

## **TERMS AND CONDITIONS**

Pearson India Education Services Private Limited is a private limited company registered under the laws of India having its registered office at Featherlite, 'The Address' 5th Floor, Survey No 203/10B, 200 Ft MMRD Road, Zamin Pallavaram, Chennai, Tamil Nadu 600044, INDIA, and its corporate offices at Ground Floor, A Wing 11, DivyaSree Chambers, 7th Floor, O Shaughnessy Road, Bengaluru, Karnataka 560025, and at 1<sup>st</sup> Floor, Berger Tower, Plot No. C-001A/2, Sector 16B, Noida 201301, INDIA (“Pearson/Company/we/us”)

By using the Products/Services, the Customer accepts these terms and conditions. To the extent that Pearson and the Customer has expressly agreed and executed an agreement for the provision of the Products, and/or Services as set out in that agreement, such agreement shall prevail over these T&Cs.

### **STRUCTURE OF THE T&C**

Common Terms and Conditions will be applicable to all orders irrespective of the Product or Services availed. Specific Product/Service based Terms and Conditions are applicable to specific Product or Services ordered. These Specific Product/Service based Terms and Conditions are in addition to the Common Terms and Conditions.

1. [Part A. Common Terms and Conditions](#)
2. Part B Specific Product/Service based Terms and Conditions

The following Terms and conditions will be applicable to Specific Products/Services. (follow the link)

- a) [Pearson Terms and Condition of sale of mePro / myInsights /Classroom/GOTP](#)
- b) [Pearson Terms and Condition of sale of printed books](#)
- c) [Pearson Terms and Condition of subscription for eLibrary.](#)
- d) [Pearson Terms and condition of sale for Versant](#)

In case of inconsistency between the Common Terms and Conditions and the Specific Product/Service based Terms and Conditions, the provisions of Specific Product/Service based Terms and Conditions shall prevail, insofar as the inconsistency is concerned.

**PART A. COMMON TERMS AND CONDITIONS**

- i. **“Affiliate”** means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control” for purposes hereof, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.
- ii. **“T&Cs”** means the Common Terms and Conditions as provided in these Terms & Conditions together with the applicable Schedules and any other annexures, order forms, exhibits appended to thereto.
- iii. **“Authorised Contractors”** means independent contractors, licensors or subcontractors that assist Pearson in the delivery of the Products and/or Services.
- iv. **“Common Terms and Conditions”** means the common terms and conditions as set out in Section III of these T&Cs, which are applicable to the Customer at all times, irrespective of Products and/or Services availed by a Customer.
- v. **“Confidential Information”** means proprietary or confidential information, including without limitation trade secrets, technical know-how, research and development, software, databases, inventions, processes, formulae, technology, designs and other intellectual property, information concerning finances, investments, profits, pricing, costs, products, services, vendors, customers, clients, partners, investors, personnel, compensation, recruiting, training, advertising, sales, marketing, promotions, government and regulatory activities and approvals; concerning the past, current or future business, activities and operations that has been disclosed or provided by one Party to the other Party.
- vi. **“Customer Data”** means all data, records, files, images, graphics, symbol, logo, audio, video, photographs, reports, forms and other content and material including the Intellectual Property Rights vested in the foregoing content/material, in any format, that are submitted, stored, posted, displayed, transmitted by Customer to Pearson, or otherwise used in the Product and/or Services.
- vii. **“Disclosing Party”** shall have the meaning ascribed to it in clause 1.1.
- viii. **“Event of Force Majeure”** means any act, cause, contingency or circumstance beyond the reasonable control of such Party, including, without limitation, to the extent beyond the control of such party, any governmental action, order or restriction (whether foreign, federal or state), war (whether or not declared), terrorist attacks, fire, explosion or accidental damage, or any other acts of God, public strike, riot, labour dispute etc.
- ix. **“Governmental Authority”** shall mean and include the Government of India, any governmental, semi-governmental, administrative, fiscal, judicial, or quasi-judicial body, board, department, commission, authority, instrumentality, tribunal, court, agency or other authority exercising powers conferred by Laws.
- x. **“Intellectual Property Rights or IPR”** means patents, trademarks, symbol, logo, design rights, database rights, know-how, trade secrets, copyrights (including rights in computer software), business processes, visual wireframes, organisational data, inventions and all other intellectual property or similar proprietary rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- xi. **“Law”** shall mean all applicable national, foreign, provincial, local or other law including all applicable provisions of all: (a) laws (including common law), bye-laws, statutes, acts of state legislature or parliament, rules, regulations, ordinances, notifications, constitutions, decrees, treaties, codes, enactments, guidelines, policies, circulars, notices, directions, directives or orders of any Governmental Authority, statutory authority, court, tribunal having jurisdiction over the Parties; (b) administrative interpretation, directors, directives, injunctions, judgements, decrees, arbitral award, orders or other requirements or official directive of any Governmental Authority or person acting under the authority of any Governmental Authority and / or of any

statutory authority, court, tribunal having jurisdiction over the Parties; (c) international treaties, conventions and protocols; as may be in force from time to time.

- xii. **“Party”** shall mean either Customer or Pearson, and **“Parties”** shall mean both.
- xiii. **“Receiving Party”** shall have the meaning ascribed to it in clause 1.1
- xiv. **“Schedule”** means the schedules duly signed by the Customer and appended to these T&Cs, containing terms and conditions as applicable to Products and/or Services availed by the Customer, together with its annexures, order forms, exhibits appended to thereto.
- xv. **“Specific Products/Services based Terms and Conditions”** means containing terms and conditions as applicable to specific Products and/or Services availed by the Customer

The terms that are capitalised and not defined herein shall have the meaning ascribed to them in the respective Schedule(s)

## **1. CONFIDENTIALITY, DATA PROTECTION AND PRIVACY**

- 1.1 Parties mutually agree to maintain confidentiality of all Confidential Information provided under these T&Cs. For the purposes of this clause, the Party disclosing the Confidential Information shall be referred to as **“Disclosing Party”** and the Party receiving the Confidential Information shall be referred to as **“Receiving Party”**.
- 1.2 Parties shall be permitted to use the Confidential Information only for exercising rights granted under these T&Cs. Receiving Party shall not use the Confidential Information for any other purpose without the Disclosing Party’s written permission.
- 1.3 Receiving Party shall implement adequate security measures for maintaining secrecy of Confidential Information of the Disclosing Party. Such measures shall not be less than the measures taken by them to safeguard their own Confidential Information of a like nature.
- 1.4 Each Party hereby agrees that these T&Cs or the contents thereof shall not be disclosed by either Party to any third party without the prior written consent of the other Party.
- 1.5 Provided however that nothing contained in this clause 5 shall apply to any disclosure by either Party of any information received from the other Party if:
  - (a) Such disclosure is required by applicable law or requested by any Governmental Authority;
  - (b) Such information is available in the public domain, other than by a breach of the T&C by the party seeking to make such disclosure;
  - (c) Such information is made available to the consultants and professional advisers of either Party; or
  - (d) Such information is disclosed by a Party with the prior written consent of the other Party. Provided the disclosure is made strictly in accordance with such written consent.
- 1.6 Each Party shall at all times maintain secrecy and shall keep confidential (and procure that its members, directors, employees and agents shall keep confidential) the materials, details regarding the services and all other information and documents which it may acquire in connection with or which may be in its custody during the course of providing the Services hereunder and shall not use or disclose such information in an unauthorized manner. The obligation on the part of the Parties contained above shall continue during the continuance of the engagement/relationship with the Customer, and for a period of 5 (five) years thereafter.
- 1.7 Consistent with the organization’s expectations of information security, Customer will be expected to ensure the protection of Company and customer information accessible to Customer or its representative(s). Customer warrants that it shall:

- a) Removable Media Restrictions: not store Company's Data on removable media (e.g., USB flash drives, thumb drives, memory sticks, tapes, CDs, or external hard drives)
- b) Notification: In the event that Customer become aware of any suspected or known breach of the security of, or loss of, any Personal information collected, handled, stored, transmitted or otherwise processed by Company or any third party under these T&Cs, Customer shall immediately provide notice to Company as follows: **soc@pearson.com** and to Pearson's authorized signatory, **sojan.jose@pearson.com**. The Personal information shall include any information collected/accessed by Customer in accordance with the provisions of these T&Cs or otherwise, relating to Pearson, its' employees, customer, Customer, end user or any other information or data relating to a person, related to Pearson in any manner.
- c) Assistance to Company: At no additional charge, provide full and timely cooperation, assistance and information to Company in the investigation of any such actual or potential Security Incident, as well as in the provision of any required notifications.
- d) Notification of Individual Access Requests: Notify Company within 24 hours if it receives a request from any individual for access to the Personal information relating to such individual or another person (e.g., a minor) on whose behalf such individual is acting.
- e) Limited Use: Use the limited Personal and/or Confidential Information only to perform activities as described in these T&Cs and that Customer shall not, under any circumstances, use the Confidential Information to perform any other services other than those designated in these T&Cs.
- f) If applicable, upon termination, cancellation, expiration, or other conclusion of the T&C, Customer shall return or destroy all protected data or Confidential Information that may have been accessed during the term of the engagement/relationship, and retain no copies.
- g) Annual Attestation: Annually attest to all Personal information of Company and its Customers, End Users, and Authorized Participants is appropriately protected from improper disclosure or from unwanted intrusion and otherwise reflect its commitment and adherence to the provisions of these T&Cs.
- h) Restriction on Disclosure: Not disclose the Personal information to any such individual or to a third party other than at the written request or approval of the Pearson.

