

Supplementary Ready-Made Assessment Content Terms

These Supplementary Ready-Made Assessment Content Terms ("Content Terms") apply and are part of the Agreement if an Order refers to licensing of Assessment Content by Questionmark to Customer.

Any conflict or inconsistency between these Content Terms and the other parts of the Agreement shall be resolved in favor of these Content Terms in respect of the subject matter hereof. Capitalized terms used in these Content Terms without definition have the meanings given to those terms in the Questionmark Standard Terms (as defined below).

1. Definitions

The following definitions shall apply for these Content Terms:

Agreement means the terms and conditions applicable to Questionmark's provision of the OnDemand Service to Customer, which in absence of other mutually executed terms referring to these Content Terms shall be the Questionmark OnDemand Service Terms and Conditions at www.questionmark.com/go/agree-od-tc ("Questionmark Standard Terms"), supplemented by these Content Terms.

Licensor means the organization that authors and owns the Assessment Content and who directly or with the assistance of Questionmark uploads this to and maintains it in the OnDemand Service. Licensor may be Questionmark or a third party.

Results Data means answers, scores, results and other information collected or derived from Participants taking Assessments using Assessment Content. Results Data excludes Assessment Content.

Term of Assessment Content License means the period stated in the Order during which Customer is licensed to access and use Assessment Content. For clarity the Term of Assessment Content License may be the same as or shorter than the Term defined in the Agreement.

2. Grant of License

- 2.1 Assessment Content License. Use of Assessment Content is in accordance with this Section 2.1, rather than pursuant to other licenses granted elsewhere in the Agreement. In consideration of, and subject to, payment of the Fees for Assessment Content, Questionmark grants to Customer a non-exclusive, non-transferable, non-sublicensable, royalty-free license and authorization to access and use Assessment Content with

Participants in the OnDemand Service only, during the Term of Assessment Content License and subject to the limits and terms of the Agreement and the Order. Questionmark will make the Assessment Content available to Customer within the OnDemand Service. All rights not expressly granted to Customer hereunder are reserved by Questionmark and Licensor, and their respective suppliers and licensors.

- 2.2 Assessment Content modification. Assessment Content modification is not permitted unless expressly provided for in an Order. Notwithstanding that an Order may permit Assessment Content modification, Customer acquires no ownership or other rights in or to any such modifications or derivatives other than to use such modifications or derivatives as Assessment Content under the Agreement. All rights in and to modifications to or derivatives of Assessment Content are reserved to Questionmark and Licensor, and their respective suppliers and licensors. Neither Assessment Content nor any modifications or derivatives thereof are “work product” or “works-for-hire” under any applicable laws.
- 2.3 Reports. The OnDemand Service may be used to report on Results Data without including Assessment Content. However, if any Assessment Content, including question wording or question choices from Assessment Content, are produced in reports, such Assessment Content remains the copyright of Licensor and may not be used by Customer for any purposes that are outside of the scope of the license granted in these Content Terms and the Order and must be kept confidential.
- 2.4 Updates. Neither Licensor nor Questionmark is obliged to provide Assessment Content updates, but if updates are provided, such updates will be made available to Customer within the OnDemand Service along with information on any changes. Any permitted modifications made to Assessment Content by Customer may need to be recreated in the event of any update, which modifications shall be the exclusive responsibility of Customer. For the avoidance of doubt, modifications to Assessment Content updates are subject to Section 2.2 above.

3. Customer Obligations

- 3.1 Use of Assessments. Customer agrees to follow any information or documentation provided by Questionmark or Licensor regarding the validity and potential application of Assessment Content and use of Other Materials (as defined below). Notwithstanding the foregoing, Customer assumes sole responsibility for determining that Assessment Content and Assessments are appropriate and valid for its purposes and requirements.
- 3.2 Confidentiality. Customer shall protect Assessment Content as Confidential Information of Licensor and use reasonable efforts to ensure Participants do not share it with others. Assessment Content remains Confidential Information of Licensor after termination or expiry of Customer’s license to use Assessment Content. Customer will immediately notify Questionmark of any actual, threatened or suspected breach of confidentiality in respect of Assessment Content and reasonably assist Licensor in responding to such event.
- 3.3 Compliance with Laws. Customer will ensure that its use of Assessment Content complies with all applicable laws.

