

## LearnCoach Ltd Terms of Use

Welcome, and thank you for your interest in LearnCoach, (“LearnCoach” or “We” or “Us”), which runs the website located at <https://LearnCoach.com>, <https://my.LearnCoach.com> and other related subdomains. LearnCoach also maintains related application programming interfaces (API’s), mobile applications (“Properties”) and online services (the “Website”). Together these are referred to as the LearnCoach “Properties”.

The following Terms of Use are a legal contract between you (“You”) and LearnCoach regarding your use of the LearnCoach Properties. Visitors and users of the Properties are referred to individually as “User” and collectively as “Users”.

Please read the following terms of use carefully. By registering for, accessing, browsing, or using Properties, you acknowledge that you have read, understood, and agree to be bound by the following terms and conditions, including the LearnCoach privacy policies and any additional guidelines as defined below (collectively, the “terms”).

If you are a parent or guardian and you provide consent for your child to register with the Properties, you agree to be bound by these terms of service in respect of such child’s use of the Properties.

### Table of Contents:

1. Eligibility; Accounts.
2. Privacy Notice.
3. API Terms; Other Guidelines.
4. Modification of the Terms.
5. User Content License Grant; Representations and Warranties.
6. Digital Millennium Copyright Act.
7. Proprietary Materials; Licenses.
8. Prohibited Conduct.
9. Third-Party Sites, Products and Services; Links.
10. Termination.
11. Indemnification.
12. Disclaimers; No Warranties.
13. Limitation of Liability and Damages.
14. Miscellaneous (including Dispute Resolution and Arbitration).

### 1. Eligibility; Accounts.

The Properties are not available to:

- (A) Any users previously suspended or removed from the Properties by LearnCoach or,
- (B) Any persons under the age of 13 whose registration has not been approved by a legal parent or guardian.

By clicking the “I Agree” button or by otherwise using or registering an account, You represent:

(a) that You have not been previously suspended or removed from Properties by LearnCoach;

(b) that You are either:

(i) at least 13 years of age or

(ii) Your parent and/or guardian have consented to Your use of the LearnCoach Properties;

AND

(c) that your registration and your use of the LearnCoach Properties follows all applicable laws and regulations.

### 1.1 Account.

To use certain features of the Properties, you must register for an account. You may be asked to provide a password in connection with your account. You are solely responsible for maintaining the confidentiality of your account and password, and You agree to accept responsibility for all activities that occur under your account or password. You agree that the information You provide to LearnCoach, whether at registration or at any other time, will be true, accurate, current, and complete. You also agree that You will ensure that this information is kept accurate and up-to-date at all times. If You have reason to believe that your account is no longer secure (e.g., in the event of a loss, theft or unauthorized disclosure or use of your account ID or password), then You agree to immediately notify LearnCoach at [info@LearnCoach.com](mailto:info@LearnCoach.com). You may be liable for the losses incurred by LearnCoach or others due to any unauthorized use of your LearnCoach account.

### 1.2 Integrated Service.

LearnCoach may permit You to register for our Properties through, or otherwise associate your LearnCoach account with, certain third-party social networking or integrated services, such as Facebook and Google (“Integrated Service”). By registering for our Properties using (or otherwise granting access to) an Integrated Service, you agree that LearnCoach may access your Integrated Service’s account information, and you agree to any and all terms and conditions of the Integrated Service regarding your use of the properties via the Integrated Service. You agree that any Integrated Service is a Reference Site (as defined below) and you are solely responsible for your interactions with the Integrated Service as a result of accessing the Properties through the Integrated Service. LearnCoach does not control the practices of Integrated Services, and you are advised to read the Privacy Policy and terms and conditions of any Integrated Service that you use to understand their practices.

### 1.3 Child User.

If You are a User of our Properties and are under the age of 13 (“Child User”), You may not register an account without consent and approval from your legal parent or guardian. A

Child User that begins the registration process for himself or herself without a Parent User may have the registration process restricted until a Parent User approves or assumes responsibility for the Child User account. Additionally, a Child User may use the Properties if registered through certain educational organizations or, in certain cases (as defined below), by Coaches that have entered a relationship directly with LearnCoach and through which education organization or Coach the legal parent and/or guardian of such Child User has consented to use. Further, in certain instances, a Child User may use our Properties via one of the third party applications that integrate into or with the Properties. A Child User that has registered through such external educational organizations, third party applications, or Coaches will only be permitted to use LearnCoach Properties for so long as LearnCoach reasonably believes that such access has been consented to by the Child User's parent or guardian.

#### 1.4 Parent User.

If You are at least 18 years of age and you are the legal parent or guardian of a child that seeks to register as a Child User, You may register a parent account on the Properties ("Parent User"). As a Parent User, you may create, register, manage and approve Child User accounts only for your own child(ren) or child(ren) for whom you are a legal guardian.

If you register, approve the registration of, or otherwise assume responsibility for any child user, you represent and warrant that you are such child user's legal parent or guardian and you agree to be bound by the terms on behalf of such child user, including without limitation being liable for all use of the Properties by the child user.

You acknowledge that LearnCoach may choose, but is not obligated, to make any inquiries, either directly or through third parties, that LearnCoach deems necessary to validate Your registration information, including without limitation engaging third parties to provide verification services. LearnCoach reserves all rights to take legal actions against anyone who misrepresents personal information or is otherwise untruthful about their identity.

