

Universal Terms of Service Agreement
Totara LMS Clients

The relationship between ELEARNING EXPERTS LLC and its clients is governed by this Universal Terms of Service Agreement.

ELEARNING EXPERTS LLC
PO BOX 1055
Yorktown, Virginia 23692
email: accounts@elearningexperts.net
phone: 888.928.3848

January, 2017

1. Your relationship with ELEARNING EXPERTS LLC

1.1 Your use of ELEARNING EXPERTS' products, software, services and Web sites (referred to collectively as the "Services" in this document and excluding any services provided to you by ELEARNING EXPERTS LLC under a separate written agreement) is subject to the terms of a legal agreement between you and ELEARNING EXPERTS LLC, whose principal place of business is at 8918 George Washington Memorial Hwy, Yorktown, Virginia, 23690. This document explains how the agreement is made up and sets out some of the terms of that agreement.

1.2 Your agreement with ELEARNING EXPERTS LLC may also include Additional Terms applicable to the Services, in addition to the Universal Terms. All of these are referred to below as the "Additional Terms." Where Additional Terms apply to a Service, these will be accessible for you to read either within, or through your use of, that Service.

1.3 The Universal Terms, together with any Additional Terms, form a legally binding agreement between you and ELEARNING EXPERTS LLC in relation to your use of the Services. It is important that you take the time to read them carefully. Collectively, this legal agreement is referred to below as the "Terms".

1.4 If there is any contradiction between what the Additional Terms say and what the Universal Terms say, then the Additional Terms shall take precedence in relation to that Service.

2. Accepting the Terms

2.1 In order to use the Services, you must first agree to the Terms. You may not use the Services if you do not accept the Terms.

2.2 You can accept the Terms by: (a) purchasing any Service, or (b) actually using the

Services. In this case, you understand and agree that ELEARING EXPERTS LLC will treat your use of the Services as acceptance of the Terms from that point onwards.

2.3 You may not use the Services and may not accept the Terms if (a) you are not of legal age to form a binding contract with ELEARING EXPERTS LLC, or (b) you are a person barred from receiving the Services under the laws of the United States or other countries including the country in which you are resident or from which you use the Services.

2.4 Before you continue, you should print off or save a local copy of the Universal Terms for your records.

3. Provision of the Services by ELEARING EXPERTS LLC

3.1 ELEARING EXPERTS LLC has offices, contractors, and affiliated legal entities throughout the United States. Sometimes, these affiliates will be providing the Services to you on behalf of ELEARING EXPERTS LLC itself. You acknowledge and agree that Subsidiaries and Affiliates will be entitled to provide the Services to you.

3.2 ELEARING EXPERTS LLC is constantly innovating in order to provide the best possible experience for its users. Software often undergoes rapid evolution in order to keep up with current and emerging technologies and to protect the end users from emerging vulnerabilities. The software package(s) that is (are) installed for you on the first day of your service will be updated and modified as is necessary and appropriate throughout your annual subscription. Changes in the software package(s) may also necessitate changes in the hardware that Elearning Experts uses to deliver Services. Thus, you acknowledge and agree that the form and nature of the Services that ELEARING EXPERTS LLC provides may change from time to time without prior notice to you.

3.3 As part of this continuing innovation, you acknowledge and agree that ELEARING EXPERTS LLC may stop (permanently or temporarily) providing the Services (or any features within the Services) to you or to users generally at ELEARING EXPERTS LLC's sole discretion, with a 60 day written notice to you. You may stop using the Services with a 60 day written notice to ELEARING EXPERTS LLC. Should Elearning Experts stop providing Services to you or to users generally, you will receive a pro-rata refund for any and all remaining balances based on contractual terms. Other termination rights are outlined in Section 13.2.

3.4 You acknowledge and agree that if ELEARING EXPERTS LLC disables access to your account, you may be prevented from accessing the Services, your account details or any files or other content that is contained in your account. In the event ELEARING EXPERTS LLC disables your account for more than five business days,

you will receive a pro-rata refund for any and all remaining balances based on contractual terms.

