

## **PLEASE READ CAREFULLY BEFORE ACCESSING THE LEARNING MANAGEMENT SYSTEM**

This licence agreement (**Licence**) is a legal agreement between you (**Licensee or you**) and BVRLA Services Limited of River Lodge, Badminton Court, Amersham, BUCKS HP7 0DD (**BVRLA, us or we**) for the use of the learning management system (the "**LMS**")

We license use of the LMS to you on the basis of this Licence. We do not sell the LMS or any software to you. We, or our licensors, remain the owners of the LMS at all times.

**Browser requirements:** The LMS will operate on the latest versions of Chrome, Edge, Firefox, Android and Safari.

### **IMPORTANT NOTICE TO ALL USERS:**

- BY CLICKING ON THE "I AGREE" BUTTON BELOW YOU AGREE TO THE TERMS OF THIS LICENCE WHICH WILL BIND YOU. THE TERMS OF THIS LICENCE INCLUDE, IN PARTICULAR, LIMITATIONS ON LIABILITY IN CONDITION 5.
- IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENCE, YOU MUST CLICK ON THE "DISAGREE" BUTTON BELOW AND YOU MAY NOT USE THE LMS.

**You should print a copy of this Licence for future reference.**

#### **1. Licence**

1.1 The following defined terms are used in this Licence:

1.1.1 **Intellectual Property Rights** patents, rights to inventions, copyright, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered which subsist or will subsist now or in the future in any part of the world.

1.1.2 **Licensee Data** means the data inputted by or on behalf of you, for the purpose of using or facilitating your use of the LMS and any data generated by, or derived from your use of the LMS, whether hosted or stored within the LMS or elsewhere.

1.1.3 **Prohibited Data** means:

(a) any special category data (as defined in the UK GDPR);

- (b) any card or bank account details; and
- (c) any identification number provided on a government identity card or passport.

1.1.4 **Viruses** means any thing or device (including any software, code, file or programme) which may prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

## 2. Terms

- 2.1 Where you are being granted access to the LMS pursuant to an agreement between your employer and us (the “**Main Agreement**”), you must only use the LMS in connection with your role, and if your employment or engagement ceases for any reason you must stop using the LMS immediately.
- 2.2 In consideration of you agreeing to abide by the terms of this Licence, BVRLA hereby grants to you a non-exclusive, non-transferable licence to use the LMS in the UK on the terms of this Licence, until this Licence is terminated in accordance with its terms.
- 2.3 You shall:
  - 2.3.1 provide the us with:
    - (a) all necessary co-operation in relation to this Licence; and
    - (b) all necessary access to such information as may be required by the us from time to time;
  - 2.3.2 without affecting your other obligations under this Licence, comply with all applicable laws and regulations with respect to your activities under this Licence; and
  - 2.3.3 ensure that your network and browser comply with the relevant specifications provided by BVRLA from time to time.
- 2.4 You shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all Licensee Data. You hereby grant us a licence to use the Licensee Data:
  - 2.4.1 for the provision of the LMS;
  - 2.4.2 the purposes set out in our Privacy Notice as described in condition 9 (Personal data); and

- 2.4.3 all other purposes relevant to the proper exercise of our rights and obligations under this Agreement.
- 2.5 If you choose, or you are provided with, a user identification code, password or any other piece of information, you must treat such information as confidential. You must not disclose it to any third party. We have the right to disable any user identification code or password at any time, if in our reasonable opinion you have failed to comply with any of the provisions of this Licence.
- 2.6 If you know or suspect that anyone other than you knows your user identification code or password, you must promptly notify us at [training@bvrla.co.uk](mailto:training@bvrla.co.uk).

### **3. Restrictions**

- 3.1 Except as expressly set out in this Licence or as permitted by any local law which is incapable of exclusion by agreement between the parties, you shall not:
  - 3.1.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the LMS in any form or media or by any means;
  - 3.1.2 attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the LMS;
  - 3.1.3 access all or any part of the LMS to build a product or service which competes with the LMS;
  - 3.1.4 use the LMS to provide services to third parties;
  - 3.1.5 license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the LMS available to any third party; or
  - 3.1.6 attempt to obtain, or assist third parties in obtaining, access to the LMS.
- 3.2 You shall not use the LMS to:
  - 3.2.1 distribute or transmit to BVRLA, or BVRLA's subcontractors or licensors, any Viruses;
  - 3.2.2 store, access, publish, disseminate, distribute or transmit any material which:
    - (a) constitutes Prohibited Data;
    - (b) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
    - (c) facilitates illegal activity;

- (d) depicts sexually explicit images;
- (e) promotes unlawful violence;
- (f) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

3.2.3 is otherwise illegal or causes damage or injury to any person or property,

and we reserve the right to immediately suspend your access to the LMS if you breach, or we reasonably consider that you may have breached, this clause 3.

#### **4. Intellectual property rights**

- 4.1 You acknowledge that all Intellectual Property Rights in the LMS anywhere in the world belong to BVRLA or our licensors, that rights in the LMS are licensed (not sold) to you, and that you have no rights in, or to, the LMS other than the right to use them in accordance with the terms of this Licence.
- 4.2 You acknowledge that you have no right to have access to the LMS in source code form.