## **2. APPLICABLE LAW AND JURISDICTION**

These T&Cs shall be interpreted and construed in accordance with the laws of India and subject to clause 6 below, the courts at New Delhi shall have exclusive jurisdiction in all disputes arising out of and / or in connection with these T&Cs.

## **3. ARBITRATION**

All disputes and differences whatsoever which may at any time hereafter (whether during the continuance of these presents or upon or after its discharge or determination) arise between the Parties hereto in respect of, concerning, touching or arising out of these presents, shall be amicably settled in the first instance. If such disputes cannot be amicably resolved within 60 (sixty) days of commencement of negotiations for resolution, either Party shall have the right to get remedy as per the provisions of these T&Cs and may refer it to arbitration. The arbitration shall be conducted by a sole arbitrator to be selected mutually by Parties in accordance with, and subject to the provisions of the Arbitration and Conciliation Act, 1996 with any statutory modifications or re-enactments thereof for the time being in force. The venue of the Arbitration shall be Delhi. The expenses of the Arbitration proceedings shall be shared by each Party in equal proportion or as per the decision of the

Arbitrator. The language of the said arbitration or any other connected legal proceedings shall be in English only.

**4. RELATIONSHIP BETWEEN THE PARTIES**

Customer will, for all purposes, be deemed to be an independent contractor, contracting with Pearson on a “principal to principal” basis. No employment, partnership or joint venture is created by virtue of these T&Cs between Customer and Pearson and nothing in these T&Cs is intended to or will result in either Party becoming or being treated as a representative, agent or partner of the other.

**5. NOTICES**

Any notices, requests and other communications required or permitted hereunder shall be in writing and shall be given by hand against written acknowledgement or receipt, or sent by registered mail, or by facsimile followed by a confirmation letter by registered mail, at or to each of the Parties at the addresses set forth in these T&Cs or as provided by a Party.

**6. AMENDMENTS**

Pearson reserves the right to amend these T&Cs any time and your continued use shall indicate your acceptance of these T &Cs.

**7. WAIVER**

The failure of either Party to require performance of any provision of these T&Cs shall not affect such Party's right to full performance thereof at any time thereafter, and any waiver by either Party of a breach of any provision hereof shall not constitute a waiver of a similar breach in the future or of any other breach. No waiver shall be effective unless in writing and duly executed by the concerned Party.

**8. ENTIRE AGREEMENT**

These T &Cs constitute the entire agreement between Pearson and the Customer and supersedes any purchase order terms associated with a Purchase Order (P.O.) number on any order or any prior arrangements, representations, communications, negotiations, agreements and contracts (whether written or oral) made between or entered into between the parties prior to the execution date. These T & Cs are subject to change without notice. The T & Cs published and applicable at the time of order shall govern each order.

**9. ASSIGNMENT**

Customer may not assign or transfer the rights and obligations conferred upon it under these T&Cs, in whole or in part, whether by operation of Law or otherwise, without Pearson’s express prior written consent, which Pearson may withhold in its sole discretion. Any attempted assignment or transfer without such consent will be null. Pearson shall be free to assign the rights/obligations under these T&Cs to any third party without the consent of the Customer.

**10. FORCE MAJEURE**

Except the payment obligations of the Customer, neither Party shall, in any manner whatsoever, be liable or otherwise responsible for any delay or default in, or failure of, performance resulting from or arising out of or in connection with any Event of Force Majeure and any such delay, default in, or failure of, performance shall not constitute a breach by either Party hereunder.

**11. SEVERABILITY**

If any part, term or provision of these T&Cs, is held to be invalid or unenforceable, the same shall not affect the validity or enforceability of any other part or provision of these T&Cs which shall remain in full force and effect.

## **12. NON-SOLICIT**

The Customer agrees that at any time during the engagement/relationship with the Customer or for a period of 3 (three) years thereafter, the Customer shall not, directly or indirectly, solicit the employees of Company, its Affiliates or others engaged by Company, in whatsoever capacity, to work with the Customer or any other third party.

## **13. ANTI-BRIBERY AND CORRUPTION CLAUSE**

**13.1** Customer will, and will procure that Customer's officers, partners, employees, agents and any other persons who perform services for or on Customer's behalf in connection with these T&Cs will:

- a) comply with all applicable laws related to bribery, corruption and related matters including the US Foreign Corrupt Practices Act and the UK Bribery Act and the laws of the territory.
- b) not commit any act or omission which causes or may cause Pearson to be in breach of, or to commit an offence under, any laws relating to anti-bribery and/or anti-corruption;
- c) comply with the Pearson's Business Partner Code of Conduct (<https://plc.pearson.com/en-GB/corporate-policies>) as updated from time to time, which Customer acknowledge Customer have read and reviewed and will review no less frequently than annually;
- d) keep accurate and up to date records showing all payments made and received and all other advantages given and received by Customer in connection with these T&Cs and the steps Customer take to comply with this clause 20, and permit us to inspect those records as reasonably required; and
- e) provide Pearson (at Pearson's cost) with such reasonable assistance as it may require from time to time to enable it to perform any activity required by any relevant client, government or agency or regulator in any relevant jurisdiction for the purpose of compliance with any anti-bribery laws.

**13.2** Customer will promptly report to us any request or demand for any financial or other advantage of any kind received whether directly or indirectly in connection with the performance of these terms of engagement.

**13.3** Customer will immediately give written notice to us upon a breach, or suspected breach, of any of Customer's obligations at clauses 13.1 or 13.2 occurring.

**13.4** Pearson shall have the right to terminate the engagement/relationship with immediate effect should it have reason to believe that Customer have acted, or will act, in breach of clauses 13.1 without any further liability to Customer.

## **14. SANCTIONS**

The Customer (and any of its Affiliates, subsidiaries, owners, directors, or agents that are acting or will act in the execution of these T&Cs):

- (a) acknowledges that the Products, software, and Services provided by Pearson pursuant to this these T&Cs, which may include technology and encryption, are subject to the import, export control, and sanctions laws of the United States, and other countries including, but not limited to, the laws and regulations administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") and the U.S. Department of Commerce's Bureau of Industry and Security

(“BIS”); the United Nations (“UN”); the European Union (“EU”) and its Member States; and the United Kingdom (collectively the “Sanctions Regulations”);

- (b) agrees to comply with such laws and represent and warrant that it (i) is not a party subject to sanctions or restrictions under any Sanctions Regulations; and (ii) has appropriate policies and procedures to ensure your compliance with all applicable Sanctions Regulations;
- (c) agrees that it will not do anything (either by act or omission) during the course of its dealing with Pearson pursuant to these T&Cs which would cause Pearson to be in breach of Sanctions Regulations.

**SCHEDULE I – MEPRO/MYSIGHTS/CLASSROOM/GOTP**

**1. DEFINITIONS**

- (a) **“Documentation”** shall mean an Order Form duly signed in Pearson format or an Order issued by the client in addition to these T&Cs.
- (b) **“Order”** or **“Order Form”** means an ordering document for the Services to be provided hereunder that is entered into between Pearson and Customer, including but not limited to any addenda, order form and supplements thereto. All Orders executed pursuant to these T&Cs are incorporated herein by reference.
- (c) **“Services”** shall mean, an adaptive assessment engine platform to which access is made available by Pearson to Customer, online via the applicable Customer logins and/or associated support services, as ordered by Customer under an Order, and which may include either Pearson MyInsights and/or Pearson MePro and/or Pearson Classroom and/or GOTP.
- (d) **“Subscriber”** means:
  - i. In case the Customer is an individual, the Customer himself; or;
  - ii. In any other case, any person such as a student, employee, contractor or agent of Customer authorized to access the Services in accordance with terms of these T&Cs regarding which a subscription to a Service has been purchased by Customer under an Order.

The terms that are capitalised and not defined herein shall have the meaning ascribed to them under Section II of the T&C.

**2. SUBSCRIPTION SERVICES**

- 2.1** Pearson will make the Services available to Customer pursuant to the T&C, the Documentation and the relevant Order Form, solely for Customer’s internal purposes. Pearson and its Authorised Contractors may perform certain aspects of the Services provided that Pearson remain fully liable for same and responsible for ensuring that Services are performed by Pearson and/or through its Authorised Contractors are carried out in accordance with these T&Cs. Customer’s use of the Services includes the right to access all functionality available in the Services. So long as Pearson does not materially degrade the functionality, as described in the Documentation, of the Services (i) Pearson may modify the systems and environment used to provide the Services to reflect changes in technology, industry practices and patterns of system use, and (ii) update the Documentation accordingly. The subsequent updates, upgrades, enhancements to the Services made generally available to all subscribing customers will be made available to Customer at no additional charge, but the purchase of Services is not contingent on the delivery of any future functionality or features. The customised features, functionality or enhancements to the Services may be marketed separately by Pearson and may require the payment of additional fees. Pearson will determine, in its sole discretion, whether access to such customised features, functionality or enhancements will require an additional fee.
- 2.2** Unless otherwise specified in the applicable Order or these T&Cs, Services are purchased per Subscriber and may be accessed by no more than the total number of Subscribers specified in the applicable Order. All subscriptions will expire no later than the expiration date indicated in the relevant Order irrespective of the fact when Services are activated. It is further agreed between the Parties that Customer shall have full access of Services and therefore such usage of software and the connected Services shall be governed by these T&Cs and the terms of services mentioned online while downloading the software, failing which Subscriber should not be able to use, download or install the software nor use the related Services.
- 2.3** Services are non-transferrable once activated and hence any access to Services is provided strictly for personal use of each Subscriber.



