

Kyron Learning, Terms of Service

Effective Date: March 8, 2024

These Terms of Service (“Agreement”) constitute a legal agreement between the person or organization agreeing to these terms (“Customer,” “you,” or “your”) and Kyron Learning, PBC (“Kyron,” “us,” “we,” or “our”). Please carefully read this Agreement before using any of the services provided by Kyron, including those identified in any Order Form and/or accessed through the Kyron Learning website located at <https://www.kyronlearning.com> or the Kyron Learning application available in mobile app stores (together, or individually, the “Services”). Your access to and use of the Services is conditioned upon your acceptance of and compliance with this Agreement. Your usage of the Services constitutes your acceptance of the terms and conditions herein, and therefore, you hereby agree to only use the Services in accordance with this Agreement. If you are accessing or using the Services on behalf of your company, you represent that you are authorized to accept this Agreement on behalf of your company, and all references to “you” or “Customer” reference your company.

IMPORTANT NOTICE: THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION (WHICH REQUIRES THE USE OF ARBITRATION TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS) AND A WAIVER OF CLASS ACTION RIGHTS, AS DETAILED IN SECTION 10.

BY ACCESSING OR USING THE SERVICES YOU AGREE TO BE BOUND BY THIS AGREEMENT. IF YOU DISAGREE WITH ANY PART OF THIS AGREEMENT THEN YOU DO NOT HAVE PERMISSION TO ACCESS THE SERVICES.

The “Effective Date” of this Agreement is the date which is the earliest of Customer’s initial access to any Services through any online provisioning, registration, or usage.

1. Definitions

“Affiliate” of a party means an entity which, directly or indirectly is controlled by, controls or is under common control with that party where “control” of the party or other entity is the possession of the power to direct or cause the direction of the management and policies of the party or other entity, whether by voting, contract or otherwise.

“Beta Services” means certain features, technologies, and services that are not generally available to Customers, as updated from time to time.

“Customer Content” means content, data, and information, including text, graphics, videos, or other material, submitted, uploaded, imported, or otherwise provided to or through the Services by Customer, Users or by a third party on behalf of or for the benefit of Customer, including Customer’s customers or prospective customers.

“Customer Properties” means Customer’s websites, applications, or other offerings owned and operated by (or for the benefit of) Customer through which Customer uses the Services.

“DMCA” means the “Digital Millenium Copyright Act”

“Documentation” means Kyron’s then-current generally available documentation for the Services which can be located at <https://www.kyronlearning.com> or such other URL as Kyron may provide from time to time, as well as any documentation included in or attached to such other Services-related documents provided by Kyron to Customer.

“Kyron Learning Site” means the website located at <https://www.kyronlearning.com>, and/or any related or successor URLs operated or controlled by Kyron Learning.

“Laws” means all applicable local, state, federal and international laws, regulations and conventions, including, without limitation, those related to data privacy and data transfer, international communications, and the exportation of technical or personal data.

“Order Form” means the online, e-mailed, or otherwise provided documentation describing the Services and fees to be paid by Customer, including, without limitation, any recurring subscription fees for the Services.

“Subscription Term” means the term for the Services set forth in the applicable Order Form.

“User” means an individual employee, consultant, contractor, or agent of Customer who has been authorized by Customer to use the Services on behalf of Customer and/or its Affiliates.

2. General Commercial Terms

2.1 Access. Subject to the terms and conditions of this Agreement, we will provide you with access to the Services for the duration of the Subscription Term. You may access and use the Services solely for your own benefit and in accordance with this Agreement, the Documentation, and any scope of use restrictions designated in the applicable Order Form. If your Affiliates use our Services, you warrant that you have the authority to bind those Affiliates and you will be liable if your Affiliates do not comply with the Agreement. Customer agrees that it is responsible for its Users’ compliance with this Agreement.

2.2 Fees and Payment. You agree to pay all fees for the Services as set forth on the applicable Order Form. Customer is responsible for paying all taxes, and all taxes are excluded from any fees set forth in the applicable Order Form. If Customer is required by Laws to withhold any taxes from Customer’s payment, the fees payable by Customer will be increased as necessary so that after making any required withholdings, Kyron receives and retains (free from any liability for payment of taxes) an amount equal to the amount it would have received had no such withholdings been made. Any late payments will be subject to a service charge equal to 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less.

2.3 Suspension of Service for Non-Payment. In the event full payment of any invoice is not received within thirty (30) days from the date of invoicing, we may suspend your access to the Services.