Notwithstanding the foregoing, you acknowledge that LearnCoach cannot guarantee the accuracy of any information submitted by any user and LearnCoach is not obligated to verify the identity of any user, including any user's claim to be a parent user, or to verify that a parent identified by a child user or a coach during registration is such child user's actual parent or guardian.

A Parent User account, along with all associated Child User accounts, may be terminated by LearnCoach at any time and without warning for any failure to abide by these Terms.

#### 1.5 Coach/tutor.

LearnCoach may make available certain features and tools that permit certain Users (such as, for example, representatives of school districts, schools, teachers, and other educators

to work with students and other Users through the Properties in order to provide such students and other Users with tutorial, educational and other education-related services, and to review and evaluate educational achievement and progress of such students and other Users (each a “Coach”). If you are a Coach, you must use LearnCoach’s educator registration process when registering an account.

If you are a coach and you register an account for a child user, you represent and warrant that you have received express consent from such child user’s parent or legal guardian for you to register the child user for the Properties and for you to provide to LearnCoach the information you disclose in connection with the registration of such child user. Without limiting the foregoing, you further agree to be bound by these terms on behalf of such child user, including without limitation being liable for all use of the Properties by the child user, for so long as the child user is not otherwise associated with or assumed by a valid parent user account.

You hereby agree to indemnify, defend and hold harmless LearnCoach against any and all claims, losses, liabilities and expenses (including reasonable attorneys’ fees) arising out of or related to

- (a) your violation of any provision, representation or warranty this Section 1.5;
- (b) the use of the Properties by the Child User;
- (c) your failure to obtain sufficient parental or legal guardian consent;
- (d) your registration of the Child User, or
- (e) any other action related to the Child User.

## 2. Privacy Notice.

LearnCoach feels strongly about protecting your privacy. We understand how important privacy is to you, and we are committed to creating a safe and secure environment for learners of all ages. This Privacy Notice applies to LearnCoach.com, our mobile application, our application programming interface (“API”), and online services (collectively, our “Properties”), which are all owned and operated by LearnCoach. This Privacy Notice describes how LearnCoach collects and uses the information you provide on our Properties, and describes the choices available to you regarding our use of your personal information and how you can access and update this information.

Our Privacy Notice describes what information we gather from our members and others who visit and use our Properties, how we use that information, and what we do to protect it. By visiting or using our Properties, you consent to the information handling practices described in this Privacy Notice.

### How we collect and use data.

We take the information you provide to us very seriously, and we strive to put you in control of decisions around your information. LearnCoach collects the following information about you and your use of our Properties:

## Personal Information.

When you register for, browse and use our Properties, you may provide to LearnCoach what is generally called “personally identifiable information” or “personal data” (such as your full name, email address, or a photograph of yourself) that can be used to identify you. At LearnCoach, we call this data “Personal Information”.

## Information from Integrated Services like Facebook or Google.

If you decide to register through or otherwise grant access to a third-party social networking or integrated service (what we call an “Integrated Service”), such as Facebook Connect or Google, LearnCoach may also collect Personal Information that is already associated with your Integrated Service account. You may also have the option of sharing additional information with LearnCoach through an Integrated Service. If you choose to provide such information, during registration or otherwise, you are giving LearnCoach the permission to use, share, and store it in a manner consistent with this Privacy Notice.

## How we access and use your Record of Learning

Upon registration LearnCoach may ask to obtain access to your Record of Learning to allow us to provide you with a more personalised experience. You will be able to opt into this. Deciding not to do so will limit what features you can access but will have no other effects on your access to the LearnCoach Properties.

## Information about your use of our Properties and other User-provided Information.

We may collect usage information about your use of certain features on our Properties, such as the number of problems you have attempted, the number of videos you have viewed, and the amount of time spent to complete a problem. This enables us to better tailor educational experiences that are most appropriate for you.

## Information obtained from other Users.

We make available certain features on our Properties that allow other Users to provide us information about you. This information may include Personal Information. Generally, this occurs when parents or teachers provide information relating to a Child User. For example, a parent may register an account for their child and provide us with certain information, such as the Child’s User name and birthday.

## Location Information.

We may collect and use information about your location (such as your country) to provide you with tailored educational experiences for your region, but we don’t collect the precise

geolocation of you or your device. You may be able to change the settings on your computer or mobile device to prevent it from providing us with any location information.

### Information from Other Sources.

In certain situations, we may obtain information, including Personal Information, from third parties or sources other than our Properties. For example, if you donate to LearnCoach via PayPal, we may obtain your name and mailing address to send a thank you note, or if you apply for a job with LearnCoach via an online recruiting site, we will obtain the information you provide in your application for that purpose. If we combine or associate information from other sources with Personal Information that we collect through our Properties, we will treat the combined information as Personal Information in accordance with this Privacy Notice.

### LearnCoach uses this information in the following ways:

#### To enhance our Properties and the services we provide.

LearnCoach uses the information you provide or that we collect to enhance our relationship with you and to operate, maintain, enhance, and provide all the features and services found on our Properties. LearnCoach, for instance, remembers your recent activity so we can recommend the most appropriate content for you on your next visit. If you have given LearnCoach consent, we may use your Personal Information to provide you with information about LearnCoach's features, services and other offerings that may be of interest to you. Under certain circumstances and if we obtain your consent (for example, if you submit a testimonial and agree to make it public), we may post your Personal Information on our Properties.

#### To understand how you and other Users use our Properties.

LearnCoach uses all the information that you provide or that we collect from Users to understand and analyse the usage trends, learning behaviours, and preferences of our Users, to improve the way the Properties work and look, and to create new features and functionality. For more information, please see the "Technologies" section, below.