#### **5. Limitation of liability**

- 5.1 We shall not in any circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Licence for:
  - 5.1.1 loss of profits, sales, business, or revenue;
  - 5.1.2 business interruption;
  - 5.1.3 loss of anticipated savings;
  - 5.1.4 wasted expenditure;
  - 5.1.5 loss or corruption of data or information;
  - 5.1.6 loss of business opportunity, goodwill or reputation,
    - whether such loss is direct or indirect; or
  - 5.1.7 any special, indirect or consequential loss, damage, charges or expenses.
- 5.2 Other than the losses set out in condition 5.1 (Excluded liabilities), our maximum aggregate liability under or in connection with this Licence whether in contract, tort (including

negligence) or otherwise, shall in all circumstances be limited to £5,000. This maximum cap does not apply to condition 5.3 (Unlimited liability).

5.3 Nothing in this Licence shall limit or exclude our liability for:

- 5.3.1 death or personal injury resulting from our negligence;
- 5.3.2 fraud or fraudulent misrepresentation; or
- 5.3.3 any other liability that cannot be excluded or limited by English law.

5.4 This Licence sets out the full extent of our obligations and liabilities in respect of the supply of the LMS. Except as expressly stated in this Licence, there are no conditions, warranties, representations or other terms, express or implied, that are binding on us. Any condition, warranty, representation or other term concerning the supply of the LMS which might otherwise be implied into, or incorporated in, this Licence whether by statute, common law or otherwise, is excluded to the fullest extent permitted by law.

## **6. Termination**

6.1 We may terminate this Licence immediately by written notice to you if:

- 6.1.1 the Main Agreement ends for any reason; or
- 6.1.2 you commit a material or persistent breach of this Licence which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so.

6.2 On termination for any reason:

- 6.2.1 all rights granted to you under this Licence shall cease; and
- 6.2.2 you must immediately cease all activities authorised by this Licence.

## **7. Communications between us**

7.1 We may update the terms of this Licence at any time on notice to you in accordance with this condition 7. Your continued use of the LMS following the deemed receipt and service of the notice under condition 7.3 shall constitute your acceptance to the terms of this Licence, as varied. If you do not wish to accept the terms of the Licence (as varied) you must immediately stop using and accessing the LMS on the deemed receipt and service of the notice.

7.2 If we have to contact you, we will do so by email or by pre-paid post to the address you provided in accordance with your registration of the LMS.

7.3 Any notice:

- 7.3.1 given by us to you will be deemed received and properly served 24 hours after it is first posted on our website, 24 hours after an email is sent, or three days after the date of posting of any letter; and
- 7.3.2 given by you to us will be deemed received and properly served 24 hours after an email is sent, or three days after the date of posting of any letter.

7.4 In proving the service of any notice, it will be sufficient to prove, in the case of posting on our website, that the website was generally accessible to the public for a period of 24 hours after the first posting of the notice; in the case of a letter, that such letter was properly addressed, stamped and placed in the post to the address of the recipient given for these purposes; and, in the case of an email, that such email was sent to the email address of the recipient given for these purposes.

## 8. **Events outside our control**

- 8.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this Licence that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in condition 8.2.
- 8.2 An **Event Outside Our Control** means any act or event beyond our reasonable control, including without limitation failure of public or private telecommunications networks.
- 8.3 If an Event Outside Our Control takes place that affects the performance of our obligations under this Licence:
  - 8.3.1 our obligations under this Licence will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control; and
  - 8.3.2 we will use our reasonable endeavours to find a solution by which our obligations under this Licence may be performed despite the Event Outside Our Control.

## 9. **How we may use your personal information**

- 9.1 We will process the following data as a data controller name, email address, job title, location, line manager details, gender, phone number, address. Under data protection legislation, we are required to provide you with certain information about who we are, how we process this personal data and for what purposes, and your rights in relation to your personal data and how to exercise them. This information is provided in [[LINK TO PRIVACY NOTICE](#)] (Privacy Notice) and it is important that you read that information.
- 9.2 Where you are accessing the LMS pursuant to the Main Agreement we have with your employer, your employer's privacy notice will apply to the processing of the following personal data: your name, gender, job title, employee number (if applicable), team, location, line manager, gender, email address, the courses you undertake using the LMS, the marks you obtain on those courses,. If you do not have a copy of this notice then please ask your employer for a copy. We will provide this information back to your employer in accordance with the Main Agreement.

## **10. Other important terms**

- 10.1 We may transfer our rights and obligations under this Licence to another organisation, but this will not affect your rights or our obligations under this Licence. You may not transfer your rights or your obligations under this Licence to another person.
- 10.2 This Licence constitutes the entire agreement between us and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between us, whether written or oral, relating to its subject matter.
- 10.3 You acknowledge that in entering into this Licence you do not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Licence.
- 10.4 You agree that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Licence.
- 10.5 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 10.6 A delay or failure to exercise, or the single or partial exercise of, any right or remedy does not waive that or any other right or remedy, nor does it prevent or restrict the further exercise of that or any other right or remedy.
- 10.7 Each of the conditions of this Licence operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 10.8 This Licence, its subject matter and its formation (and any non-contractual disputes or claims) are governed by English law. We both irrevocably agree to the exclusive jurisdiction of the courts of England and Wales.