



Pearson

Additional Terms and Conditions

Pearson Australia Higher Education

Last updated: 23 March 2020

1. Definition and Interpretation

- 1.1. These Additional Terms and Conditions shall be incorporated into and made part of the Agreement for Access and Use of Pearson Products (Institutional) that references this URL and shall, together with such Agreement for Access and Use of Pearson Products (Institutional) and any Term Sheet/s form the agreement between the parties (and be collectively referred to as the "Agreement").
- 1.2. No variation or addition to these Additional Terms and Conditions will be effective without the prior written consent of Pearson, and any additional or alternative terms that Customer may seek to impose will be void and/or unenforceable.
- 1.3. In this Agreement words and phrases have the meaning given to them in the Agreement for Access and Use of Pearson Products (Institutional) and/or Term Sheet and this clause 1.4:
 - a) "Customer Materials" means logos, information, materials or other content provided to Pearson by Customer or its Users whether directly or indirectly (such as by placement of such materials by Users within Pearson's systems, including but not limited to assignments allocated to Users and the results of those assignments);
 - b) "Data Protection Laws" means all applicable laws and regulations relating to the processing of Personal Information, and in particular the Privacy Act 1988;
 - c) "EULA" means the End Authorized User License Agreement provided by Pearson on the platform through which a Product is accessed;

- d) "Law" means all laws including rules of common law, principles of equity, statutes, regulations, proclamations, ordinances, by-laws, mandatory codes of conduct, writs, orders, injunctions and judgments;
- e) "LMS" means a learning management system;
- f) "Marks" means trade names, trademarks and logos;
- g) "Party" means each of Pearson and Customer, as applicable;
- h) "Personal Information" means personal data, personal information, personally identifiable information or covered information related to an identifiable individual as applicable and defined under applicable Data Protection Laws;
- i) "Pearson Materials" means content, materials, technology, Marks and data contained in the Products and any derivative works thereof;
- j) "Schedule" means each of the schedules to these Additional Terms and Conditions. The Terms Sheet indicates which of the schedules (if any) apply to and are incorporated in this Agreement.

Capitalized terms not defined herein shall have the meanings ascribed in the Agreement.

2. Digital Products and Services - Users

- 2.1. Any digital Products or Services ordered by Customer are supplied on the basis that they will only be accessed by authorised Users, and that Customer orders one unit per User. If necessary and on request, Pearson reserves the right to audit Customer's registration information to ensure that only enrolled students and other authorised Users have been provided with access codes/passwords. Access codes/passwords are unique to each User and may not be shared.
- 2.2. Users of digital Products/Services will be granted access for the Access Period applicable to each Product/Service, subject to any activation or registration requirements or other restrictions or limitations set out in the Term Sheet. For the avoidance of doubt, unless the Term Sheet provides otherwise, access codes must be used in the year of purchase and unused access codes may not be rolled over into subsequent years, even if Users have not activated or used the Product or Service concerned.

3. Access and Use

- 3.1. Each Product may be made available by Customer solely to Users, who may access such Pearson Product upon accepting Pearson's EULA and Privacy Policy.
- 3.2. To the extent a Product is made available to Users via a link from a Customer LMS, Customer (by itself or through its third-party provider) will ensure that only Users

access the Product and that such Customer LMS applies digital rights management and other protections necessary to prevent copyright infringement, misappropriations and misuse of the Product.

3.3. If a Customer LMS incorporates a single sign-on feature that enables Users to directly access a Product or Service without initial registration or log-on, then Customer (by itself or through its third-party provider) shall require Users to access and use the Product in a manner consistent with the terms of Pearson's EULA and Privacy Policy.

3.4. If Pearson gives Customer the ability to generate passwords and/or User identifications to allow Users to access Pearson's systems, Customer will control and manage access to Pearson's systems. Customer acknowledges that its data security may be compromised if Users do not follow all applicable security policies and procedures and it shall take all appropriate steps to maintain the security of the Pearson system, including keeping user identifications and passwords confidential, frequent changing of passwords, and maintaining appropriate internal controls to monitor access to and use of the Pearson system. Pearson may suspend access to Pearson Products, in whole or in part, if in Pearson's reasonable discretion there is an emergency situation, including but not limited to a breach of security or unauthorized use of Pearson Products.