#### To enable your participation in LearnCoach partnership arrangements.

LearnCoach will not share Personal Information with other third-party organizations for their marketing or promotional use without your consent or except as part of a specific program or feature for which you will have the ability to opt-in. You can grant us permission to share your Personal Information with authorized partners, not-for-profit organizations, and other entities that are not affiliated with LearnCoach. In these cases, we will only provide to these third parties the information you have authorized or asked us to share to these third parties. If you participate in special programs, LearnCoach may collect personal information from you to facilitate those programs.

LearnCoach may send information or offers to you on behalf of these third parties. For example, if we partner with a not-for-profit organization running a contest in your region and send you an email notifying you of the partnership, we will only share your information with the third party if you opt-in to participate in the contest, and if so, the information we would share would be limited to that needed to facilitate your participation in the contest and enable you to redeem your prize.

### Data Retention.

Unless we receive a deletion request, we will retain your information for as long as your account is active or as is reasonably useful for operational purposes.

### Technical Information.

To provide a personalized learning and high-quality experience for our Users, we may use various technologies that automatically record certain technical information from your browser or device, including standard log files, web beacons, or pixel tags. This technical information may include your Internet Protocol (IP) address, device or browser type, Internet service provider (ISP), referring or exit pages, clickstream data, operating system, and the dates and times that you visit our Properties. We do this to better understand how our Users are using our Properties so we can improve functionality and the services we offer you.

Like most websites, whether you are a registered member, we may send one or more cookies – small text files containing a string of alphanumeric characters – to your computer. Cookies remember information about your activities on a website and enable us to provide you with a more personalized learning experience. LearnCoach may use both session cookies and persistent cookies. A session cookie disappears automatically after you close your browser. A persistent cookie remains after you close your browser and may be used by your browser on subsequent visits to the Website. You can, however, remove a persistent cookie at any time. Please review your web browser “Help” file to learn the proper way to modify your cookie settings. However, without cookies you will not have access to certain services and features on the Website.

LearnCoach uses a variety of third-party service providers, such as YouTube or Vimeo to host our videos or Google Analytics to understand our Website usage. We may allow third-party service providers to place and read their own cookies, web beacons, and similar technologies to collect information through the Website. This information is collected directly and automatically by these third parties, and LearnCoach does not participate in these data transmissions. LearnCoach will, wherever feasible, contractually obligate our third-party service providers to abide by the terms of this Privacy Notice.

LearnCoach also uses Local Storage Objects (LSOs) such as HTML5 to store content information and preferences. Third parties with whom we partner to provide certain

features on our site may use LSOs such as HTML5 to collect and store information. Various browsers may offer their own management tools for removing HTML5 LSOs. Please consult your browser's "Help" function to learn more.

### How we share or transfer data

LearnCoach takes great care to protect the information you provide us. We do not rent or sell Personal Information that we collect from Users with third parties. We also take great measures to restrict any collection or disclosure of Personal Information from children less than 13 years of age.

### LearnCoach will disclose User information only as described below:

If you want information shared with other Users, we'll share it for you. We may provide certain features that may allow you to share information with other Users. For example, you may choose to populate your profile with your name, short biography, and location. Or you may ask questions that are visible to other Users of LearnCoach. Whenever you share information with other Users of our Properties, any Personal Information that you choose to include in, or is associated with, such User Postings will be accessible by such Users. As with most online services, once you make your Personal Information available to others in any of these ways, it may be collected and used by the recipients without restriction.

### We may share data with social networks at your request.

Some of our Users choose to connect their LearnCoach account with social networks. This functionality is entirely optional. If you have explicitly agreed that we may do so, LearnCoach may disclose your Personal Information through a social network or similar service (like Facebook or Google). To control the information that you share, you have the option of modifying your LearnCoach or social network settings or disconnecting your social network account from your LearnCoach account.

### We may share data with third-party applications that you authorize.

Third-party application developers and service providers (commonly known as "App Developers") may build complementary services for our platform, such as a mobile application for visually-impaired learners to access our resources. You may request we share your information with Properties Developers by connecting to the application or service and approving access to your LearnCoach account. LearnCoach has taken steps to try to ensure the safety of information accessed by Properties Developers and requires Properties Developers to comply with our API Terms of Service and this Privacy Notice.

### We may share data in connection with special programs you participate in.



If you participate in special programs where LearnCoach partners with third parties, LearnCoach may share data collected from or about you with its third party partners to facilitate the program or services being offered.

### **We may share anonymous or aggregate data to improve our services and learn more about our Users.**

In certain occasions, LearnCoach may work with business partners to improve our services or offerings. We may disclose automatically collected and other aggregate non-Personal Information to authorized business partners to conduct research on online education or assist in understanding the usage, viewing, and demographic patterns for certain programs, content, services, promotions, and/or functionality on our Properties.

### **We will share data when required by law.**

LearnCoach may also disclose User information if required to do so by law, or if we have a good-faith belief that such action is necessary to comply with local, state, federal, international, or other applicable laws (such as Copyright law) or respond to a court order, judicial or other government subpoena, or warrant, or administrative request. In some cases, we may make such disclosures without first providing notice to Users.

### **We may share data in the context of a change of business, including a merger or acquisition.**

If LearnCoach is acquired by or merged with a third-party entity, we may transfer or assign the information that we have collected from Users as part of such merger, acquisition, sale, or other change of control.