- 2.4 Pearson shall provide and schedule maintenance at regular intervals for hassle-free Services from time to time and may also go for emergency maintenance from time to time with online notification on the portal to Customer, wherever possible.
- 2.5 At all times, Customer shall, without fail, comply with all term and conditions of these T&Cs and any other instructions as provided by Pearson. Further, Customer shall be fully liable to provide accurate Customer Data and the use of Services by Subscribers. It is agreed between the Parties that the Customer shall ensure compliance by the Subscribers with the terms and conditions of these T&Cs. Any breach of the terms and conditions of these T&Cs by the Subscriber shall be deemed to be a breach of the Customer.
- 2.6 Pearson does not warrant that the operation of the Services or access to Services will be uninterrupted or error-free. Customer acknowledges and agrees that Services may be subject to limitations, delays, and other problems inherent in the use of internet applications and electronic communications. Pearson is not responsible for any such delays, delivery failures, or any other damage resulting from events beyond Pearson's reasonable control, without regard to whether such events are reasonably foreseeable by Pearson. Customer agrees that Pearson is not responsible for any third party content that may form part of the Services.

### **3. FEES AND PAYMENT**

- 3.1 The Customer shall pay all fees specified in each Order and any applicable additional fees if Customer exceeds the allotted capacity or other applicable limits specified in the applicable Order. Except as otherwise specified herein or in an Order: (i) the number of licenses agreed in the Order Form cannot be reduced during the tenure of these T&Cs; and (ii) under no circumstances refund will be entertained; All amounts payable under these T&Cs will be made without setoff or counterclaim, and without any deduction or withholding. Notwithstanding anything stated contrary herein, all fees are based on Services purchase and not on actual usage. All applicable payment terms shall be set out in the applicable Order.
- 3.2 Except as otherwise stated in the applicable Order, Customer agrees to pay all invoiced amounts within 30 (thirty) days of invoice date. If Customer fails to pay any amounts due under these T&Cs by the due date, in addition to any other rights or remedies it may have under these T&Cs or by matter of Law: (i) Pearson reserves the right to suspend the Services upon 30 (thirty) days' notice, until such amounts are paid in full; and (ii) Pearson will have the right to charge interest at a rate equal to the lesser of 1.5% (one and one-half percent) per month or the maximum rate permitted by applicable Law until Customer pays all amounts due; provided that Pearson will not exercise its right to charge interest if the applicable charges are under reasonable and good faith dispute and Customer is cooperating diligently to resolve the issue.

### **4. PROPRIETARY RIGHTS**

- 4.1 Except for the rights expressly granted under these T&Cs, Pearson and its licensors retain all right, title and interest in and to the Services, Product and Documentation, including all related intellectual property rights therein. Pearson reserves all rights in and to the Services, Product and Documentation not expressly granted to Customer under these T&Cs.
- 4.2 As between Customer and Pearson, Customer is and will remain the sole and exclusive owner of all right, title and interest to all Customer Data, including any intellectual property rights therein. Customer hereby grants Pearson, its Affiliates and applicable Authorised Contractors all necessary rights to host, use, process, store, display and transmit Customer Data solely as necessary for Pearson to provide the Services in accordance with these T&Cs. Subject to the limited licenses granted herein, Pearson acquires no right, title or interest from Customer hereunder in or to Customer Data, including any intellectual property rights therein. All ownership and rights in the Services will remain with Pearson and its suppliers.
- 4.3 Customer shall not, directly, indirectly or through its Subscribers: (i) attempt to sell, transfer, assign, rent, lend, lease, license, sublicense or otherwise provide third parties with rights to the Services; (ii) use the Services in a manner that interferes with, degrades, or disrupts the integrity or performance of any Pearson technologies, services, including data transmission, storage and backup; (iii) access the Services for the purpose of developing a product or service

that competes with the Pearson's products and services; (iv) alter, remove or modify any component of the Services, including any proprietary marks or images included in or displayed as part of; (v) circumvent or disable any security features or functionality associated with Services; (vi) use Services in any manner prohibited by Law and/or Pearson; (vii) work around any technical limitations in the Service; (viii) reverse engineer, decompile or disassemble the Product; and (ix) make copies of the Product; (x) publish the Product for others to copy.

**4.4** Customer authorizes Pearson to feature its name and logo as a customer on the Services and related promotional materials, press releases, advertisement and other communications, and Customer grants Pearson a limited license in that respect.

**4.5** This clause shall survive the termination of the engagement/relationship with the Customer.

## **5. INDEMNITY**

**5.1** Customer shall at all times defend, indemnify and hold harmless the Pearson and its employees and its officers, directors, associates, Affiliates etc. from the losses, costs, fines, penalties and damages arising out of all acts, omissions, negligence or faults, of the Customer or anyone acting under the directions or control or on its behalf and all expenses (including any legal fees) incidental thereto:

- (a) Any acts, omission or statement by Customer or any person employed by or under contract with Customer that result in physical or mental injury (Including death), loss or damage to any person or property.
- (b) Failure by Customer to comply with the applicable Governmental Authority requirements & requirements of Law, that results in the imposition of fines or other penalties.
- (c) Any act of infringement of any patent, trademark, or copyright or any unauthorized use of any trade secret or any proprietary interest of Pearson.
- (d) Any failure by Customer to satisfy all claims for obligations relating to the performance of the marketing and selling of the Product.
- (e) Any material breach by Customer under these T&Cs or any revision, covenant, warranty or obligation herein.
- (f) Loss of and/or damage to any Pearson & third-Party property.
- (g) Losses incurred due to breach of representation or warranty by Customer, its agents or anyone directly or indirectly employed by any of them in connection with these T&Cs.
- (h) Any unfair business actions, fraud, or the like by Customer and/or any use of the Services or related scores are used in a manner not in accordance with all applicable Law, or for other than lawful purposes.

**5.2** The indemnification obligation shall survive the termination of engagement/relationship with the Customer.

## **6. LIMITATION OF LIABILITY**

**6.1** Under no circumstances, Pearson shall be liable to Customer for any indirect, special, incidental, punitive or consequential damages (including loss of profit or business), howsoever arising, whether under contract, tort or otherwise, even if informed of the possibility of the same.

**6.2** In no event, Pearson will be liable to Customer or any other person for any loss or damage, including without limitation, for time, money, or goodwill, or for consequential or exemplary damages, which may arise from the use,

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operation, maintenance or other services, installation or modification of the solution or customer's inability to use the solution, in whole or part, for any other reason whatsoever.

## **SCHEDULE II – PRINTED BOOKS**

### **1. DEFINITIONS**

- (a) “**Product**” shall mean printed books published by Pearson.
- (b) The terms that are capitalised and not defined herein shall have the meaning ascribed to them under Section II of the T&C.

### **2. DELIVERY**

- 2.1** Subject to availability of stock, Pearson shall dispatch the Product under order to the Customer at its earliest convenience and inform the Customer accordingly.
- 2.2** Delivery to the Customer shall be done by Pearson with the transporter as per the convenience/arrangement of Pearson which shall be freight paid basis and the Customer shall have no right to dispute the same. That subject to the acceptance by Pearson, the Customer shall be free to nominate any specific transporter. In such circumstances, the liability with respect to freight and the insurance of the books shall vest with the Customer.
- 2.3** It is agreed between the Parties that the risk of loss and title to the books shall pass from Pearson to the Customer once the books have been dispatched from Company’s premises, where the delivery shall be made via Customer preferred transporter as per section II (b) above, and in other case i.e. where the delivery will be made via Companies preferred transporter than risk of loss and title to the books shall pass from Pearson to the Customer upon delivery of goods at customer premises or customer designated premises in accordance with the terms hereof, and the Customer has reasonably been informed of the relevant details in this regard.
- 2.4** It is agreed by the Customer that it shall be sole duty of the Customer to get the books/goods released from transporter upon delivery, without fail and to release the payment to Company in terms of these T&Cs. It is further agreed by the Customer that any additional costs incurred in case of delay on the part of Customer in releasing the goods/books, the same shall be borne by the Customer solely.
- 2.5** The Customer does hereby unconditionally agree and accept that in case of delivery of books to the Customer by Company, the Customer shall solely be responsible for making the payment and the Customer shall at no point of time, tender any excuse for ordering the stock of books in anticipation of any future sale and/or the assumption that the order was booked under an assurance from a marketing/sales person or any other discrepancy in the order. In any eventuality, in case of delivery of books by Pearson to the Customer, no defense for non-payment/withholding the payment by the Customer shall be allowed. It is also between the Parties that in the event of dispatch of the books by Pearson, the Customer shall within 1(one) day of delivery of Books notify to Pearson any damages to the Books or of discrepancy of order, if any. In the absence of such notification, the Customer shall have no recourse whatsoever against Pearson.
- 2.6** Proof of Delivery: Customer agree and undertakes to provide a valid receiving of delivery by fixing its seal on it & signed by an authorized signatory/representative from Customer side (Proof of Delivery or POD) in the format provided by Company. Customer undertakes that POD should be provided to Company’s Transporter or to Customer nominated Transporter who in turn will submit the same to Company within 7 days otherwise it will be deemed that goods has been delivered, without fail. Where Customer instructed to ship the goods to the address other than its own address, Customer undertakes that it will ensure that the recipient of goods will provide the POD to relevant Transporter. It is Customer’s sole responsibility to designate its authorized representative to provide such proof of delivery and Company or Transport will not conduct any due diligence with respect to the authority of the person providing such receiving to proof of delivery. Customer agrees and undertakes that it will not be allowed to take any excuse in relation to the authority or identity of the person providing such stamped receiving to POD.