4. Restrictions on Use

4.1. Customer acknowledges that the Products are intended solely for distribution to authorized Users for personal, non-commercial use in their respective Courses. Customer will not sell, resell, license, sublicense, distribute, make accessible, share user credentials, rent or lease the Products to any students, individuals, institutions or third parties who are not authorized Users.

4.2. Customer must not, and must ensure that Users do not: (a) use the Products in any unlawful manner, for any unlawful purpose, fraudulently or maliciously, including by hacking or inserting malicious code, viruses, or harmful data, into the Products or any of Pearson's systems; or (b) infringe Pearson's intellectual property rights or those of any third party in accessing or using of the Products or Services.

5. Ownership

5.1. All right, title and interest in and to the Products and Services and the Pearson Materials are expressly reserved by Pearson, except for Customer Materials contained in the Products, if any.

5.2. Except as expressly set forth in an Agreement, all rights with regard to all Products are reserved by Pearson and under no circumstances shall Customer resell, publish, transfer, distribute, sublicense, provide access to, communicate to the public by telecommunication, copy, adapt, translate, reproduce, modify, enhance, or use the Products or Pearson Materials without the express written permission of Pearson. Customer will be responsible for any losses to Pearson arising out of Customer's or its agents' unauthorized distribution, alteration or use of the Products or Services.

6. **Third Party Services.** If Customer chooses to use third party products and/or services ("Third Party Services") that are accessed through an integration from the Pearson system to the third party's applications, Customer must contract directly with the applicable third party for the Third Party Services. The privacy policies and other terms applicable to the use of Third Party Services may differ from those applicable to the Products and Services. If Customer's use of Third Party Services requires transfer of or access to Customer or User data to/by the third party, Customer expressly consents to such transfer/access. Pearson makes no representations or warranties, express or implied, as to the Third Party Services and shall not be liable for any claims relating to them. Insofar as Products are made accessible to Users via a third party platform (such as an ebook delivery platform), the Customer shall maintain an account with its designated platform provider at all times in order to access the Products. Pearson shall not be responsible for any failure or delay in access due to the Customer's lack of access to the platform for any reason whatsoever.

7. **Security Audit.** Pearson has the right to audit and inspect the systems and processes of Customer and its third-party partners for compliance with this Agreement. Pearson may stop distributing digital Products to Customer if at any time Pearson determines that Customer's direct or indirect practices for protecting the Products from unauthorised use are inadequate. If Customer is not able to remedy such practices to Pearson's satisfaction within 10 days, Pearson will be entitled to terminate this Agreement immediately for material breach.

8. **Books and Records**

8.1. Customer will maintain complete and accurate books of account and records covering all usage of Products under any Term Sheet, as well as all Course enrolment information.

- 8.2. Pearson will have the right to inspect and copy such records upon reasonable notice in order to confirm Customer's use of the Products and to verify Customer's usage reports.
- 8.3. Customer will immediately pay any shortfall that result from Pearson's inspection of such records.

9. Termination of Access to Digital Products/Services

- 9.1. The use of Products/Services by Users is subject to any EULA and Privacy Policy associated with such Product or Service. Customer will promptly notify Pearson of any actual or suspected violation discovered by Customer and will cooperate with Pearson regarding any violation, including termination of the violator's access to the Products/Services. Pearson reserves all rights against the violator including the right to bring any legal or equitable action Pearson deems appropriate.
- 9.2. Pearson may require Customer and its Users to stop (within 3 business days) using any Product/Service if: (i) Pearson notifies Customer that Pearson no longer has the necessary rights to the Product/Service or the Product/Service has been discontinued, (ii) Pearson believes cessation is necessary to limit or avoid liability, or (iii) Pearson is otherwise required by law or court order to cease and desist. In such events, Pearson will use commercially reasonable efforts to replace, at no cost to Customer, any affected Products/Services with other materials for Customer to use in accordance with the Agreement.

10. Payment

- 10.1. Pearson will issue a tax invoice to the Customer in respect of the Fees. In respect of any taxable supply, the Customer must pay to Pearson an additional amount equal to the prevailing GST rate, payable at the same time and in the same manner as the fees, subject to the receipt by the Customer of a valid tax invoice. Customer will pay all amounts invoiced, in AUD, within thirty (30) days of invoice date. 'GST' has the meaning given in A New Tax System (Goods and Services Tax) Act 1999 (Cth), or any other similar tax.
- 10.2. For the avoidance of doubt, any access codes distributed to Users which are not activated by those Users shall still be charged and will still expire at the end of the relevant Access Period or as otherwise provided on the Term Sheet. Similarly, where Customer has purchased the right for its Users to access digital Products/Services via integration with the Customer's LMS or VLE, payment will be due for the total number of Users identified on the Term Sheet, regardless of whether those Users accessed the Products/Services. Access to unused