### **We may share data when necessary or appropriate to protect LearnCoach or others.**

LearnCoach may disclose information that we believe, in good faith, is appropriate or necessary to take precautions against liability; to protect LearnCoach from fraudulent, abusive, or unlawful uses; to investigate and defend ourselves against any third-party claims or allegations; to assist government enforcement agencies; to protect the security or integrity of our Properties; or to protect the rights, property, or personal safety of LearnCoach, our Users, or others.

### **Limitations on Access to your Personal Information by Employees and Authorized Parties.**

LearnCoach's employees, agents and contractors must have a legitimate business reason to access Personal Information you provide to LearnCoach. We may share your Personal Information with third-party service providers, including outside contractors or agents who help us manage our information activities, but they may only use your Personal Information to

provide us with a specific service and not for any other purpose. Where feasible, LearnCoach will require our third-party service providers to comply with this Privacy Notice.

## Your choice and options in our data collection, use, and transfer

### You can choose to not provide us with Personal Information.

You may always decline to share your Personal Information with LearnCoach. Registration is required to access most of our course content and curriculum. If you decline to register, LearnCoach will not be able to provide to access to certain features on our Properties.

### You can edit or delete Personal Information in our records.

We want you to have access to your information, so that you can help keep it as accurate as possible. If you register and provide LearnCoach with Personal Information, you may update and correct your account information at any time by reviewing your profile information and preferences on your account settings page. You may also facilitate the deletion of your account by emailing [info@LearnCoach.com](mailto:info@LearnCoach.com).

### You can disconnect us from Integrated Services.

You may revoke LearnCoach's access to your account on any Integrated Service, such as Google or Facebook, at any time by updating the appropriate settings in the account preferences of the respective Integrated Service. You should check your privacy settings on each Integrated Service to understand and change the information sent to us through each Integrated Service. Please review each Integrated Service's terms of use and privacy policies carefully before using their services and connecting to our Properties.

## Our approach to Data Security

### Data security is important to you, and to us.

To protect your privacy and security, we take reasonable steps to verify your identity before granting you account access or making corrections to your information. For example, we may ask you to provide certain Personal Information to confirm your identity, and we may require that you create and use a password to access certain parts of our Properties. You should create and maintain a strong password to help ensure the security of your account.

### We try to ensure that our Properties and information sent to us are safe, but no security measures are perfect.

LearnCoach uses certain physical, managerial, and technical safeguards designed to preserve the integrity and security of your Personal Information and other information we maintain in connection with our Properties. We cannot, however, ensure or warrant the security of any or all the information you transmit to LearnCoach, and you do so at your

own risk. Once we receive your transmission of information, LearnCoach makes commercially reasonable efforts to ensure the security of our systems. When you enter sensitive information, we encrypt the transmission of that information using secure socket layer technology (SSL) or similar technologies. However, please note that this is not a guarantee that such information may not be accessed, disclosed, altered, or destroyed by breach of any of our physical, technical, or managerial safeguards.

## We will notify you electronically or via the Properties if LearnCoach experiences a data security incident that could affect you.

If we learn of a data security incident that compromises or appears to compromise your Personal Information, then we will attempt to notify you electronically so that you can take appropriate protective steps. We may also post a notice on our Properties if a data security incident occurs.

## How we maintain data integrity

At LearnCoach, we only use Personal Information as needed for the purposes for which it was collected or where you have consented to our use of Personal Information relating to you. We take reasonable steps to ensure that the Personal Information we store and use is accurate, complete, and up-to-date. If you discover that Personal Information or other data pertaining to you is inaccurate, incomplete, or out-of-date, please update your account information or contact us as outlined below.

## Links to other sites

The Properties may link to and may be linked by websites operated by other entities or individuals. Some of these websites, such as the LearnCoach Facebook page, may be co-branded with our name or logo. This Privacy Notice does not apply to, and we cannot always control the activities of, such other third-party websites. You should consult the respective privacy policies of those third-party websites.

## International visitors

Our Properties are operated and managed on servers located around the world. If you choose to use our Properties from the European Union or other regions of the world with laws governing data collection and use that differ from NZ law, then you acknowledge and agree that you are transferring your Personal Information outside of those regions of New Zealand and that, by providing your Personal Information on the Properties, you consent to that transfer.

## Changes and updates to this Privacy Notice

LearnCoach may modify or revise this Privacy Notice from time to time. LearnCoach will notify Users of any changes to our Privacy Notice by posting the revised Privacy Notice with

an updated date of revision on our Properties, along with a short notice of the revision posted on our homepage. We will not change how we use any Personal Information in any material way without also providing notice of the change via email to you (or in the case of a Child User, to your Parent) or through the Properties, and obtaining consent to any new uses.

### 3. Other guidelines.

#### 3.1 Other Guidelines.

When using the Properties, You will be subject to any additional posted guidelines or rules applicable to specific services and features which may be posted from time to time (the “Guidelines”). All such Guidelines are hereby incorporated by reference into the Terms.

### 4. Modification of the Terms.

LearnCoach reserves the right, at our discretion, to change, modify, add, or remove portions of the Terms at any time. Please check the Terms and any Guidelines periodically for changes. Your continued use of the Properties after the posting of changes constitutes your binding acceptance of such changes. For any material changes to the Terms, LearnCoach will make reasonable effort to provide notice to you of such amended Terms, such as by an email notification to the address associated with your account or by posting a notice on the Properties, and such amended terms will be effective against You on the earlier of:

- (i) your actual notice of such changes and
- (ii) thirty days after LearnCoach makes reasonable attempt to provide you such notice. Disputes arising under these Terms will be resolved in accordance with the version of the Terms in place at the time the dispute arose.