### **3. TERRITORY**

- 3.1** The Customer covenants that the books purchased in terms of these T&Cs shall be sold only in India (“**Territory**”), and shall not resell or otherwise distribute the books other than to its students who are enrolled with them.
- 3.2** The Customer hereby represents and warrants to Pearson that the Customer shall not resell or otherwise distribute the books outside the Territory.

- 3.3** The Customer hereby agrees and acknowledges that any breach of clause III (b) will result in substantial and irreparable damage to Pearson. The Customer hereby warrants that if it is found to have breached or caused the breach of the provisions of clause III (b) (*whether directly or indirectly*), the Customer shall pay to Pearson without demur or protest of any nature whatsoever, as liquidated damages and not as penalty, a surcharge of forty percent (40%) of the total value of purchases for all books which have been purchased by the Customer from Pearson in the last 6 (six) months preceding the occurrence of such breach.
- 3.4** The Customer further warrants that it shall pay such liquidated damages to Pearson within 30(thirty) days of the occurrence of such breach of the provisions of clause III (b) by the Customer (*whether directly or indirectly*).
- 3.5** The Customer further represents and warrants that such liquidated damages are in addition to, and not without prejudice to or a limitation upon any other remedy that may be available to Pearson. Further, Pearson may in its discretion, on breach of the provisions of clause III (b) (*whether directly or indirectly*), refuse to continue to sell the books to the Customer, or may alter the terms and conditions upon which any such sales shall be made.
- 3.6** It is agreed by the Customer that Company shall have the right to limit/define the Territory operating over the Customer under these T&Cs and the Customer shall be duty bound to comply with the Territory assigned/alterd by Pearson in writing which shall be binding on the Customer and the Customer undertakes to execute all such documents (*including any amendment/supplementary agreement*) required to give effect to the revisions in relation to rebate/discount terms.

#### **4. PAYMENT**

- 4.1** The Customer shall pay to the Company in the bank accounts as the case may be for the books purchased and delivered in adherence of payment terms as specified in the invoice.
- 4.2** The Company shall send a monthly statement to the Customer specifying the overall credit limit available to the Customer after taking into account all outstanding invoices. The credit limit of the Customer shall be finalized by the Company based on their sole discretion in line with the information provided by the Customer in either the [“HED Credit Application Form”](#) or [“K12 Credit Application Form”](#).
- 4.3** The Customer shall pay the Company as per the agreed credit period, against invoice(s) raised by the Company. In case the Customer agrees to pay the Company through post-dated cheques as per the agreed credit period, then the Customer shall send post-dated cheques for a particular billing within 15<sup>th</sup> of the succeeding month.
- 4.4** It is agreed by the Parties to these T&Cs that delay from the side of the Customer in releasing the payment to the Company shall attract interest on delayed payment at the rate of eighteen percent (18%) per annum payable by the Customer to the Company. In addition to the above, Company may withhold performance until all delinquent amounts and interest, if any, are paid. Additionally, Company may, at its option: (a) repossess goods for which payment has not been made; (b) recover all costs of collection, including but not limited to reasonable attorneys’ fees; or (c) combine any of the above rights and remedies as may be permitted by applicable law. These remedies are in addition to those available at law or in equity. Company may re-evaluate Customer’s credit standing at any time and modify or withdraw credit. Customer may not set off any invoiced amounts against sums that are due from Company.

#### **5. RETURN OF BOOKS**

If applicable and agreed between the Parties, the return of books to the Company, as supplied under these T&Cs shall be governed by the terms as specified in [HED Returns Policy](#) or [K12 Returns Policy](#)

## **6. COPYRIGHT / INTELLECTUAL PROPERTY RIGHTS**

- 6.1** The Customer shall promptly bring to the notice of the Company any and all instances of violation/infringement of the Company's copyright and/or any intellectual property rights in the books and shall provide all assistance and cooperation which may be required by the Company to protect its copyright/intellectual property rights. The Customer shall not use any intellectual property, identification of or reference to any trade name, trademark, service mark, service name or symbol of the Company in any advertising or promotional efforts without the Company's prior written consent. Further, the Customer accepts and acknowledges that all rights, title, ownership of the intellectual property rights including copyrights, trademark, service marks, design, and copyright shall always exclusively remain and vest with the Company. The Customer further undertakes that it shall not challenge the title or right of the Company in the intellectual property rights and shall not do or cause to do anything that may dilute the right or title of the Company in its intellectual property.
- 6.2** The Customer agrees that any unauthorized use of the Company's intellectual property shall constitute an infringement to the Company's intellectual property which shall be considered as a material breach of these T&Cs. In the above event, Company shall be entitled to claim damages and seek injunctive relief from the Customer.
- 6.3** It is agreed by the Customer that it shall take all reasonable and necessary steps to protect the infringement of the intellectual property rights as vested with the Company and the Customer does hereby undertake to ensure the taking of such steps as may be necessary for the protection of the Company's intellectual property rights by its employee/agents/sub dealers etc.
- 6.4** The Customer does hereby agree to provide all support including filing of complaints/recording of statement before judicial/quasi-judicial authorities, to the Company in furtherance of initiatives taken by the Company in protection of the IPR's vested in the Company or assigned to the Company.

## **7. INDEMNITY AND LIABILITY**

- 7.1** The Customer shall indemnify and hold harmless the Company from and against all losses, costs, actions, damages, liabilities, fines, penalties of any kind or nature whatsoever resulting from or relating to the negligence, default, act or omission on the part of the Customer and its associates, employees, workers, consultants, sub-contractors etc., or the employees, workers or consultants of such sub-contractors in the performance of or failure to perform, any obligations hereunder.
- 7.2** The Customer shall at all times keep the Company indemnified of all claims and damages that may be initiated by any third parties for any violation or infringement of any intellectual property rights laws including but not limited to copyright and patent infringement with respect to all such acts that may be attributed to the Customer or its associates, employees, workers, consultants, sub-contractors etc. This indemnity shall survive the engagement/relationship with the Customer. No limitation of liability set forth elsewhere in these T&Cs is applicable to this indemnification.
- 7.3** Under no circumstances shall Company be liable to Customer for any indirect, incidental or consequential damages (including loss of profit or business), howsoever arising, whether under contract, tort or otherwise, even if informed of the possibility of the same.

THE AGGREGATE LIABILITY OF COMPANY RELATED UNDER THESE T&CS WILL IN NO CASE EXCEED ORDER PRICE FOR THE SPECIFIC GOOD THAT GIVES RISE TO THE CLAIM. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THESE LIMITATIONS AND EXCLUSIONS APPLY IF LIABILITY ARISES FROM BREACH OF CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), OPERATION OF LAW, OR OTHERWISE.

- 7.4** Customer shall indemnify and hold Company, its directors, officials, representatives harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any claim by any third party of an alleged infringement of copyright or any other property right arising out of the unauthorized use of the books by Customer. This indemnity shall survive the termination of the engagement/relationship with the Customer. No limitation of liability set forth elsewhere in these T&Cs is applicable to this indemnification.

### **SCHEDULE III – E-LIBRARY SUBSCRIPTION**

#### **1. DEFINITIONS**

- 1.1 Authorized Users/End User** includes employees, faculty, staff, or students officially affiliated with the Customer, and authorized on-site patrons of the Customer's library facilities.
- 1.2 Product** means e-books, digital products, e-learning materials etc. published/owned by Pearson and/or its parent/subsidiary company / group companies.
- 1.3 Representative** means accountants, counsel, consultants, officers, and directors, employees, agents and other advisors and representatives or any other person, duly authorized by either of the Parties.
- 1.4 Customer Data** means all data, records, files, images, graphics, audio, video, photographs, reports, forms and other content and material, in any format, that are submitted, stored, posted, displayed, transmitted or otherwise used with the Product.
- 1.5 Site** means any department or library on the campus of the Customer. It being clarified that different campuses within the same city shall be considered as different site.

The terms that are capitalised and not defined herein shall have the meaning ascribed to them under Section II of the T&C.