Products/Services will expire at the end of the Access Period or at the end of any other registration period communicated to Customer and may not be rolled forward into subsequent years. If Customer fails to make any payment due to Pearson pursuant to the Agreement and such failure continues for fifteen (15) days following the provision of written notice detailing such failure to Customer, unless Customer has provided Pearson with notice that Customer in good faith disputes the amount of such payment, Pearson may, at its discretion, (i) suspend all further use and distribution of Pearson Products or (ii) terminate the Agreement and require all amounts to be paid thereunder.

11. **Use of Marks.** Each Party owns certain Marks, and such Marks are and will remain the exclusive property of such Party. The Agreement gives the other Party no rights therein, and the other Party will never assert any rights therein; provided, however, that Customer grants to Pearson a non-exclusive, non-royalty bearing license to reproduce Customer's Marks solely in conjunction with the publication, distribution and sale of the Products to Customer under the Agreement. Customer further agrees not to remove or alter any Pearson Mark or other proprietary notice in or on any Product.

12. **Term and Termination.** This Agreement may be terminated: (a) immediately if the other fails to remedy a material breach within 60 days' after receiving notice asking it to remedy the breach; or (b) immediately if the other becomes bankrupt, ceases or threatens to cease to do business, or is the subject of any actual or threatened insolvency event. On termination Customer and its Users will have no further right to access or use any digital Products/Services or to receive any further Services. Any amounts due under this Agreement as at the date of termination will be paid immediately. Further, all sums which would have become due had this Agreement continued will become immediately due and payable if this Agreement is terminated by Pearson under this clause 12.

13. **Customer Materials**

- 13.1. If Customer or its Users provide Pearson with Customer Materials, then:
- a) Customer grants Pearson a non-exclusive licence to access, use, copy, transmit and prepare derivative works from the Customer Materials in order to supply the Products and Services and to supply analysis and feedback to Customer on the Users' usage of the Products and Services; and
 - b) Customer represents and warrants that it owns the Customer Materials or has obtained the necessary rights or consents to the Customer Materials so that

Pearson's use of it in order to supply the Products and Services to Customer and Users will not violate the intellectual property or other rights of a third party.

14. Customer Responsibility. Customer agrees to cooperate with Pearson in connection with the implementation and use of Products and Services, including, without limitation, providing Pearson with reasonable access, at no cost, to Customer's LMS or any other Customer or third-party systems that are required to integrate with and/or enable access to the Products. In the event that there are any delays by Customer or its third-party partners in fulfilling its responsibilities as stated above, or there are errors or inaccuracies in the information provided, Pearson shall be entitled to appropriate schedule adjustments in delivery and/or access to Pearson Products.

15. Data Protection

- 15.1. Each Party must comply with all applicable Data Protections Laws in processing any Personal Information in connection with the Agreement.
- 15.2. Customer is responsible for (a) compliance with all Data Protection Laws that may be applicable to Customer's use of the Products and Services; (b) securing all necessary prior consents (if any are required) for the collection, storage and use of education records, data and Personal Information within the Customer LMS or any Products; and (c) the creation of, and compliance with, applicable policies regarding the access and use by Users of Personal Information stored in the Customer LMS or in any Products.
- 15.3. Pearson may use Personal Information provided by the Customer to Pearson, either directly or via authorized Users, to the extent necessary for Pearson to perform its obligations under the Agreement. Notwithstanding the foregoing, during the term of the Agreement and after its expiration, Pearson may use anonymous or de-aggregated data related to student performance and the activity of Users for product improvement, efficacy reports and general research and analytical purposes (which Pearson may share with other third parties).

16. Confidential Information. Each party will keep any confidential information of the other party which it receives in the course of this Agreement confidential and will not use or disclose it other than as needed in order to perform its obligations under this Agreement. Confidential Information will include the terms of this Agreement as well as any proprietary information, pricing, materials or trade secrets provided or disclosed by Pearson. Confidential information will not include information which (a) is or becomes

publicly known through no breach of this Agreement; or (b) is already or subsequently in the possession of the receiving party without confidentiality restrictions; or (c) is independently developed by the receiving party.