### 5. User Content License Grant; Representations and Warranties.

#### 5.1 User Content.

LearnCoach may permit

- (a) the posting and/or publishing by You and other Users of notes, questions, comments, ratings, reviews, images, videos and other audio-visual materials and communications (collectively, “User Postings”)

and

- (b) the posting, creation, or modification by You and other users of computer code (including source code and object code) (“User Code”) (User Postings and User Code, collectively, “User Content”). You understand that whether or not

such User Content is published, LearnCoach does not guarantee any confidentiality with respect to any submissions.

## 5.2 License Grant to LearnCoach.

By posting, submitting or distributing User Content on or through our Properties, You hereby grant to LearnCoach a worldwide, non-exclusive, transferable, assignable, fully paid-up, royalty-free, perpetual, irrevocable right and license to host, transfer, display, perform, reproduce, distribute, prepare derivative works of, use, make, have made, sell, offer for sale, import, and otherwise exploit your User Content, in whole or in part, in any media formats and through any media channels (now known or hereafter developed).

## 5.3 License Grant to Users.

**User Postings.** By posting, submitting or distributing User Postings through the Website, You hereby grant to each User of the Website a non-exclusive license to access and use your User Postings in any manner permitted or made available by LearnCoach on or through the Website.

**User Code.** By posting, submitting or distributing User Code through the Website, You hereby grant to each User of the Website a non-exclusive license to access, use, reproduce, and distribute your User Code as fully permitted under, and in accordance with the terms of, the MIT license (currently available at: <http://opensource.org/licenses/mit-license.php>) (the "MIT License").

## 5.4 User Content Representations and Warranties.

You are solely responsible for your User Content and the consequences of posting, creating, or publishing them. You represent and warrant that:

- (1) You are the creator and owner of or have the necessary licenses, rights, consents, and permissions to use and to authorize LearnCoach and LearnCoach's Users to use and distribute your User Content as necessary to exercise the licenses granted by You in these Terms and in the manner contemplated by LearnCoach and these Terms;
- (2) your User Content does not and will not:
  - (a) infringe, violate, or misappropriate any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right or
  - (b) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; and
- (3) your User Content does not contain any viruses, adware, spyware, worms, or other malicious code.

## 5.5 Access to Your User Content.

LearnCoach may permit Users to share their User Content with a select group of other Users, or make their User Content public for all (even non-Website users) to view. You acknowledge and agree that, although LearnCoach may provide certain features intended to allow you to restrict some User Content you create from others, LearnCoach does not guarantee that such User Content will never be accessible by others. In the event of unauthorized access, LearnCoach will use reasonable efforts to notify you pursuant to Section 14.1 below.

LearnCoach hereby disclaims any and all liability with respect to any unauthorized access to any restricted user content.

## 5.6 User Content Disclaimer.

You understand that when using the Properties You will be exposed to User Content from a variety of sources, and that LearnCoach is not responsible for the accuracy, usefulness, or intellectual property rights of or relating to such User Content. You further understand and acknowledge that You may be exposed to User Content that is inaccurate, offensive, indecent or objectionable, and You agree to waive, and hereby do waive, any legal or equitable rights or remedies You have or may have against LearnCoach with respect thereto. LearnCoach does not endorse any User Content or any opinion, recommendation or advice expressed therein, and LearnCoach expressly disclaims any and all liability in connection with User Content.

## 6. Digital Millennium Copyright Act.

It is LearnCoach's policy to respond to notices of alleged copyright infringement that comply with the Digital Millennium Copyright Act. For more information, please go to LearnCoach's DMCA Notification Guidelines. LearnCoach will promptly terminate without notice your access to the Properties if You are determined by LearnCoach to be a "repeat infringer." A repeat infringer is a User who has been notified by LearnCoach of infringing activity violations more than twice and/or who has had User Content or any other user-submitted content removed from the Properties more than twice.

## 7. Proprietary Materials; Licenses

### 7.1 Proprietary Materials.

The Properties are owned and operated by LearnCoach. The visual interfaces, graphics, design, compilation, information, computer code (including source code or object code), software, services, content, educational videos and exercises, and all other elements of the Properties (the "Properties Materials") are protected by United States and international copyright, patent, and trademark laws, international conventions, and other applicable

laws governing intellectual property and proprietary rights. Except for any User Content provided and owned by Users and except as otherwise set forth in this Section 7, all Properties Materials, and all trademarks, service marks, and trade names, contained on or available through the Properties are owned by or licensed to LearnCoach, and LearnCoach reserves all rights therein and thereto not expressly granted by these Terms.

## 7.2 Licensed Educational Content.

LearnCoach may make available on the Properties certain educational videos, exercises, and related supplementary materials that are owned by LearnCoach or its third-party licensors (the “Licensed Educational Content”). LearnCoach grants to you a non-exclusive, non-transferable right to access and use the Licensed Educational Content as made available on the Properties by LearnCoach solely for your personal, non-commercial purposes. Unless expressly indicated on the Properties that a particular item of Licensed Educational Content is made available to Users under alternate license terms, you may not download, distribute, sell, lease, modify, or otherwise provide access to the Licensed Educational Content to any third party.