- 3.4 Data processing. Customer instructs Questionmark to review and process Results Data to help run the Services and to create, update and analyze Benchmarks and other aggregated data as described with reference to Customer Data in the Questionmark Standard Terms. Customer may use Licensor as a sub-processor to help perform such instructions in addition to other sub-processors as set out in the Agreement and for clarity may share Benchmarks and other aggregated data with Licensor.
- 3.5 Assessment Content Fees. Unless agreed otherwise in an Order, Fees for Assessment Content are due based on the number of Assessments completed using Assessment Content, however Questionmark may charge Fees for Assessment Content for Assessments using Assessment Content that are commenced but not finished if it detects a pattern of such use (excluding due to technical problems with the OnDemand Service). If Customer exceeds the limitations on use of Assessment Content in the Order, Questionmark may charge Customer for the excess use on a pro rata basis calculated with reference to the then current Order pricing. Any purchased Assessment Content volumes not fully utilized during any Term of Assessment Content License may not be carried forward to any future Term of Assessment Content License and no refunds shall be provided in this event.

4. Intellectual Property

- 4.1 Intellectual Property. Licensor is the owner of the Assessment Content, and no rights of ownership and/or other intellectual property rights in Assessment Content are transferred to Customer. The license granted to Customer is expressly limited to the rights conferred in these Content Terms.
- 4.2 Restrictions. Customer may not share Assessment Content with any third party except as expressly provided for in the Agreement or an Order and any permitted third party use will be limited to the use permitted for Customer. Except as expressly permitted by these Content Terms, Customer may not copy, download, transmit, redistribute, publish, modify or commercially exploit Assessment Content or move Assessment Content outside the OnDemand Service. Customer may not hide or attempt to hide copyright, trademark or other ownership information or identification of Licensor's ownership of Assessment Content.
- 4.3 Other Materials. Licensor retains all ownership rights in any names, logos, marks, templates, scripts, software and documentation accompanying or provided with Assessment Content ("Other Materials"), and Customer acquires no rights in Other Materials except to display and use such Other Materials along with Assessment Content, as expressly permitted or required under the Agreement or applicable law.
- 4.4 Infringement. Customer will promptly notify Questionmark of any actual, threatened or suspected infringement or misappropriation of intellectual property rights in Assessment Content or Other Materials. Customer shall indemnify and hold Questionmark and/or Licensor and their respective suppliers and licensors harmless from any and all claims, liabilities, damages, costs and/or expenses and suits arising out of any claim that

Customer has used Assessment Content or Other Materials in violation or misappropriation of the intellectual property rights of any party (including Questionmark or Licensor).

5. Support

Questionmark will make reasonable efforts to provide email support for use of Assessment Content. If Customer has questions about or identifies possible issues with Assessment Content, Customer may contact Questionmark by email content@learnosity.com, and Questionmark will use reasonable efforts to pass questions or issues to Licensor and pass responses received back by email. Support for the OnDemand Service does not apply to Assessment Content.

6. Termination

- 6.1 Assessment Content. On termination or expiry of Customer's license to use Assessment Content, Customer will immediately cease all use of and delete all Assessment Content from the OnDemand Service. Customer will not retain any copies of Assessment Content following termination or expiry of its license to use Assessment Content.
- 6.2 Results Data. Customer may retain Results Data in the OnDemand Service after termination or expiry of its license to use Assessment Content. If Results Data retention results in any retention of elements of Assessment Content question wording or choices, such elements of Assessment Content remain the exclusive property of Licensor, may not be used by Customer other than directly with retained Results Data and shall remain Confidential Information of Licensor.