17. Disclaimer and non-excludable terms

- 17.1. **Disclaimer.** To the extent permitted by Law, Pearson excludes all conditions, warranties and guarantees other than those expressly set out in the Agreement. Without limitation, Pearson does not represent or warrant (a) the accuracy, currency, reliability or quality of the Products or Services or any advice, suggestions, recommendations or other information contained within the Products or Services; (b) that the Products or Services, or any advice, suggestions, recommendations or other information contained within the Products or Services, are continuous, free from errors or omissions, security risks or exhaustive; or (c) that the Products or Services, or any advice, suggestions, recommendations or other information contained within the Products or Services, are fit for a particular purpose or meet the requirements of Customer or Users. Customer acknowledges that it has relied on no warranties other than the express warranties provided in the Agreement.
- 17.2. **Non-excludable terms.** If any condition, warranty or guarantee cannot be excluded at Law, then to the extent permitted by Law, Pearson's liability for breach of such condition, warranty or guarantee is limited (at Pearson's option) in the case of: (a) Products, to the repair or replacement of the Product, supply of equivalent Product, payment of the cost of replacing or repairing the Product or refunding the fees to the Customer; and (b) Services, to resupply of the Services or payment of the cost of having the Services supplied again.

18. Limit of Liability

- 18.1. Neither party will be liable to the other for any indirect, special, incidental, or consequential damages, including without limitation any lost data, lost profits and costs of procuring substitute goods or services, arising out of or related to this Agreement, or the use of or inability to use the Products or Services, whether arising in contract, tort or otherwise, even if it has been advised of the possibility of such damages.
- 18.2. Pearson's total aggregate liability to Customer for all damages arising out of or related to this Agreement or Customer's, its agents' or Users' use of the Products or Services will not exceed the amount paid by Customer for the specific Product or Service giving rise to the claim in the 12-month period immediately preceding the claim.

- 18.3. Clause 17.2 does not apply to, and shall not limit, a Pearson's liability for any matter in respect of which liability may not be limited at Law, including, but not limited to, liability for (a) death or personal injury caused by its negligence; or (b) fraudulent misrepresentation.
- 18.4. The limitations and exclusions of liability in the Agreement apply to the maximum extent permitted by Law and whether claims arise from breach of contract, tort (including negligence) or under any other theory of liability.
19. **Force Majeure.** Neither party shall be liable for any failure or delay in performing any of its obligations under this Agreement to the extent such failure or delay results from any event or circumstance beyond its reasonable control. This provision shall not apply to a Party's payment obligations.
20. **Dispute Resolution.** The parties shall use good faith efforts to resolve any dispute, claim or proceeding arising out of or relating to this Agreement via discussion between the Pearson and Customer's representatives. In the event that any disputes cannot be resolved at this level then either party may, by written notice refer the dispute to the senior executives of the relevant parties who have authority to settle the dispute shall use good faith efforts to resolve the same, within ten (10) business days of services of such notice. If the dispute remains unresolved thirty (30) days after the conclusion of the procedure set out herein without resolution of the dispute, the parties agree that the dispute be referred to a mediator for mediation, in accordance with the Australian Disputes Centre (ADC) Guidelines.
21. **Assignment.** The Agreement will be binding on the Parties and their respective successors and permitted assigns. Customer may not assign its rights or delegate its obligations under the Agreement to any third party without the prior written consent of Pearson.
22. **Entire Agreement.** The Agreement, together with any attachments and schedules hereto and documents referenced herein, constitutes the entire agreement between the Parties regarding the subject hereof and supersedes all other prior or contemporaneous agreements, understandings and communication, whether written or oral.
23. **Inconsistency.** In the event if any inconsistency between these Additional Terms and Conditions, the Agreement for Access and Use of Pearson Products (Institutional), any

Term Sheet/s, the terms of the document listed first prevails to the extent of the inconsistency.