(a) Alternate Licenses. In certain cases, LearnCoach or its licensors may make available Licensed Educational Content under alternate license terms, such as a variant of the Creative Commons License (as defined below) (each, an “Alternate License”). Where expressly indicated as such on the Properties, and subject to the terms and conditions of these Terms, the applicable Licensed Educational Content is licensed to You under the terms of the Alternate License. By using, downloading, or otherwise accessing such Licensed Educational Content, You agree to comply fully with all the terms and conditions of such Alternate License.

(b) Creative Commons License. Unless expressly otherwise identified on the Properties with respect to a particular item of Licensed Educational Content, any reference to the “Creative Commons”, “CC” or similarly-phrased license shall be deemed to be a reference to the Creative Commons Attribution-NonCommercial-ShareAlike 3.0 United States License (available at <http://creativecommons.org/licenses/by-nc-sa/3.0/us/>) (the “Creative Commons License”).

## 7.3 Licensed Educational Code.

LearnCoach may make available, or allow Users to create and make available, on or through the Website certain educational, user-readable source code in connection with the “Computer Science” modules or exercises available on the Website (the “Licensed Educational Code”). Unless otherwise indicated, all Licensed Educational Code is the property of LearnCoach or third-party licensors.

## 7.4 Non-Commercial Use.

The Licensed Educational Content and Licensed Educational Code are intended for personal, non-commercial use only. Without limiting the foregoing, and notwithstanding the terms of any Alternate License for such Licensed Educational Content, the Licensed Educational Content may not be used, distributed, or otherwise exploited for any commercial purpose, commercial advantage or private monetary compensation, unless otherwise previously agreed in writing by LearnCoach.

(a) Impermissible Uses. Without limiting the generality of the foregoing, the following are types of uses that LearnCoach expressly defines as falling outside of “non-commercial” use:

i. the sale or rental of

- (1) any part of the Licensed Educational Content,
- (2) any derivative works based at least in part on the Licensed Educational Content, or
- (3) any collective work that includes any part of the Licensed Educational Content;

ii. providing training, support, or editorial services that use or reference the Licensed Educational Content in exchange for a fee; and

iii. the sale of advertisements, sponsorships, or promotions placed on the Licensed Educational Content, or any part thereof, or the sale of advertisements, sponsorships, or promotions on any website or blog containing any part of the Licensed Educational Material, including without limitation any “pop-up advertisements”.

(b) Use Characterization. Whether a particular use of the Licensed Educational Content is “non-commercial” depends on the use, not the user. Thus, a use of the Licensed Educational Content that does not require that users pay fees and that does not provide an entity with a commercial advantage is “non-commercial,” even if this use is by a commercial entity. Conversely, any use that involves charging users in connection with their access to the Licensed Educational Content is not “non-commercial,” even if this use is by a non-profit entity. As an example, a for-profit corporation’s use of the Licensed Educational Content for internal professional development or training of employees is permitted, so long as the corporation charges no fees, directly or indirectly, for such use. Conversely, as another example, a non-profit entity’s use of the Licensed Educational Content in connection with an fee-based training or educational program is NOT “non-commercial” and is not permitted.

## 7.5 Crediting LearnCoach.

If You distribute, publicly perform or display, transmit, publish, or otherwise make available any Licensed Educational Content or any derivative works thereof, You must also provide the following notice prominently along with such Licensed Educational Content or derivative work thereof: “All LearnCoach content is available at <https://www.LearnCoach.com>”.

## 8. Prohibited Conduct.



## YOU AGREE NOT TO:

8.1. use the Properties for any commercial use or purpose unless expressly permitted by LearnCoach in writing, it being understood that the Properties and related services are intended for personal, non-commercial use only;

8.2 except as expressly permitted under Sections 5.3 and 7 of these Terms, rent, lease, loan, sell, resell, sublicense, distribute or otherwise transfer the licenses for any Properties Materials;

8.3 post, upload, or distribute any defamatory, libelous, or inaccurate User Content or other content;

8.4 post, upload, or distribute any User Content or other content that is unlawful or that a reasonable person could deem to be objectionable, offensive, indecent, pornographic, harassing, threatening, embarrassing, distressing, vulgar, hateful, racially or ethnically offensive, or otherwise inappropriate;

8.5 impersonate any person or entity, falsely claim an affiliation with any person or entity, or access the Properties accounts of others without permission, or perform any other fraudulent activity;

8.6 delete the copyright or other proprietary rights notices on the Properties or on any Licensed Educational Content, Licensed Educational Code, or User Content;

8.7 assert, or authorize, assist, or encourage any third party to assert, against LearnCoach or any of its affiliates or licensors any patent infringement or other intellectual property infringement claim regarding any Licensed Educational Content, Licensed Educational Code, or User Content You have used, submitted, or otherwise made available on or through the Website;

8.8 make unsolicited offers, advertisements, proposals, or send junk mail or spam to other Users of the Properties (including, but not limited to, unsolicited advertising, promotional materials, or other solicitation material, bulk mailing of commercial advertising, chain mail, informational announcements, charity requests, and petitions for signatures);

8.9 use the Properties for any illegal purpose, or in violation of any local, state, national, or international law, including, without limitation, laws governing intellectual property and other proprietary rights, and data protection and privacy;

8.10 defame, harass, abuse, threaten or defraud Users of the Properties, or collect, or attempt to collect, personal information about Users or third parties without their consent.