3.5 You acknowledge and agree that ELEARNING EXPERTS LLC has set a fixed upper limit on the number of transmissions you may send or receive through the Services (10 Mbit/s [megabits per second]) and a set a limit on the amount of storage space used for the provision of any Service and you agree to those limits.

4. Use of the Services by You

4.1 In order to access certain Services, you may be required to provide information about yourself (such as identification or contact details) as part of the registration process for the Service, or as part of your continued use of the Services. You agree that any registration information you give to ELEARNING EXPERTS LLC will always be accurate, correct and up to date. Please see our most recent Privacy Policy for details (<http://elearningexperts.net/terms>).

4.2 You agree to use the Services only for purposes that are permitted by (a) the Terms and (b) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions (including any laws regarding the export of data or software to and from the United States or other relevant countries).

4.3 You agree not to access (or attempt to access) any of the Services by any means other than through the interface that is provided by ELEARNING EXPERTS LLC, unless you have been specifically allowed to do so in a separate agreement with ELEARNING EXPERTS LLC. You specifically agree not to access (or attempt to access) any of the Services through any automated means (including use of scripts or web crawlers) and shall ensure that you comply with the instructions set out in any robots.txt file present on the Services.

4.4 You agree that you will not engage in any activity that interferes with or disrupts the Services (or the servers and networks which are connected to the Services). Routine use of your software license or subscription is not in and of itself a disruption.

4.5 Unless you have been specifically permitted to do so in a separate agreement with ELEARNING EXPERTS LLC, you agree that you will not reproduce, duplicate, copy, sell, trade or resell the Services for any purpose.

4.6 You agree that you are solely responsible for (and that ELEARNING EXPERTS LLC has no responsibility to you or to any third party for) any breach of your obligations under the Terms and for the consequences (including any loss or damage which ELEARNING EXPERTS LLC may suffer) of any such breach.

5. Your passwords and account security

5.1 You agree and understand that you are responsible for creating secure passwords and maintaining the confidentiality of passwords associated with any account you use to access the Services.

5.2 Accordingly, you agree that you will be solely responsible to ELEARNING EXPERTS LLC for all activities that occur under your account.

5.3 If you become aware of any unauthorized use of your password or of your account, you agree to notify ELEARNING EXPERTS LLC immediately at support@elearningexperts.net or via our helpdesk portal at <http://elearningexperts.net/support>

6. Privacy and your personal information

6.1 For information about ELEARNING EXPERTS LLC's data protection practices, please read ELEARNING EXPERTS LLC's Privacy Policy at <http://elearningexperts.net/terms>. This policy explains how ELEARNING EXPERTS LLC treats your personal information, and protects your privacy, when you use the Services.

6.2 You agree to the use of your data in accordance with ELEARNING EXPERTS LLC's Privacy Policies.

7. Content in the Services

7.1 You understand that all information (such as data files, written text, computer software, music, audio files or other sounds, photographs, videos or other images) which you may have access to as part of, or through your use of, the Services are the sole responsibility of the person from which such content originated. All such information is referred to below as the "Content".

7.2 You should be aware that Content presented to you as part of the Services, may be protected by intellectual property rights which are owned by the authors or publishers who provide that Content to ELEARNING EXPERTS LLC (or by other persons or companies on their behalf). You may not modify, rent, lease, loan, sell, distribute or create derivative works based on this Content (either in whole or in part) unless you have been specifically told that you may do so by ELEARNING EXPERTS LLC or by the owners of that Content, in a separate agreement.

7.3 ELEARNING EXPERTS LLC reserves the right (but shall have no obligation) to pre-screen, review, flag, filter, modify, refuse or remove any or all Content from any Service. ELEARNING EXPERTS LLC may provide tools to filter out explicit sexual content or remove them manually. This hosting service is not designed for adult

content and will be cause for termination of the service.

7.4 You understand that by using the Services you may be exposed to Content that you may find offensive, indecent or objectionable and that, in this respect, you use the Services at your own risk.

7.5 You agree that you are solely responsible for (and that EARNING EXPERTS LLC has no responsibility to you or to any third party for) any Content that you create, transmit or display while using the Services and for the consequences of your actions (including any loss or damage which EARNING EXPERTS LLC may suffer) by doing so.