24. **Waiver.** No failure to exercise or delay in exercising any right, power or remedy under the Agreement operates as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.
25. **Severability.** Any provision of the Agreement which is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of the Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.
26. **Third party rights.** No person other than Pearson and Customer: (a) has any right to enforce any term of the Agreement whether under Law or otherwise; or (b) must consent to any variation or rescission of the Agreement.
27. **Costs and duty.** Each party must bear its own costs arising out of the negotiation, preparation, execution and performance of the Agreement (unless expressly specified otherwise).
28. **Counterparts.** The Agreement may be executed in one or more counterparts by the execution of duplicate signature pages hereof, each of which shall be deemed the execution of the original Agreement and read together and construed as one and the same agreement.
29. **Electronic Signatures.** The Agreement and related documents may be accepted in electronic form (e.g., by scanned copy of the signed document, an electronic or digital signature or other means of demonstrating assent) and each Party's acceptance will be deemed binding on such Party. Each Party acknowledges and agrees it will not contest the validity or enforceability of the Agreement and related documents, including under any applicable statute of frauds, because they were accepted or signed in electronic form or via facsimile copy. Facsimile, PDF and electronic signatures shall be considered valid signatures as of the date hereof.

30. **Governing Law and jurisdiction.** This Agreement will be governed by the laws of Victoria and the parties submit to the exclusive jurisdiction of the Victorian courts except that, for the exclusive benefit of Pearson, Pearson retains the right to bring proceedings against Customer in the applicable courts of Customer's place of business.

31. **Notices.** Any notice given under this Agreement must be in writing and will be deemed to have been delivered and given: (a) on the delivery date if delivered personally; (b) one (1) business day after deposit with a commercial overnight carrier, with written verification of receipt; or (c) five (5) business days after the mailing date, whether or not actually received, if sent by certified mail, return receipt requested, postage and charges prepaid. Notices shall be addressed as follows, or to such other address as one party may notify to the other from time to time: If to Pearson: To the correspondence address identified on the Term Sheet with a courtesy copy to: Pearson Legal Department, 707 Collins Street, Melbourne, Victoria, 3008. If to Customer: To the address identified on the Term Sheet.

32. **Version of Additional Terms and Conditions**

- 32.1. This version of the Additional Terms and Conditions applies to the Term Sheets executed by Pearson and Customer at any time until this version of the Additional Terms and Conditions is superseded by a new version.
- 32.2. Pearson may at any time and at its sole discretion change, update or amend these Additional Terms and Conditions by posting a new version of the Terms and Conditions at: <http://www.pearson.com.au/SupplyAgreement>
- 32.3. Any such change under this clause will not affect any Term Sheets that have already been executed by Pearson and Customer.

Pearson Support Services Schedule

If the Term Sheet indicates that this Schedule applies, then the provisions included in this Schedule shall be deemed to be incorporated in the Agreement. Unless provided otherwise all capitalised terms shall have the meanings given to them in the Agreement.

Pearson offers technical support services to enhance the successful implementation and use of digital products such as MyLab, Mastering and Revel. The support services provided by the Pearson Customer Care team are offered in accordance with the following:

<p>Technical support services</p> <p>Telephone and online technical support (via chat and email) to Customer's Users (faculty, students and staff) in relation to use of the Product</p>	<p>Pearson will provide the following technical support services to Customer's Users, at no extra cost:</p> <ul style="list-style-type: none">(a) Instructor access to user and technical support via telephone, chat and email service for specialist or urgent queries relating to the digital product (support.pearson.com/getsupport/s/).(b) Student Support. Student access is available to technical support via telephone, chat and email. Students can call and email any technical query relating to the Product to Pearson's specialist team (support.pearson.com/getsupport/s/). <p>Support is limited to support in relation to the Products and does not include support related to use of Customer's or third party technology, ISP's, networks or third party software</p>
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On-demand training Schedule

If the Term Sheet indicates that this Schedule applies, then the provisions included in this Schedule shall be deemed to be incorporated in the Agreement. Unless provided otherwise all capitalised terms shall have the meanings given to them in the Agreement.

Pearson offers training services to enhance the successful implementation and use of Products. The training is provided in accordance with the following:

Service	Description
On Demand Training Training for Users (academic(s)) in the use of the deployed Product	If requested by a Customer Pearson will provide on-demand training for any Users (academic(s)) nominated by the Customer. On demand training refers to a training session delivered in response to critical support requests throughout the academic year. The flexibility of our training consultants allows us to provide this training to your teams face to face or online and our training consultants work with you to understand your requirements and deliver bespoke training that fulfils your needs.

Additional terms relating to training services:

1. Cancellation by Customer

You may cancel any order you place for training sessions within 14 calendar days of placing your order except that we will NOT accept any cancellations less than 10 days before a scheduled session. If you wish to cancel, please send us the contact details you provided as part of the purchase process. We will not make any refunds if you cancel 15 or more calendar days after placing an order for a training session, or if the session falls within 10 days of the date you cancel.