8.11 remove, circumvent, disable, damage or otherwise interfere with security-related features of the Properties, Licensed Educational Content, Licensed Educational Code, or User Content, features that prevent or restrict use or copying of any content accessible

through the Properties, or features that enforce limitations on the use of the Properties, Licensed Educational Content, Licensed Educational Code, or User Content;

8.12 reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Properties or any part thereof, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation;

8.13 modify, adapt, translate or create derivative works based upon the Properties or any part thereof, except and only to the extent expressly permitted by LearnCoach herein or to the extent the foregoing restriction is expressly prohibited by applicable law; or

8.14 intentionally interfere with or damage operation of the Website or any user's enjoyment of it, by any means, including without limitation by participation in any denial-of-service type attacks or by uploading or otherwise disseminating viruses, adware, spyware, worms, or other malicious code.

## 9. Third-Party Sites, Products and Services; Links.

The Website may include links or references to other web sites or services solely as a convenience to Users ("Reference Sites"). LearnCoach does not endorse any such Reference Sites or the information, materials, products, or services contained on or accessible through Reference Sites. Access and use of reference sites, including the information, materials, products, and services on or available through reference sites is solely at your own risk.

## 10. Termination.

### 10.1 Termination by LearnCoach.

LearnCoach, in its sole discretion, for any or no reason, and without penalty, may terminate any account (or any part thereof) You may have with LearnCoach or your use of the Properties and remove and discard all or any part of your account, User profile, and User Content, at any time. LearnCoach may also in its sole discretion and at any time discontinue providing access to the Properties, or any part thereof, with or without notice. You agree that any termination of your access to the Properties or any account You may have, or portion thereof, may be affected without prior notice, and You agree that LearnCoach will not be liable to You or any third party for any such termination. Any suspected fraudulent, abusive or illegal activity may be referred to appropriate law enforcement authorities. These remedies are in addition to any other remedies LearnCoach may have at law or in equity. As discussed herein, LearnCoach does not permit copyright, trademarks, or other intellectual property infringing activities on the Properties, and will terminate access to the Properties, and remove all User Content or other content submitted, by any Users who are found to be repeat infringers.

### 10.2 Termination by You.

Your only remedy with respect to any dissatisfaction with (i) the Properties, (ii) any term of these Terms of Service, (iii) Guidelines, (iv) any policy or practice of LearnCoach in operating the Properties, or (v) any content or information transmitted through the Properties, is to terminate the Terms and your account. You may terminate the Terms at any time by emailing [info@LearnCoach.com](mailto:info@LearnCoach.com) and deleting your login account.

## 11. Indemnification.

You agree to indemnify, defend, and hold harmless LearnCoach, its affiliated companies, contractors, employees, agents and its third-party suppliers, licensors, and partners (“LearnCoach Indemnitees”) from any claims, losses, damages, liabilities, and expenses (including legal fees and expenses), arising out of any use or misuse of the Properties, any violation of the Terms, or any breach of the representations, warranties, and covenants made herein, whether by You or by any Child User associated with you if you are a Parent User or Coach. LearnCoach reserves the right, at your expense, to assume the exclusive defence and control of any matter for which You are required to indemnify LearnCoach, and You agree to cooperate with LearnCoach’s defence of these claims. LearnCoach will use reasonable efforts to notify You of any such claim, action, or proceeding upon becoming aware of it.

## 12. Disclaimers; No Warranties

### 12.1 No Warranties.

The Properties, and all data, information, software, website materials, content, user content, reference sites, services, or applications made available in conjunction with or through the website, are provided on an “as is,” “as available,” and “with all faults” basis. To the fullest extent permissible pursuant to applicable law, LearnCoach, and its affiliates and licensors, disclaim any and all warranties and conditions, whether statutory, express or implied, including, but not limited to, all implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement. No advice or information, whether oral or written, obtained by you from LearnCoach or through the website will create any warranty not expressly stated herein.

### 12.2 Content.

LearnCoach, and its suppliers, licensors, and affiliates, do not warrant that the Properties or any data, user content, functions, or any other information offered on or through the Properties will be uninterrupted, or free of errors, viruses or other harmful components, and do not warrant that any of the foregoing will be corrected.

### 12.3 Harm to Your Computer.

You understand and agree that your use, access, download, or otherwise obtaining of content, website materials, software, or data through the website (including through any

API's) is at your own discretion and risk, and that you will be solely responsible for any damage to your property (including your computer system) or loss of data that results therefrom. 12.4 limitations by applicable law. Some states or other jurisdictions do not allow the exclusion of implied warranties, so the above exclusions may not apply to you. You may also have other rights that vary from state to state and jurisdiction to jurisdiction.

## 13. Limitation of Liability and Damages.

### 13.1 Limitation of Liability.

Under no circumstances, including, but not limited to, negligence, will LearnCoach or its affiliates, contractors, employees, agents, or third-party partners, licensors, or suppliers be liable for any special, indirect, incidental, consequential, punitive, reliance, or exemplary damages (including without limitation damages arising from any unsuccessful court action or legal dispute, lost business, lost revenues or profits, loss of data, or any other pecuniary or non-pecuniary loss or damage of any nature whatsoever) arising out of or relating to the terms or your use of (or inability to use) the website or any reference sites, or any other interactions with LearnCoach, even if LearnCoach or a LearnCoach authorized representative has been advised of the possibility of such damages. Applicable law may not allow the limitation or exclusion of liability or incidental or consequential damages, so the above limitation or exclusion may not apply to you. In such cases, LearnCoach's liability will be limited to the fullest extent permitted by applicable law.