8. Proprietary rights

8.1 Unless you have agreed otherwise in writing with EARNING EXPERTS LLC, nothing in the Terms gives you a right to use any of EARNING EXPERTS LLC's trade names, trade marks, service marks, logos, domain names, and other distinctive brand features.

8.2 Other than the limited license set forth in Section 11, EARNING EXPERTS LLC acknowledges and agrees that it obtains no right, title or interest from you (or your licensors) under these Terms in or to any Content that you submit, post, transmit or display on, or through, the Services, including any intellectual property rights which subsist in that Content (whether those rights happen to be registered or not, and wherever in the world those rights may exist). Unless you have agreed otherwise in writing with EARNING EXPERTS LLC, you agree that you are responsible for protecting and enforcing those rights and that EARNING EXPERTS LLC has no obligation to do so on your behalf.

8.3 You agree that you shall not remove, obscure, or alter any proprietary rights notices (including copyright and trade mark notices) which may be affixed to or contained within the Services unless you have expressed written permission from EARNING EXPERTS LLC.

8.4 Unless you have been expressly authorized to do so in writing by EARNING EXPERTS LLC, you agree that in using the Services, you will not use any trade mark, service mark, trade name, logo of any EARNING EXPERTS LLC or organization in a way that is likely or intended to cause confusion about the owner or authorized user of such marks, names or logos.

9. License from EARNING EXPERTS LLC

9.1 EARNING EXPERTS LLC gives you non-assignable and non-exclusive license to use the software provided to you by EARNING EXPERTS LLC as part of the Services as provided to you by EARNING EXPERTS LLC (referred to as

the “Software” below). This license is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by EARNING EXPERTS LLC, in the manner permitted by the Terms.

9.2 Unless EARNING EXPERTS LLC has given you specific written permission to do so, you may not assign (or grant a sub-license of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software.

10. TOTARA LMS

10.1. By entering into this agreement with us or by using or purchasing TOTARA products or services through us, you agree to be bound by the terms and conditions of the TOTARA Subscription Agreement set out at www.totaralms.com/subagreement.pdf or otherwise provided to you and you consent to us providing your details to TOTARA for the purposes of informing TOTARA that you are using or intend to use TOTARA products.

10.2. Please see Appendix A for the most recent version of the TOTARA Subscription Agreement if you are unable to access the document via the link in Section 10.1.

11. Content license from you

11.1 You retain copyright and any other rights you already hold in Content which you submit, post or display on or through, the Services.

11.2 You understand that EARNING EXPERTS LLC, in performing the required technical steps to provide the Services to our users, may (a) transmit or distribute your Content over various public networks and in various media; and (b) make such changes to your Content as are necessary to conform and adapt that Content to the technical requirements of connecting networks, devices, services or media. You agree that this license shall permit EARNING EXPERTS LLC to take these actions.

11.3 You confirm and warrant to EARNING EXPERTS LLC that you have all the rights, power and authority necessary to grant the above license.

12. Software updates

12.1 The software which you use may automatically be updated from time to time by EARNING EXPERTS LLC. These updates are designed to improve, enhance and further develop the Services and may take the form of security updates, bug fixes, enhanced functions, new software modules and completely new versions. You agree to receive such updates (and permit EARNING EXPERTS LLC to deliver these to

you) as part of your use of the Services.

13. Ending your relationship with EARNING EXPERTS LLC

13.1 The Services identify Term Lengths, which apply until terminated by either you, or EARNING EXPERTS LLC as set out below.

13.2 If you want to terminate your legal agreement with EARNING EXPERTS LLC, you may do so by (a) notifying EARNING EXPERTS LLC with a 60 day written notice and (b) closing your accounts for all of the Services which you use, where EARNING EXPERTS LLC has made this option available to you. Your notice should be sent, in writing, to EARNING EXPERTS LLC's address, which is set out at the beginning of these Terms. Early termination of Services invokes a 30% cancellation fee to EARNING EXPERTS LLC upon the remaining Term fees. Any balance after fees will be returned to you.