#### **2. OBLIGATIONS OF PEARSON**

##### **2.1** Pearson shall be liable:

- a) to grant the usage of the Product to the Customer in the manner and time as agreed by the Parties under these T&Cs.
- b) to use reasonable endeavors to make the Product available to the Authorized Users of Customer at all times and on 24/7 basis, save for reasons mentioned herein and routine maintenance (*which shall be notified to the Customer in advance, wherever possible*), and to restore access to the Products as soon as possible in the event of an interruption.
- c) to provide and schedule maintenance at regular intervals for hassle-free Product usage/upgrading of Product, and may also go for emergency maintenance from time to time with written notification to the Customer, wherever possible.
- d) to provide a platform so that the Authorized End User of the Customer shall register their credentials, which includes the username and password provided by the Pearson and the Enrollment No in case of students and Employee Code in case of any employee of the Customer, respectively .Once the registration is done by the End User, access of Product may be accessed vide the platform from any place within India. All registered credentials shall be valid for a period of 1 (one) year from the date of registration and the End User shall re-authenticate the credentials again after the expiry of 1(one) year for continuing access to the Product vide platform

#### **3. OBLIGATIONS OF CUSTOMER**

##### **3.1** Customer shall be liable:

- a) to ensure that Authorized Users of the Customer can access the ebooks using the Pearson application(s) for an offline reading experience. This right to use the Product by Customer is strictly for non-commercial, educational, personal and training purposes only (Authorized Use). Automated searching or downloading by use of scripted searches, robots, spiders, crawlers, or otherwise, is strictly prohibited and any use in any form other than the Authorized Use shall amount to unauthorized use of the Product and will lead to revocation of the access by the Pearson without any intimation, including but not limited to imposition of costs for damages which may occur to Pearson including but not limited to breach of intellectual property rights of Pearson.
- b) to ensure that End Users shall not incorporate all or any part of the Product in course packs and electronic reserve collections without the prior written permission of the Pearson.

- c) to ensure that neither the End User nor the Customer shall be authorized to remove or alter the content of the Product including but not limited to change of the authors' names or the Pearson's copyright notices or other means of identification or disclaimers as appearing in the Product, or systematically print or make electronic copies of extracts of the Product, including complete issues, for any purpose and distribute any part of the Product in any manner including but not limited to sharing log in credentials or Product on any public or social platform whatsoever to any third person/user except those agreed by the Parties under these T&Cs. In addition, neither the End User nor the Customer attempt to bypass, modify, defeat or otherwise circumvent any digital rights management system or other content protection or features used as part of the Product or service.
- d) to ensure that the rights assigned under these T&Cs to it or its End Users/ Authorized Users shall not be sub-assigned or transferred to any other third Party without the Pearson's prior written consent.
- e) to grant access to Pearson or its representatives into the Site/premises of Customer, upon prior written notice of 3 (three) business days (*or immediately in case of any emergency, as determined in the sole opinion of the Pearson*), to audit the use of the Product by the Customer and/or access the use of Products by the End Users including their account details/log-in details etc. for the purpose of conducting audit of the use of the Product by the Customer.

**3.2** In addition, the Customer, undertakes:

- a) to use Product at the designated Site as per these T&Cs.
- b) to supervise and control the usage of the Product in accordance with these T&Cs and promptly (i) notify the Pearson of any unauthorized possession/usage of Product by any person or entity that may become known; (ii) furnish to the Pearson full details of the unauthorized possession, use of Product and assist the Pearson in investigating or preventing the recurrence of any unauthorized usage of Product; and (iii) use its best efforts to prevent a recurrence of any such unauthorized usage of Product.
- c) not to provide or otherwise make available the Product in whole or in part (including but not limited to program listings, object and source program listings, object code and source code), in any form to any other person except Authorized Users agreed by the Parties under these T&Cs without prior written consent from the Pearson.
- d) to pay to Pearson, the agreed fee and other charges as per the invoice and/or T&Cs.

**3.3** It is understood and agreed between the Parties that the repository/list of titles/Products will not cover each and every topic of all subject for all the classes.

**3.4** At all times, Customer shall, without fail, comply with all term and conditions of these T&Cs and Pearson's terms of using the Product. Further, Customer shall be fully liable to provide accurate Customer Data with respect to the use of the Product by the Authorized Users/End Users.

**3.5** It is agreed between the Parties that the Customer shall ensure compliance by the Authorized Users with the terms and conditions of these T&Cs. Any breach of the terms and conditions of these T&Cs by the Authorized Users shall be deemed to be a breach by the Customer.

**4. GRANT OF RIGHT TO USE THE PRODUCT:**

**4.1** Subject to the terms and conditions of these T&Cs, Pearson hereby grants to the Customer, a non-exclusive, non-transferable right to use Product at the designated Site only. After the end of engagement/relationship with Customer, the grant of right to use the Product will expire automatically and with immediate effect. The terms and conditions of the right to use the Product shall be governed by the provisions as mentioned here under these T&Cs.

**4.2** The Customer acknowledges and accepts Pearson's representation that Pearson and/or its affiliate/subsidiary/parent company has the title and ownership of the Product installed by it and agrees that this right to use the Product by the Customer does not convey any proprietary interest / ownership in the Product to the Customer or the Authorized Users/third party.

**4.3** The Customer shall not use the Product or any information obtained or derived from the Product or the Product documentation manuals for any other business /commercial gain by creating a computer program or through any other mode/means to compete with the Product.



- 4.4 Except as may be permitted by applicable law, Customer or Authorized Users shall not attempt to decompile, disassemble, alter, amend or reverse engineer the object code of Product in any manner.
- 4.5 The Customer acknowledges that Product is a commercially valuable proprietary product of Pearson and/or its associate/subsidiary/parent company and has involved expenditure of substantial amounts of money, which affords a commercial advantage over its competitors, and that loss of this competitive advantage due to unauthorized use or disclosure of the proprietary information would cause great injury or harm to Pearson.
- 4.6 The grant of use the Product provided in these T&Cs does not in any way imply that the Customer has the right to receive, or that Pearson has any obligation to provide, any technical or maintenance support for any other product procured by the Customer for their purposes.
- 4.7 Pearson does not warrant that the operation of the Product or access to the Product will be uninterrupted or error-free. Customer acknowledges and agrees that the Product may be subject to limitations, delays, and other problems inherent in the use of internet applications and electronic communications. Customer agrees that Pearson is not responsible for any third party content that may form part of the Product.

## **5. PERMISSION**

Customer shall also refrain from entering without the consent in writing of Pearson into any kind of agreement with any of the competitors of Pearson with respect to Product installed by the Pearson for any commercial, marketing or distribution or any other purpose which in the opinion of Pearson is detrimental to its interests or conflicting with the terms of these T&Cs, during the subsistence of these T&Cs. Any violation of this undertaking will make Customer liable for damages towards loss of any business, future profits whether direct or indirect, consequential or remote.

## **6. INDEMNITY BY THE CUSTOMER**

- 6.1 Customer shall at all times defend, indemnify and hold harmless the Pearson and its employees and its officers, directors, associates, subsidiaries, affiliates etc. from the losses, costs, fines, deficiencies, actions, judgments, interest, awards, penalties, damages or expenses of whatever kind, including the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers arising out of all acts, omissions, negligence or faults, of the Customer, its End User or anyone acting under the directions or control or on its behalf and all expenses (including any legal fees) incidental thereto, arising out of or resulting from:
- (a) Any acts, omission or statement by Customer or any person employed by or under contract with the Customer that result in physical or mental injury (including death), loss or damage to any person or property.
  - (b) Failure by Customer to comply with the applicable governmental authority requirements & requirements of law, that results in the imposition of fines or other penalties.
  - (c) Any act of infringement of any patent, trademark, or copyright or any unauthorized use of Product, any trade secret or any proprietary interest of Pearson or any act or omissions of Customer or its End User or to the extent that claim is made or brought by or on behalf of a third Party or legal dues of any nature.
  - (d) Any failure by Customer to satisfy all claims for obligations relating to the performance of the marketing and selling of the Product.
  - (e) Any material breach by the Customer or its End User under these T&Cs or any revision, covenant, warranty or obligation herein.
  - (f) Loss of and/or damage to any Pearson & third-party property.
  - (g) Losses incurred due to breach of representation or warranty by Customer, its agents or anyone directly or indirectly employed by any of them in connection with these T&Cs.
  - (h) Any unfair business actions, fraud, unlawful downloading/ printing by any person other than the Authorized User/ End User or the like by the Customer and/or any use of the Product or related scores are used in a manner not in accordance with all applicable law, or for other than lawful purposes. Customer shall defend, indemnify and hold harmless Pearson and their subsidiaries, affiliates, and their respective officers, directors, employees, agents, successors and permitted assigns from and against all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees, the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, arising out

of or resulting from any third party claim against Pearson arising out of or resulting from Customer's failure to comply with any of its obligations mentioned hereunder

- 6.2** The indemnification obligation as provided in this clause 9 shall survive the terms of this engagement/relationship with Customer pursuant to these T&Cs.