2.4 Payment or Refund of Fees in the Event of Termination. Upon any termination or expiration of the Subscription Term, Kyron will invoice Customer for any outstanding fees for Customer’s use of the Services during the Subscription Term and Customer shall promptly pay such fees.

3. Customer Obligations, Limitations of Use, and Rights

3.1 Security. You are responsible for maintaining the confidentiality of any password and username you are given or select in connection with the Services, and you are fully responsible for all activities that occur under your password or account. You shall not share your password and username or allow others to use them to access the Services. You agree to notify Kyron as soon as possible if you become aware of any unauthorized use of your password or username or any other breach of security.

3.2 Restrictions on Use. By using our Services, you agree on behalf of yourself and your Users not to do or allow any of the following, without the express written authorization of Kyron: (1) make the Services available to, or use the Services for the benefit of, anyone other than Customer or the Users using the Services for or on your behalf; (2) sell, resell, license, sublicense, distribute, rent, lease the Services, or

include any Services in a service bureau or outsourcing offering; (3) use the Services to send SPAM or store or transmit content, data or images that are infringing, libelous, fraudulent, offensive, threatening, obscene, vulgar, lewd, invasive of another's privacy or otherwise unlawful or objectionable; (4) use the Services to store or transmit material or data on or through the Services in violation of law, including intellectual property laws and applicable privacy laws, or third-party rights including privacy rights, or any contract to which you are a party; (5) use the Services to store or transmit malicious or disruptive code; (6) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein; (7) attempt to gain unauthorized access to the Services or its related systems or networks, or probe, scan or test the vulnerability of the Services; (8) permit direct or indirect access to or use of the Services in a way that circumvents a contractual usage limit; (9) copy the Services or any part, feature, function, graphics or user interface thereof; (10) access or use the Services for competitive purposes or in order to build a competitive product or service; (11) modify, translate, or create derivative works based on the Services or any underlying software or results provided through the Services; (12) decompile, disassemble, decipher, reverse-engineer or reverse assemble any portion of the Services, or otherwise attempt to derive any source code or underlying ideas or algorithms of the software of any other part of the Services (except to the extent such restriction is expressly prohibited by applicable statutory law); or (13) remove or alter any trademark, logo, copyright or other proprietary notices associated with the Services. Kyron reserves the right, without limiting any other right or remedy, to suspend Customer's access (and therefore, all Users access) to and use of the Services if Kyron determines that Customer is engaging (or has engaged) in any of the prohibited activities set forth in this Section 3.2.

3.3. Responsibility for End Users. You are responsible for the activities of end users who access or use the Services through your account. Kyron may investigate any complaints or activities that come to its attention and may take any (or no) action that it believes is appropriate, including, but not limited to issuing warnings, removing content, or terminating accounts and/or end user profiles. Where commercially reasonable, Kyron will provide Customer with 24 hours prior written notice and an opportunity to cure before taking of any proposed action under this Section 3.3. Under no circumstances will Kyron be liable in any way for any video or other content viewed while using the Services.

3.4 Beta Services. From time to time, Kyron may invite Customer to try Beta Services for a charge or at no charge. Customer may accept or decline any such trial in its sole discretion. Beta Services will be clearly designated as beta, pilot, limited release, developer preview, non-production, evaluation or by a description of similar import. Beta Services are for evaluation purposes and not for production use, are not considered "Services" under this Agreement, are not supported, and may be subject to additional terms. Unless otherwise stated, any Beta Services trial period will expire upon the date that a version of the Beta Services becomes generally available. Kyron may discontinue Beta Services at any time in its sole discretion and may never make them generally available. KYRON WILL HAVE NO LIABILITY FOR ANY HARM OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH A BETA SERVICE. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, BETA SERVICES ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY.

3.5 Customer Content. You are responsible for the Customer Content that you or your Users post on or through the Services, including its legality, reliability, and appropriateness. By posting Customer Content on or through the Services, you represent and warrant that: (a) the Customer Content is yours (you own it) and/or you have the right to use it and the right to grant us the rights and license as provided in this Agreement; (b) the posting of Customer Content on or through the Services does not violate the privacy rights, publicity rights, intellectual property rights, contract rights, or any other rights of any person or entity; (c) the Customer Content will comply with any and all Customer terms of service, privacy policies and other agreement(s) governing the Customer related to Customer Content; and (d) the Customer Content does not violate any Laws, including without limitation those related to data privacy or security. Under no circumstances will Kyron be liable in any way for any Customer Content that is transmitted or viewed while using the Services, or for User or third-party misconduct while using any video features offered by Kyron.