13.3 EARNING EXPERTS LLC may at any time, terminate its legal agreement with you if:

- you have breached any provision of the Terms (or have acted in manner which clearly shows that you do not intend to, or are unable to comply with the provisions of the Terms); or
- EARNING EXPERTS LLC is required to do so by law (for example, where the provision of the Services to you is, or becomes, unlawful); or
- the partner with whom EARNING EXPERTS LLC offered the Services to you has terminated its relationship with EARNING EXPERTS LLC or ceased to offer the Services to you; or
- EARNING EXPERTS LLC is transitioning to no longer providing the Services to users in the country in which you are resident or from which you use the service; or
- the provision of the Services to you by EARNING EXPERTS LLC is, in EARNING EXPERTS LLC's opinion, no longer commercially viable. Except in the case of a termination because of your breach, following any early termination by EARNING EXPERTS LLC, a pro-rata refund will be provided to you effective from the date that the specified Services are no longer available to you.

13.4 Nothing in this Section shall affect EARNING EXPERTS LLC's rights regarding provision of Services under Section 3 of the Terms.

13.5 When these Terms come to an end, all of the legal rights, obligations and liabilities that you and EARNING EXPERTS LLC have benefited from, been subject to (or which have accrued over time while the Terms have been in force) or which are expressed to continue indefinitely, shall be unaffected by this cessation, and the provisions of paragraph 19.7 shall continue to apply to such rights, obligations and liabilities indefinitely.

14. Exclusion of warranties

14.1 Nothing in these terms, including sections 14 and 15, shall exclude or limit ELEARNING EXPERTS LLC's warranty or liability for losses which may not be lawfully excluded or limited by applicable law. Some jurisdictions do not allow the exclusion of certain warranties or conditions or the limitation or exclusion of liability for loss or damage caused by negligence, breach of contract or breach of implied terms, or incidental or consequential damages. Accordingly, only the limitations which are lawful in your jurisdiction will apply to you and our liability will be limited to the maximum extent permitted by law.

14.2 You expressly understand and agree that your use of the services is at your sole risk and that the services are provided "as is" and "as available." Any service level assurance will be as set forth in a separate service agreement between you and ELEARNING EXPERTS LLC.

14.3 In particular, ELEARNING EXPERTS LLC, its offices, and contractors do not represent or warrant to you that:

- your use of the services will meet your requirements,
- your use of the services will be uninterrupted, timely, secure or free from error,
- any information obtained by you as a result of your use of the services will be accurate or reliable, and
- that defects in the operation or functionality of any software provided to you as part of the services will be corrected.

14.4 Any material downloaded or otherwise obtained through the use of the services is done at your own discretion and risk and that you will be solely responsible for any damage to your computer system or other device or loss of data that results from the download of any such material.

14.5 No advice or information, whether oral or written, obtained by you from ELEARNING EXPERTS LLC or through or from the services shall create any warranty not expressly stated in the terms.

14.6 ELEARNING EXPERTS LLC further expressly disclaims all warranties and conditions of any kind, whether express or implied, including, but not limited to the implied warranties and conditions of merchantability, fitness for a particular purpose and non-infringement.

15. Limitation of liability

15.1 Subject to overall provision in paragraph 14.1 above, you expressly understand and agree that ELEARNING EXPERTS LLC, its subsidiaries and affiliates, and its licensors shall not be liable to you for: any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you, however caused

and under any theory of liability. This shall include, but not be limited to, any loss of profit (whether incurred directly or indirectly), any loss of goodwill or business reputation, any loss of data suffered, cost of procurement of substitute goods or services, or other intangible loss; any loss or damage which may be incurred by you, including but not limited to loss or damages a result of:

- any reliance placed by you on the completeness, accuracy or existence of any advertising, or as a result of any relationship or transaction between you and any advertiser or sponsor whose advertising appears on the services;
- any changes which EARNING EXPERTS LLC may make to the services, or for any permanent or temporary cessation in the provision of the services (or any features within the services);
- the deletion of, corruption of, or failure to store, any content and other communications data maintained or transmitted by or through your use of the services;
- your failure to provide EARNING EXPERTS LLC with accurate account information;
- your failure to keep your password or account details secure and confidential.