**7. LIMITATION OF LIABILITY**

- 7.1** Under no circumstances shall either Party be liable to the other for any indirect, incidental or consequential damages (including loss of profit or business), howsoever arising, whether under contract, tort or otherwise, even if informed of the possibility of the same.
- 7.2** Except as provided herein and excluding the said Product, Pearson makes no representations or warranties with respect to products, modifications, maintenance or other services, installation, or other matters, whether express or implied, including without limitation, any implied warranties of merchantability or fitness for a particular purpose, or arising by statute or course of dealing or trade custom. In no event, will Pearson be liable to Customer or any other party for any loss or damage, including without limitation, for time, money, or goodwill, or for consequential or exemplary damages, which may arise from the use, operation, maintenance or other services, installation or modification of the Product, inability to use the Product, in whole or part, for any other reason whatsoever, including, without limitation, by reason of defects, delays or copyright, patent or trademark infringement, notwithstanding notice to Pearson of any such matters which shall be limited to the extent of the total consideration been paid under these T&Cs.
- 7.3** Pearson shall not be liable for any liability that may arise due to the usage of hardware or any other material relating to the usage of the hardware in which Product has been installed.

**SCHEDULE IV – VERSANT**

**For the purposes of this Schedule, the term “Customer” used throughout shall mean any school, university, agency, company or individual, whether public or private, purchasing a license to use Versant tests.**

**1. Acceptance of T&Cs**

The purchase of a license for the use of test instruments, related materials, and services covered by these T&Cs are based upon acceptance of the various terms and conditions and adherence to all policies described, which may be modified from time to time. Customers agree to be bound to all terms and conditions effective at the time of order when placing an order for materials, a Purchase Order, a Test Order Form, or by partial or total payment of Pearson’s invoice for any tests, materials, or services ordered. No modification or additions to these terms and conditions are binding upon Pearson unless previously agreed to in writing by an authorized representative of Pearson, including but not limited to any terms that may appear on customer purchase orders.

**2. Prices; Payment; and Telecommunications Costs**

All prices and terms are subject to change without notice and are exclusive of taxes and shipping and handling charges. Customer agrees to accept the credit card billing. Payment is required before Test Identification Numbers (TINs) for the Customer's order are issued. All fees paid by Customer are non-refundable. Customer’s TINs shall be valid for one (1) year from the date of purchase. Each TIN can be used by the Customer once. Pearson reserves the right to cancel TINs if Customer's payments are not current, or if Customer does not comply with all applicable laws. When using the tests by telephone, the Customer will have test-takers call into the telephone numbers specified by Pearson. The Customer is responsible for any telecommunications or computer networking costs incurred by the Customer to make such calls.

**3. Taxes**

If an account is not currently listed as “tax-exempt,” applicable state and local taxes will be added to the invoice. Customers wishing to be listed as “tax-exempt” for future purchases must send a copy of a tax-exempt certificate to: [orders@pearsonkt.com](mailto:orders@pearsonkt.com)

**4. Disclaimer of Warranties**

ALL TESTS, TEST IDENTIFICATION NUMBERS (“TIN’S”), PRODUCTS, AND SERVICES PROVIDED BY PEARSON ARE PROVIDED “AS IS” AND WITHOUT WARRANTY OF ANY KIND AND PEARSON AND ITS LICENSORS DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. PEARSON DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE TESTS, TIN’S OR OTHER MATERIALS IN TERMS OF ITS CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. CUSTOMER AGREES THAT THE USE OF THE TESTS, TIN’S, OR OTHER MATERIALS PROVIDED BY PEARSON IS AT CUSTOMER’S OWN RISK. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY PEARSON OR A PEARSON REPRESENTATIVE SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT FULLY APPLY TO LICENSEE.

**5. Copyright Notice**

All tests and other related materials of Pearson are copyrighted. They are not to be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or any information storage and retrieval system without permission in writing from Pearson. The reproduction of any part of Pearson’s copyrighted tests and related materials in any way, whether the reproductions are sold or furnished free for use, is a violation of federal copyright law. No adaptations, translations, modifications, or special versions may be made without permission in writing from Pearson; customers are advised that such adaptations, translations, modifications, or special versions may affect the validity of the tests. Except as set forth herein, nothing in these T&Cs shall be construed as granting Customer any right, title, or interest in or to Pearson’s intellectual property.

**6. Limited License**

Customer acknowledges and agrees that Customer is purchasing a nonexclusive, nontransferable, revocable, limited license to use the copyrighted material subject to these T&Cs. The purchase of a license for any copyrighted material in no way transfers copyrights or other ownership interests to Customer except for a limited license hereunder. Additionally, Customer shall not (and shall not permit others to) sublicense, rent, lend, transfer, lease, sell or provide to others the copyrighted material except as otherwise provided by these T&Cs.

If Customer elects to utilize video recording offered as a component of the service, Customer agrees to only utilize the video recording for evaluation of individuals where local laws and regulations allow such video and audio recording. Customer agrees that the collection of audio and video shall be subject to the Versant privacy policy located at <https://www.pearson.com/english/versant/versantprivacynotice.html> (“Versant Privacy Policy”) and that Customer agrees to comply with the Versant Privacy Policy in its use of any video and audio recordings provided through the service. Pearson has no obligation to verify the identity of the test-takers.

**7. Test-Taker Accounts**

Where test-taker account creation is permitted by Customer, Customer authorizes Pearson to offer the ability for a test-taker to create an account directly with Pearson, which will allow the test-taker to view all Versant test results related to that test-taker, including those test results from Versant tests delivered for Customer. Customer recognizes that the test-taker shall have control over that account under these T&Cs directly with Pearson, and Pearson will utilize that account and data associated with that test-taker to provide services directly to the test-taker as the test-taker chooses outside the scope of these T&Cs.

**8. Publicity**

Customer grants Pearson permission to list Customer’s name on public customer lists and use Customer’s name and logo in marketing materials or press releases that name Pearson customers.

**9. Limitation of Claims**

Customer must bring any action on any claim against Pearson within one (1) year following the date the claim first accrued, or it shall be deemed waived.

## RETURNS POLICY FOR HIGHER EDUCATION & PTG CUSTOMERS

The Company will allow sales returns from the Customer in the calendar year immediately following the year in which purchases had been made, on a branch-to-branch basis. Purchases that are made for any new title between 1st October and 31st December in the calendar year can be returned (if unsold and within the eligible returns) after the month of June, in the following year. All such return request should be submitted by Customer with Pearson on and before 30 September of that year. No request placed after 30 September will be entertained. **All claims must quote the original invoice number and date. Annual entitlement for Returns will be restricted to 5% of the previous year net sales.**

### I. The following returns are allowed within the limit of 2% of annual net sales:

- a. **Old editions**, which must be returned to the Company within 120 (one hundred and twenty) days of release of the new edition with prior approval.
- b. **Annual editions of Competitive Examination Books:** Books that have a new edition every year. Such books must be returned within 120 (one hundred and twenty) days of release of the new edition.

### II. The following types of returns are allowed within the limit of 3% of prior year net sales

- a. **Unsold good stocks** (should be in saleable mint condition):
- b. **Out of print titles** – Books which are out of print and no longer sold or distributed. These are saleable stocks and can be sold till the stock gets liquidated. However if a dealer wishes to return, this needs to be claimed within entitlement limits of good stocks.

### III. The following types of returns will also be eligible for returns, outside the above criteria:

- a. **Defective copies:** Books with manufacturing defect only. The Customer must indicate the nature of manufacturing defect in the claim form itself; e.g. blank pages, missing pages etc. with page numbers.
- b. **In-transit damages:** Books supplied in damaged condition, the damage being caused while in transit. The Customer must inform about the same, in writing, within 15 (fifteen) days from receipt of goods.
- c. **Short receipt:** Books received short. The Customer must inform about the short receipt, in writing, within 15 (fifteen) days of receipt of goods. Such claims will be validated by the warehouse staff before acceptance.
- d. **Imported editions reprinted by the COMPANY:** If the Customer is holding an imported edition of a title reprinted by the Company, then a price difference for the same can be claimed for credit note, net of discounts. However, the purchase of this imported edition should not be older than 6 months of release of the Indian edition. These should be stamped as “Indian Edition”
- e. **Wrong ISBN** – This type of return will have to be claimed within 10 (ten) days of receipt of supplies
- f. **Returns “On Request” from Publisher** – returns to be made within 30 (thirty) days of request

### IV. Returns for special cases on exception basis would be considered with mutual agreed business plan however prior approval must be obtained from director sales, director finance and business head

### V. The following types of returns are unacceptable:

- a. **Shop-soiled books:** Books that are not in a good saleable condition, books with marking, stamping.
- b. **Exclusive distribution arrangements:** Books supplied on an exclusive basis, cannot be taken back. However if there is a manufacturing defect, stocks will be replaced.
- c. **Institutional orders** supplied on extra discounts and on no return basis are not eligible for returns.
- d. **US Editions and Global Editions** that are supplied on a **No Return clause** are not entitled for a return. However, old editions of Global editions can be considered for returns whenever releases the new edition into its territory.

Any returns of the above nature will not be processed for credit (even if mixed with good stock), and it will be the sole responsibility of the CUSTOMER(s) to take back the rejected stock at their own cost. The COMPANY will not be responsible for any loss or damage in transit, for such books.

### VI. Apart from the following cases, all sales returns will be on a ‘freight paid’ basis, the freight (for door to door delivery) to be paid by the Customer:

1. **Defective copies:** Books with manufacturing defect.
2. **In-transit damages:** Books supplied by the Company to the Customer, in damaged condition, the damage being caused while in transit.