Please note, if you request a change to the date of a confirmed training session less than 10 days before the session date, then cancellation charges up to a maximum of the value of the

total fee for that session may apply at our absolute discretion in addition to the fee for the re-arranged session.

2. Unforeseen Circumstances; cancellation and rescheduling by us

Sessions are subject to cancellation or rescheduling at our discretion. If the training session is cancelled by us, we will try to reschedule the session but if we cannot identify a mutually convenient date and time we will cancel your booking with a full refund. We shall not be liable for any additional loss or damage resulting from such cancellation or changes.

3. Your obligation to communicate with us when scheduling training sessions

If you place an order for a training session but you do not agree a date with us within 365 days of making your purchase, then we are not obliged to deliver the session or to offer a refund. When arranging a training session we will communicate with you using the contact details you provided at the point of purchase. We can only schedule a training session at a mutually convenient time and date if you respond promptly when we correspond with you. If you have not responded after we have made three attempts to contact you using the contact details you provided, whether using email, telephone, letter or some other means of communication, then we are not obliged to make further attempts to contact you and the paragraph above may apply.

4. Training Materials

Pearson and its licensors own all copyright and all other intellectual property rights in all training materials provided in connection with a training session. You agree not to reproduce, sell, hire or copy such training materials (in whole or in part) and not to use such materials except for the purposes of post-training reference.

LMS Integration Schedule

If the Term Sheet indicates that this Schedule applies, then the provisions included in this Schedule shall be deemed to be incorporated in the Agreement. Unless provided otherwise all capitalised terms shall have the meanings given to them in the Agreement.

To ensure the effectiveness of the solution provided, it is imperative that adequate time/access and resource is made available for implementation, training and support. The implementation and application of the solutions provided will only be successful if those using it are adequately equipped to use the platforms to their full potential.

Pearson will provide the following to Customers who purchase access to Pearson digital Products that require integration with Customer's LMS/VLE:

- a) Prior to campus implementation, all related staff members shall attend a mandatory 'Kick-Off' meeting to mutually agree and coordinate the timely rollout and release of all Products and Services.
- b) Implementation services as required based on the product(s) purchased.
- c) Standard Support: As described in the Pearson Support Services and on-demand training Schedule
- d) Electronic version of the Student Registration and Enrolment instructions for remote students.
- e) Regular software and system upgrades to the digital Product, to continually maintain and enhance the learning experience for Users (instructors and students) (subject to continuing subscription to the Product(s)).

Service	Description
Campus setup and LMS integration	<p>Setup of the customers online campus (LMS/VLE) for use with the required Product, subject to cooperation and assistance from the Customer and in accordance with Pearson's standard methodology and timelines and the Customer's timelines that are relevant to its teaching periods.</p> <p>A Pearson Technology Specialist (or Account Manager) will work with Customer's IT Team prior to the Course Start Date to ensure all System Requirements are met and the digital product integration is deployed in a timely fashion.</p> <p>The Campus setup and Implementation process requires</p>

the Customer to provide access to key stakeholders within the Customer's organisation that have sufficient system administration privileges within the LMS/VLE. This allows Pearson to plan the timing of the process and the allocation of key roles and responsibilities.

Integration of the specified Product with the Customer's LMS may be via a link from a LMS Course to the Product(s), or enabled via single sign on (SSO) functionality, subject to Pearson's operational requirements. Users (academics and students) may be required to login/create an account (and redeem a code, if applicable) in the Pearson system prior to accessing the Product.

Smarthinking Schedule

If the Term Sheet indicates that this Schedule applies, then the provisions included in this Schedule shall be deemed to be incorporated in the Agreement. Unless provided otherwise all capitalised terms shall have the meanings given to them in the Agreement.

(a) **Services:**

- a. **Smarthinking Tutoring Services.** To the extent set out in a Term Sheet signed by the parties, Pearson shall provide to a User one-to-one tutoring services ("**Smarthinking Tutoring Services**"). Smarthinking Tutoring Services shall consist of live and asynchronous tutoring services provided via Smarthinking's website, currently located at www.smarthinking.com ("**Smarthinking.com**"). Inclusions in Smarthinking Tutoring Services:
- i. Access to Smarthinking-trained and monitored tutors;
 - ii. Account management by assigned Pearson personnel;
 - iii. Use of the Smarthinking platform;
 - iv. Webinar or in person training on using the service;
 - v. Customer service and technical support for Users and faculty;
 - vi. Unlimited access to available Smarthinking study resources on Smarthinking.com;
 - vii. User access for the Smarthinking Tutoring Services will depend upon the particulars of the implementation and the options available within the Customer's institutional environment. Options include student access via SSO using LTI or SAML, or account creation via SFTP; and
 - viii. Usage reporting, it is the Customer's responsibility to designate and control who is to receive administrative access to reports in accordance with the Customer's policies for handling student data.
- b. **Tutoring Subject Areas.** Smarthinking Tutoring Services consist of online tutoring in the following tutoring discipline areas on drop-in, pre-scheduled and/or asynchronous bases (see Smarthinking.com for detailed listing of topics covered for each discipline area):