15.2 The limitations on EARNING EXPERTS LLC's liability to you in paragraph 15.1 above shall apply whether or not EARNING EXPERTS LLC has been advised of or should have been aware of the possibility of any such losses arising.

16. Copyright and trade mark policies

16.1 It is EARNING EXPERTS LLC's policy to respond to notices of alleged copyright infringement that comply with applicable international intellectual property law (including, in the United States, the Digital Millennium Copyright Act) and to terminating the accounts of repeat infringers.

17. Other content

17.1 The Services may include hyperlinks to other web sites or content or resources. EARNING EXPERTS LLC may have no control over any web sites or resources that are provided by companies or persons other than EARNING EXPERTS LLC.

17.2 You acknowledge and agree that EARNING EXPERTS LLC is not responsible for the availability of any such external sites or resources, and does not endorse any advertising, products or other materials on or available from such web sites or resources.

17.3 You acknowledge and agree that EARNING EXPERTS LLC is not liable for any loss or damage which may be incurred by you as a result of the availability of those external sites or resources, or as a result of any reliance placed by you on the completeness, accuracy or existence of any advertising, products or other materials

on, or available from, such web sites or resources.

18. Changes to the Terms

18.1 EARNING EXPERTS LLC may make changes to the Universal Terms or Additional Terms from time to time. When these changes are made, EARNING EXPERTS LLC will make a new copy of the Universal Terms available at <http://elearningexperts.net/terms>. Terms will be made available to you from within, or through, the affected Services. Attempts will be made to notify you directly of these changes via email and through the Earning Experts Support Portal.

18.2 You understand and agree that if you continue to use the Services 30 days after the date on which the Universal Terms or Additional Terms have changed, EARNING EXPERTS LLC will treat your use as acceptance of the updated Universal Terms or Additional Terms. Prior to 30 days after the change in the Universal Terms and any Additional Terms, you may terminate your Services with EARNING EXPERTS LLC and receive a pro-rata refund for any and all remaining balances based on contractual terms.

19. General legal terms

19.1 Sometimes when you use the Services; you may (as a result of, or through your use of the Services) use a service or download a piece of software, or purchase goods, which are provided by another person or EARNING EXPERTS LLC. Your use of these other services, software or goods may be subject to separate terms between you and the EARNING EXPERTS LLC or person concerned. If so, the Terms do not affect your legal relationship with these other companies or individuals.

19.2 The Terms constitute the whole legal agreement between you and EARNING EXPERTS LLC and govern your use of the Services (but excluding any services which EARNING EXPERTS LLC may provide to you under a separate written agreement), and completely replace any prior agreements between you and EARNING EXPERTS LLC in relation to the Services.

19.3 You agree that EARNING EXPERTS LLC may provide you with notices, including those regarding changes to the Terms, by email, regular mail, or postings on the Services.

19.4 You agree that if EARNING EXPERTS LLC does not exercise or enforce any legal right or remedy which is contained in the Terms (or which EARNING EXPERTS LLC has the benefit of under any applicable law), this will not be taken to be a formal waiver of EARNING EXPERTS LLC's rights and that those rights or remedies will still be available to EARNING EXPERTS LLC.

19.5 If any court of law, having the jurisdiction to decide on this matter, rules that any

provision of these Terms is invalid, then that provision will be removed from the Terms without affecting the rest of the Terms. The remaining provisions of the Terms will continue to be valid and enforceable.

19.6 You acknowledge and agree that each member of the group of companies of which EARNING EXPERTS LLC is the parent shall be third party beneficiaries to the Terms and that such other companies shall be entitled to directly enforce, and rely upon, any provision of the Terms which confers a benefit on (or rights in favor of) them. Other than this, no other person or EARNING EXPERTS LLC shall be a third party beneficiary to the Terms.

19.7 The Terms, and your relationship with EARNING EXPERTS LLC under the Terms, shall be governed by the laws of the Commonwealth of Virginia without regard to its conflict of laws provisions. You and EARNING EXPERTS LLC agree to submit to the exclusive jurisdiction of the courts located within the County of York, Virginia to resolve any legal matter arising from the Terms. Notwithstanding this, you agree that EARNING EXPERTS LLC shall still be allowed to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.