**VII. The returns against the supplies made should be specific to a particular branch, and not to the buying group as a whole.** Any unclaimed return, though eligible, shall not be allowed a 'carry-forward' in the subsequent years.

**VIII. Annual Return Process of Annual Editions. Old Editions and Saleable Good Stocks** *The highlighted in is contrast to the opening paragraph. Pearson to confirm.]*

1. Annual returns will be accepted twice a year i.e April and October based on the eligibility value which will be communicated to the Customer in the beginning of year by sales.
2. A soft copy of the proposed return list consist of ISBN, title, quantity, price and invoice no. needs to be sent to Regional Manager concerned for verification and return authorization ("RA").
3. Approval on return in the form of RA consist of invoice no, ISBN, title, quantity, price, line value, total value and volume will be generated by CS based on transaction history ( within last 2 years) and will be sent to the Customer after internal approval.
4. Along with copy of RA, the consignment of authorised titles only should be booked on door delivery/prepaid to Dasna warehouse address and the copy of original documents should be sent to Customer Services.
5. On receipt of physical stock at the Warehouse the credit note will be issued within 3 weeks from the date receipt of stock and the electronic credit note will be sent to Customer for their records.
6. Unauthorised books will be sent back to Customer on Customer's expense.

#### **IX.SHIPMENT**

Authorized returns must be shipped freight prepaid (door-to-door delivery) to the address(es) indicated on the Company's CREDIT AUTHORIZATION FORM. Charges for clearance of shipment, if any, shall be at the Customer's expense at the Company's Ware House, 2nd Kilometer Stone, Reliance Power Project Road, Village Galand, N.H. 24, Near Dasna, Ghaziabad-201313, U.P. India (based on approved PA).

All approved returns must be sent:

1. With cartons properly packed and labelled, according to each Goods Return Note (GRN) reference, and packing list(s) specifying the number of cartons, account number, the titles, total quantity and value in each carton and the total value of the entire return for each account. Should the Customer(s) return books under different claim types (like old edition, defective, damage etc.), they should do separate GRN reference for each account.
2. With the Road Transport Receipt/Airway bill/Courier bill. Any cost incurred due to lack of proper shipment documents shall be chargeable to the Customer.
3. With copy/copies of Company's Return Authorization letters).
4. To the address(es) clearly stated in the Company's return authorization letter.
5. With good care to return them properly packed and sealed. The Company will not accept any books damaged in transit, due to negligence in packing, by the Customer.

#### **X.CREDIT**

Upon receipt of books at the warehouse, the Company's warehouse team will unpack, count and inspect them. The Company will issue credit note to the Customer within two months upon receipt of the returned books, provided all the return conditions (as described above) are met with. Credit notes will be sent only to the specific account listed on each return authorization letter(s).

Please note:

1. The Company reserves the right to refuse credit for books received without prior and proper authorization and such unauthorized returns will be shipped back to the Customer at the Customer's expense.
2. The Company reserves the right, to not to credit returns for books received from the CUSTOMER, in damaged or shop-soiled condition. The Company will inform the Customer of the value of these non-creditable returns. These books will be destroyed within two weeks from the date of informing the Customer, if the Company does not receive a written note from the CUSTOMER(s) to return these books back to them.
3. The Company reserves the right to not to credit returns of books that do not comply with any of the terms and conditions stated in this policy. These books will be returned to the Customer within two weeks, if the COMPANY does not receive written instructions from the Customer to destroy these books.
4. The Company reserves the right to refuse credit for books returned if there is no accompanying proof that such books have been purchased from the Company.

In the event the Customer does not receive credit note(s) within two (2) months of shipping the books to be returned, please contact the Company's general manager sales channels, with all relevant details. Any claims regarding non-receipt of credit note made after more than six months from the date of shipment, will not be considered and shall be deemed to be rejected.

## **XI. CLAIMS ON CREDIT NOTE**

Any discrepancy in claims regarding credit notes already issued must be brought to the Company's attention, in writing, within 14(fourteen) working days from the date of issue of the credit note

**Finally, the Company reserves the right to amend the returns policy at any time without any prior notice.**

\* Few common examples for rejection of return claims are:

1. Wrong claim category–When the Customer sends a claim under a wrong category. For example, old editions being returned as saleable good stock.
2. Return limit exceeded–If the Customer's return limit is over as described in section I, above.
3. Current active editions being returned as old editions.
4. Shop-soiled books being returned as defective or damaged stock.
5. Wrongly ordered books (i.e. wrongly ordered by the Customer) being returned as wrongly supplied books (i.e. wrongly supplied by the Company).
6. Return claims that do not bear complete details like the invoice number, return claim number, reason or type of return, LR/GRN copy etc.
7. Return claims that are not checked/signed by Company's sales representative/regional manager, as appropriate and wherever applicable.

\*The above list is not complete and exhaustive and just lists few common types of erroneous return claims.

**IMPORTANT: Separate claim** email should be sent for each type of return claim; e.g. unsold stock, old editions, defective copies, in-transit damages, etc.

## K12 RETURNS POLICY

**All supplies are made strictly on FIRM SALE basis and are subject to no returns with the following exceptions:**

- i.) **DAMAGED BOOKS (BOOKS SUPPLIED IN DAMAGED CONDITION )**
- ii.) **REVISED EDITIONS**
- iii.) **MISPRINTS (BOOKS WITH MANUFACTURING DEFECTS )**
- iv.) **UNSOLD BOOKS (In very exceptional cases, if agreed to by the company, in writing.)**

**The returns against Damaged Books, Unsold Books, revised Editions and Misprints shall be subject to a maximum of 10% (Ten Per Cent) of Gross Sales invoiced. The returns shall be made as per the details in the approved Credit Authorization Form.**

**NOTE:** No returns of the books or editions, in any case, shall be entertained or allowed, by the COMPANY, containing or having Import Titles.

### TIME LIMIT

1. The time limit for the above 4 categories of exceptions wherein returns will be accepted are as follows:

i.) **DAMAGED BOOKS**

Books received in damaged condition from the COMPANY'S warehouse may be returned if they are reported to the COMPANY within **one (1) month** from the date of the invoice. **This is not applicable for books sent via CUSTOMER'S nominated transport company at the time of purchase.**

ii.) **REVISED EDITIONS**

Old editions and out of print titles may be returned within **twelve (12) months** from the date of invoice.

iii.) **MISPRINTS**

**Misprints may be returned within ONE month from the date of Invoice provided the title is current and is not out of print.**

iv.) **UNSOLD BOOKS**

Books purchased during the period from September onward, may be returned if unsold, to the COMPANY within August of the following year.

### CONDITION OF BOOKS RETURNED

2. Books received must be in **mint condition** with the exception of **DAMAGED BOOKS** as described above.

### RETURN AUTHORIZATION FORM

3. In the above four exceptional cases the CUSTOMER is required to contact the COMPANY'S concerned Area Sales Executive along with proposed return list (ISBN, Title, Author, Quantity, Price & Invoice Number and as per the listing shared in Annexure IIA) and obtain return authorisation number before making any shipment. Return Authorization will be provided based on transaction history. Return shipments not supported by Return Authorisation number & as per the RETURN AUTHORISATION will not be considered and returned back to CUSTOMER on CUSTOMER'S expenses. In the event of rejecting returns that do not comply with the COMPANY'S return policy, the reasons for the will be indicated vide a rejection letter to be sent along with the books being sent back to the CUSTOMER.

### SHIPMENT

4. Authorized returns must be shipped freight prepaid and door-to-door to the address(es) indicated on COMPANY CREDIT AUTHORIZATION FORM. Charges for clearance of shipment if any shall be at the CUSTOMER expense.  
All returns must be sent:
  - (i) with cartons properly packed and labelled (according to RA number) and packing list(s) specifying the number of cartons, account number, the titles, total quantity and value in each carton and the total value of the entire return for each account. Should the CUSTOMER return books to be credited in different accounts, please use separate GRN reference for each account.



- (ii) with the Road Transport Receipt / Courier Waybill to ease release of shipment. Any cost incurred due to lack of proper shipment documents shall be chargeable.
- (iii) with copy / copies of the COMPANY's Return Authorization Form(s).
- (iv) to the address(es) clearly stated in the COMPANY's Return Authorization Form(s).
- (v) **with care to return them properly packed and sealed. The COMPANY will not accept any books damaged in transit due to negligence in packing by CUSTOMER.**
- (vi) **For all new accounts, freight will be paid on a minimum net sale of 5 lacs and above.**

**CREDIT**

5. Upon receipt of the books at the warehouse, the COMPANY will unpack, count and inspect them. The COMPANY will issue a credit note to the CUSTOMER within two (2) months upon receipt of the returned books, provided all return conditions are met. Credit notes will be sent only to the specific account listed on each Return Authorization Form(s).

