – this includes liability for fraud, fraudulent misrepresentation or death or personal injury caused by Education Perfect's negligence.

### **5. COMPETITIONS**

5.1 Depending on your subscription type, your use of the Online Learning Tool automatically allows you to access our competitions if you want to enter. The following rules shall apply to all competitions organised or hosted by Education Perfect on the Online Learning Tool. By participating in a competition, a User agrees to be bound by these rules.

- (a) Competitions are only open to Users with an active User Account, and not any other User.
- (b) All entries or questions answered during a competition must be the User's own work. The User must not use, copy or otherwise plagiarise the work of another User or any person, and must not collaborate or otherwise work with another User, unless the additional rules of the specific competition provide otherwise.

- (c) All submissions must be made prior to the deadline, and in the manner and form, specified for the particular competition.
  - (d) Prizes are determined and awarded at Education Perfect's discretion and no prizes will be awarded as a result of improper actions by or on behalf of any User.
  - (e) Prizes are non-transferable and there is no cash alternative. Education Perfect reserves the right to substitute prizes of equal or greater value at any time.
  - (f) Education Perfect reserves the right to disqualify any competitor if it has reasonable grounds to believe that the competitor has breached any of these rules. Where a competitor is disqualified, Education Perfect in its sole discretion may decide whether a replacement competitor or winner (as the case may be) should be selected.
- 5.2 These rules may be supplemented, amended or superseded by notices published by Education Perfect in relation to specific competitions.
6. **MISCELLANEOUS**
- 6.1 **Data Privacy.** We will only use your personal information as set out in [Education Perfect's Privacy Policy](#), as amended from time to time.
- 6.2 **Changes to Terms of Use.** Education Perfect may revise and update these Terms of Use at any time in our sole discretion. All such changes to the Terms of Use are effective immediately when posted to the Education Perfect website or on the Online Learning Tool and apply to all access to and use of the Online Learning Tool thereafter. Your continued use of the Online Learning Tool following the posting of such revised Terms of Use constitutes your acceptance and agreement to the changes which are binding on you.
- 6.3 **Validity.** If any provision of these Terms of Use is deemed unlawful, void, or unenforceable, that provision shall be deemed severed from the remaining provisions and shall not affect their validity and enforceability.
- 6.4 **Waiver.** No waiver of any provision hereof shall be valid unless in writing signed by the parties. Any failure to enforce any right or remedy hereunder shall not operate as a waiver of the right to enforce such right or remedy in the future or of any other right or remedy.
- 6.5 **Third Party Rights.** A person who is not a party to these Terms of Use has no right whether by applicable statute or otherwise to enforce any term of these Terms of Use.
- 6.6 **Governing Law and Jurisdiction.** Except to the extent required by mandatory local laws, these Terms of Use are governed by New Zealand law. You hereby agree to submit to the jurisdiction of the Courts of New Zealand in respect of any disputes in relation to these Terms of Use, except where the courts of another country would have jurisdiction in accordance with mandatory local laws.

6.7 **Contact details.** If you have questions or issues in relation to these Terms of Use or the Online Learning Tool, you may contact us at:

**Education Perfect Limited**

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