### 13.2 Limitation of Damages.

In no event will LearnCoach's or its affiliates', contractors', employees', agents', or third-party partners', licensors', or suppliers' total liability to you for all damages, losses, and causes of action arising out of or relating to the terms or your use of the Properties or your interaction with other Properties users (whether in contract, tort (including negligence), warranty, or otherwise), exceed the amount paid by you, if any, for accessing the Properties during the twelve months immediately preceding the date of the claim or one hundred dollars, whichever is greater

### 13.3 Basis of the Bargain.

You acknowledge and agree that LearnCoach has offered the Properties and entered into the terms in reliance upon the disclaimers and the limitations of liability set forth herein, that the disclaimers and the limitations of liability set forth herein reflect a reasonable and fair allocation of risk between you and LearnCoach, and that the disclaimers and the limitations of liability set forth herein form an essential basis of the bargain between you and LearnCoach. LearnCoach would not be able to provide the Properties to you on an economically reasonable basis without these limitations.

## 14. Miscellaneous.

Web: [LearnCoach.com](http://LearnCoach.com)

Address: Sublevel, 35 High Street, Auckland 1010

Postal: LearnCoach Ltd, PO Box 389, Shortland Street, Auckland 1140

## 14.1 Notice.

LearnCoach may provide You with notices, including those regarding changes to the Terms, by email, regular mail, postings on the Website, or other reasonable means. Notice will be deemed given twenty-four hours after email is sent, unless LearnCoach is notified that the email address is invalid. Alternatively, we may give You legal notice by mail to a postal address, if provided by You through the Website. In such case, notice will be deemed given three days after the date of mailing. Notice posted on the Website is deemed given 30 days following the initial posting.

## 14.2 Waiver.

The failure of LearnCoach to exercise or enforce any right or provision of the Terms will not constitute a waiver of such right or provision. Any waiver of any provision of the Terms will be effective only if in writing and signed by LearnCoach.

## 14.3 Dispute Resolution and Arbitration.

(a) **Governing Law.** The Terms will be governed by and construed in accordance with the laws of New Zealand, without giving effect to any principles of conflicts of law.

(b) **Arbitration.** For any claim related to the Terms or the Properties, excluding claims for injunctive or other equitable relief, where the total amount sought is less than ten thousand NZ Dollars (\$10,000.00 USD), either LearnCoach or You may elect at any point in or during a dispute or proceeding to resolve the claim through binding non-appearance-based arbitration. A party electing arbitration shall initiate it through an established alternative dispute resolution ("ADR") provider mutually agreed upon by the parties. The ADR provider and the parties must comply with the following rules: (a) the arbitration shall be conducted, at the option of the party seeking relief, by telephone, online, or based solely on written submissions; (b) the arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise mutually agreed by the parties; and (c) any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

(c) **Jurisdiction.** You agree that any action at law or in equity arising out of or relating to the Terms or LearnCoach will be filed only in the courts of New Zealand, and each of You and LearnCoach hereby consent and submit to the personal and exclusive jurisdiction of such courts for the purposes of litigating any such action, except as provided in Section 14.3(b) regarding arbitration. Notwithstanding this, LearnCoach shall still be allowed to apply for injunctive or other equitable relief to protect or enforce its intellectual property rights in any court of competent jurisdiction.

(d) **Improperly Filed Claims.** All claims you bring against LearnCoach must be resolved in accordance with this Section 14.3. All claims filed or brought contrary to

this Section 14.3 shall be considered improperly filed. Should either party file a claim contrary to this Section 14.3, the other party may recover attorneys' fees and costs up to one thousand NZ Dollars (\$1,000.00 USD), provided that such party seeking such fees has notified the other in writing of the improperly filed claim, and the other has failed to promptly withdraw the claim.

(e) Claims. You and LearnCoach agree that any cause of action arising out of or related to the Properties must commence within one (1) year after the cause of action accrues. Otherwise, such cause of action is permanently barred.

#### 14.4 Severability.

If any provision of the Terms or any Guidelines is held to be unlawful, void, or for any reason unenforceable, then that provision will be limited or eliminated from the Terms to the minimum extent necessary and will not affect the validity and enforceability of any remaining provisions.

#### 14.5 Assignment.

The Terms and related Guidelines, and any rights and licenses granted hereunder, may not be transferred or assigned by You without LearnCoach's prior written consent, but may be assigned by LearnCoach without consent or any restriction. Any assignment attempted to be made in violation of the Terms shall be null and void.

#### 14.6 Survival.

Upon termination of the Terms, any provision which, by its nature or express terms should survive, will survive such termination or expiration, including, but not limited to, Sections 4 through 6, 7.1, 7.4, 7.5, and 8 through 14.

#### 14.7 Headings.

The heading references herein are for convenience purposes only, do not constitute a part of the Terms, and will not be deemed to limit or affect any of the provisions hereof.

#### 14.8 Entire Agreement.

The Terms, the Privacy Notice and Guidelines constitute the entire agreement between You and LearnCoach relating to the subject matter herein and will not be modified except in writing, signed by both parties, or by a change to the Terms, Privacy Notice or Guidelines made by LearnCoach as set forth in Section 4 above.

#### 14.9 Disclosures.

The services provided hereunder are offered by LearnCoach:

Web: [LearnCoach.com](https://www.learncoach.com)

Address: Sublevel, 35 High Street, Auckland 1010

Postal: LearnCoach Ltd, PO Box 389, Shortland Street, Auckland 1140



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PO Box 389  
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