Please note:

- i.) The COMPANY reserves the right not to issue credit for claims of short-shipment made after 1 month of the date of receipt of stocks.
- ii.) The COMPANY reserves the right to refuse credit for books received without prior authorization and these unauthorized returns will be shipped back to CUSTOMER at CUSTOMER cost.
- iii.) The COMPANY reserves the right not to credit returns received in damaged or shop-soiled condition. The COMPANY will inform the CUSTOMER of the value of these non-creditable returns. These returns will be destroyed within two weeks if the COMPANY does not receive a written note from the CUSTOMER to send these back to the CUSTOMER.
- iv.) The COMPANY reserves the right not to credit returns that do not comply with any of the terms and conditions stated in this policy. These returns will be returned to the CUSTOMER's address within two weeks if the COMPANY does not receive written instructions from the CUSTOMER to destroy the books.
- v.) The COMPANY reserves the right to refuse credit for books returned if there is no proof of purchase from the COMPANY organization accompanied with the return.  
In the event the CUSTOMER does not receive the credit within **three (3) months** of shipping the returned books, the CUSTOMER may contact the COMPANY's Vice President -Finance. Claims regarding non-receipt of credit made more than six months from the date of shipment will not be considered and shall be deemed not to have been received by the COMPANY.

**CLAIMS ON CREDIT NOTE**

6. Any claims regarding credit notes already issued must be brought to COMPANY attention in writing within fourteen (14) working days of the date of credit.

<b>RETURN AUTHORISATION</b>	
Customer Bill to: A/C No: Name: Address:	Ship to: A/C No: Name: Address:
Boxes Transporter:	Debit Note no. & Date: GR No & Date:



**HEDCREDITAPPLICATION FORM**

**A) PARTICULARS OF THE APPLICANT COMPANY/FIRM (CUSTOMER)**

**Name** \_\_\_\_\_ **of** \_\_\_\_\_ **Company/Firm:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_

**Telephone No.:** \_\_\_\_\_

**Fax No:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Mobile No.:** \_\_\_\_\_

**Type of Company:** Sole-proprietor / Partnership / Limited Company  
(strike-off whichever is inapplicable)

**Directors/Partners/Proprietor:**

Name	Age (yrs.)	Residential Address	Voter ID/Passport No.	Designation

Authorized Capital: \_\_\_\_\_ Date of Incorporation: \_\_\_\_\_

Company's Banker: \_\_\_\_\_

Paid-up Capital: \_\_\_\_\_ Business Reg. No: \_\_\_\_\_

Bank Account No: \_\_\_\_\_

Address of Bank: \_\_\_\_\_

**B) THE NATURE OF YOUR BUSINESS:**

(a) Are you a Retailer/School supplier?–Yes/No

(b) If Yes, which of the following type of books do you deal in :-  
( ) School Textbooks ( ) General Books ( ) Tertiary Books

**C) DOCUMENTS ENCLOSED FOR SUBMISSION (Please tick)**

**Note: Non-submission may result in this application being declined.**

- (i) Certificate of Registration ( )
- (ii) Directors', Shareholders', Partners', Sole Proprietor's official documentary evidence ( )
- (iii) Audited balance Sheet for the past 2 yrs. ( )

(iv) Audited Profit & Loss Account for past 2 years ( )

(v) Pan Number ( )

**D) CREDIT REFERENCE FROM OTHER PUBLISHERS**

	<b>Publisher</b>	<b>Credit Period</b>	<b>Credit Limit</b>
1)	_____	_____	_____
2)	_____	_____	_____
3)	_____	_____	_____

**E) COLLATERALS**

Are you able to provide us with any of the following security:

1. Bankers guarantee YES / NO If yes, how much? \_\_\_\_\_
2. Personal guarantee YES / NO If yes, name of guarantor? \_\_\_\_\_
3. Letter of credit YES / NO If yes, what is the credit line? \_\_\_\_\_

**F) PAYMENT MATTERS**

Person to contact: \_\_\_\_\_ Tel No.: \_\_\_\_\_

Designation: \_\_\_\_\_ Fax No.: \_\_\_\_\_

We declare that the information given above is correct and true and wish to apply for credit facilities. We also declare that we have not applied for credit terms to Pearson India Education Services Pvt. Ltd. in the past and have not been declined credit facilities by/any other publishers. We will agree to all credit terms and conditions as approved by you.

_____	_____
<b>Authorized Signatory of Customer</b>	<b>Date</b>
_____	_____
<b>Name of Authorized Signatory</b>	<b>Customer's Stamp</b>

*This section is for use by Pearson India Education Services Pvt. Ltd. Credit Control Department only*

ACCOUNT NO: \_\_\_\_\_

CUSTOMER GENERAL BACKGROUND: \_\_\_\_\_

SPECIAL INSTRUCTIONS \_\_\_\_\_

MAJOR BUYING GROUP (HE / SCH) \_\_\_\_\_

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**REGIONAL MANAGER**

(Signature) (Date)

Certified and approved by:

**NATIONAL SALES MANAGER (HED AND PTG)**

(Signature)

(Date)

**Approved by:**

**Attachment:** \_\_\_\_\_

**Remarks:** \_\_\_\_\_

**BUSINESS HEAD (HED AND PTG)**

**CREDIT CONTROL**

(Signature)

(Date)

(Signature)

(Date)

**GM FINANCE**

**PRESIDENT & CEO**

(Signature)

(Date)

(Signature)

(Date)

**Attachment:** \_\_\_\_\_

**Remarks:** \_\_\_\_\_

**K12 CREDIT APPLICATION FORM**

**A) PARTICULARS OF THE APPLICANT COMPANY/FIRM (CUSTOMER)**

Name \_\_\_\_\_ of \_\_\_\_\_ Company/Firm: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone No.: \_\_\_\_\_

Fax No: \_\_\_\_\_

Email: \_\_\_\_\_

Mobile No.: \_\_\_\_\_

**Type of Company:** Sole-proprietor / Partnership / Limited Company  
(strike-off whichever is inapplicable)

**Directors/Partners/Proprietor:**

Name	Age (yrs.)	Residential Address	Voter ID/Passport No.	Designation

Authorized Capital: \_\_\_\_\_ Date of Incorporation: \_\_\_\_\_

Company's Banker: \_\_\_\_\_

Paid-up Capital: \_\_\_\_\_ Business Reg. No: \_\_\_\_\_

Bank Account No: \_\_\_\_\_

Address of Bank: \_\_\_\_\_

**B) THE NATURE OF YOUR BUSINESS:**

(c) Are you a Retailer/School supplier?—Yes/No

(d) If Yes, which of the following type of books do you deal in :-

( ) School Textbooks ( ) General Books ( ) Tertiary Books

**C) DOCUMENTS ENCLOSED FOR SUBMISSION (Please tick)**

**Note: Non-submission may result in this application being declined.**

(vi) Certificate of Registration ( )

(vii) Directors', Shareholders', Partners', Sole Proprietor's official documentary evidence ( )

(viii) Audited balance Sheet for the past 2 yrs. ( )

(ix) Audited Profit & Loss Account for past 2 years ( )

(x) Pan Number ( )

**D) CREDIT REFERENCE FROM OTHER PUBLISHERS**

	<b>Publisher</b>	<b>Credit Period</b>	<b>Credit Limit</b>
4)	_____	_____	_____
5)	_____	_____	_____
6)	_____	_____	_____

**E) COLLATERALS**

**Are you able to provide us with any of the following security:**

1. Bankers guarantee YES / NO If yes, how much? \_\_\_\_\_
2. Personal guarantee YES / NO If yes, name of guarantor? \_\_\_\_\_
3. Letter of credit YES / NO If yes, what is the credit line? \_\_\_\_\_

**F) PAYMENT MATTERS**

Person to contact: \_\_\_\_\_ Tel No.: \_\_\_\_\_

Designation: \_\_\_\_\_ Fax No.: \_\_\_\_\_

We declare that the information given above is correct and true and wish to apply for credit facilities. We also declare that we have not applied for credit terms to Pearson India Education Services Pvt. Ltd. in the past and have not been declined credit facilities by/any other publishers. We will agree to all credit terms and conditions as approved by you.

_____	_____
<b>Authorized Signatory of Customer</b>	<b>Date</b>
_____	_____
<b>Name of Authorized Signatory</b>	<b>Customer's Stamp</b>

*This section is for use by Pearson India Education Services Pvt. Ltd. Credit Control Department only*

ACCOUNT NO: \_\_\_\_\_

CUSTOMER GENERAL BACKGROUND: \_\_\_\_\_

SPECIAL INSTRUCTIONS \_\_\_\_\_

MAJOR BUYING GROUP (HE / SCH) \_\_\_\_\_

DEBTOR CLASS (HE / SCH / BOTH) \_\_\_\_\_

CREDIT LIMIT \_\_\_\_\_

PAYMENT TERMS \_\_\_\_\_ DAYS

Requested by:

**REGIONAL/CLUSTER BUSINESS/ZONAL BUSINESS/AREA BUSINESS (MANAGER)**

(Signature)

(Date)

**Certified and approved by:**

**NATIONAL SALES MANAGER (K12 Business)**

(Signature)

(Date)

**Approved by:**

**BUSINESS HEAD (K12 Business)**

(Signature)

(Date)

**CREDIT CONTROL**

(Signature)

(Date)

**GM FINANCE**

(Signature)

(Date)

**PRESIDENT & CEO**

(Signature)

(Date)

**Attachment:** \_\_\_\_\_

**Remarks:** \_\_\_\_\_