Writing, including Essay Centre	Mathematics and Statistics
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Science	Business
Health Sciences	Career Writing & interviewing
Computers & Technology	Nursing

Tutors are available in the above Tutoring Subject Areas. Tutoring Subject Areas are subject to change by Pearson, Customer will be provided with 60 days' notice via email prior to any change. The hours tutors are available are as determined by Pearson at its sole discretion. Tutor's hours are posted on Smarthinking.com

- c. **Purchase of Blocks of Tutoring Hours.** Blocks of tutoring hours may be purchased by the customer at the then current rates as set out in a Term Sheet.
- d. **Deduction of Purchased Tutoring Hours.** As Users use the Smarthinking Tutoring Services, time is deducted from the Customer's account based on the amount of the service used and in accordance with the time deduction table below. Customer can monitor Users usage from the administrative account and Users accounts can be limited by time and/or tutoring subject area:

Service Used	Charge to Customer Account
Drop-in tutoring with Smarthinking tutors	Metered to the minute
Submission to online Writing Centre	Metered to the minute
Pre-scheduled Session with tutor	30 minute flat rate
Paragraph/Asynchronous Question	Metered to the minute

Submission	
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The time deduction table is subject to change by Pearson, at its discretion. Customer will be provided with 60 days' notice via email prior to any change.

- e. **Smarthinking Professional Services.** To the extent set forth in a Term Sheet signed by the parties, Pearson shall provide professional services ("**Smarthinking Professional Services**") to support the Customer's implementation and operation of Smarthinking Tutoring Services at its institution. To the extent set forth in a Term Sheet signed by the parties, Pearson shall provide the Customer with a license to use the Smarthinking proprietary online tutoring platform to enable Users to communicate with Pearson's Smarthinking tutors using the Smarthinking platform. Costs, for these services will be set out in a Term Sheet. Smarthinking Professional Services, include:
 - i. New Customer set-up, training and support:
 - 1. Customer administrative account creation with implementation assistance;
 - 2. training on usage of administrative dashboard;
 - 3. Individual or group sessions on how to incorporate Smarthinking Tutoring Services into Customer curriculum to improve outcomes and retention. Work beyond an initial one hour consultation may incur separate fee to be determined based on the engagement, and/or
 - ii. On-site training:
 - 1. Pearson personnel will work with Customer to develop agenda that reflects current needs and may include sessions focused on introducing Smarthinking to faculty, staff, and/or students and discussing strategies for using these services to supplement instruction;
 - 2. Implementation materials will be provided at the time of training.
- f. **Exclusions.** Pearson shall not be responsible for obtaining or providing any hardware necessary to access or use the Services, including, but not limited

to, internet services, telephone, access lines, modems and computer equipment.

- g. **Access.** Pearson will work with the Customer to identify an appropriate student account access method. Reporting access will also be provided to the Customer during setup.

- (b) **Access to Archives.** Upon expiration of the Agreement for any reason, Customer's Users shall retain access to their archived tutoring sessions for up to sixty (60) days, and the Customer shall retain access to archived reports for up to ninety (90) days. During the term of the Agreement, Customer's Users and Customer shall have access to archived tutoring sessions and reports for up to one (1) year.

- (c) **Marketing and Surveys.** As may be permitted by the Customer, the Customer shall make available to its Users faculty implementation materials provided by Pearson from time to time.

- (d) **Intellectual Property.** No title to or ownership of any portion of Smarthinking.com nor the Smarthinking Tutoring Services shall be transferred by virtue of the Agreement. Smarthinking.com and Smarthinking Tutoring Services shall remain Pearson's sole and exclusive property. Pearson reserves all of its intellectual property and proprietary rights to any information, data or materials generated or gathered as part of the provisioning of the Services.