3.6 Customer Proprietary Rights. You own and retain all the rights to your Customer Content, and you are

responsible for protecting those rights. This Agreement does not grant us any ownership rights to Customer Content. You grant us a non-exclusive, worldwide, royalty-free right to use, copy, store, transmit, modify, create derivative works of and display the Customer Content as necessary to provide the Services, and as otherwise permitted by this Agreement. If you are using our Services on behalf of another party, then you represent and warrant that you have the sufficient and necessary rights and permissions to do so.

3.7 Feedback. Customer hereby grants to Kyron a royalty-free, worldwide, transferable, sublicensable, fully paid up, royalty free, irrevocable, and perpetual license to use and/or incorporate into Kyron's products and services and exploit in any manner or media any suggestions, enhancement requests, recommendations or other feedback provided by Customer or Users relating to Kyron's products and services. Kyron shall not identify Customer as the source of any such feedback without Customer's prior written consent.

4. Subscription Term and Termination

4.1 Term and Renewal. Your initial Subscription Term will be set forth in the Order Form. At the expiration of the initial Subscription Term, the Subscription Term will automatically renew for additional terms of the same duration unless either party provides the other party with written notice of non-renewal at least thirty (30) days prior to the expiration of the then-current term. The pricing for any renewal term shall be subject to a price increase cap as set forth in the Order Form.

4.2 Termination. If either party materially breaches any of its duties or obligations under this Agreement or an Order Form, and such breach is not cured within thirty (30) calendar days of the non-breaching party providing the breaching party of written notice of the breach, the non-breaching party may terminate this Agreement and/or the applicable Order Form, as applicable.

4.3 Effect of Termination or Expiration. Upon any expiration or termination of this Agreement, Customer will immediately cease any and all use of and access to all Services. Customer acknowledges that following termination it will have no further access to any Customer Content input into any Service, and that Kyron may delete any such data as may have been stored by Kyron at any time. Except where an exclusive remedy is specified, the exercise by either party of any remedy under this Agreement, including termination, will be without prejudice to any other remedies it may have under this Agreement, by law or otherwise.

4.4 Survival. All provisions of this Agreement, which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity, and limitations of liability.

5. Kyron Rights and Responsibilities

5.1 Kyron Proprietary Rights. You acknowledge that we retain all right, title, and interest in and to the Services, our name, logo, or other marks (the "Kyron Marks"), and any related intellectual property rights, including, without limitation, all modifications, enhancements, derivative works, and upgrades thereto. You agree that you will not use or register any mark, business name, domain name, or social media account name or handle which incorporates in whole or in part the Kyron Marks. In addition, information provided by Kyron as part of provision of the Services is the property of Kyron or used with permission. You may not distribute, modify, transmit, reuse, download, repost, copy, or use such information, whether in whole or in part, for commercial purposes or for personal gain, without express advance written permission from us.

5.2 Security. Kyron shall maintain industry standard technical and organizational measures for protection of Customer Content (including protections against unauthorized or unlawful destruction, loss, alteration, disclosure of, or access to Customer Content) including those set forth in any Data

Processing Addendum (“DPA”) entered into between the parties. Kyron agrees that it will not materially decrease these measures during the term of this Agreement. Kyron shall regularly monitor compliance with these measures.

5.3 Monitoring Customer Content; Cooperation with Law Enforcement. Kyron has the right but not the obligation to monitor Customer Content and Customer’s and Users’ use of the Services to determine compliance with the terms of this Agreement. Kyron reserves the right to remove, terminate access to, reject, restrict, or revise Customer Content that it suspects to be in violation of Law or this Agreement or inappropriate or otherwise objectionable. Where commercially reasonable, Kyron will provide Customer with 48 hours prior written notice and an opportunity to cure before taking of any proposed action under this Section 5.3. Kyron may also (i) report any activity that we suspect violates any Law to appropriate law enforcement officials or regulators which may include disclosing appropriate Customer Content, and (ii) cooperate with appropriate law enforcement agencies or regulators with their investigation and prosecution of illegal conduct by providing network and systems information related to alleged violations of law or this Agreement.

6. Indemnification

6.1 Indemnification by Kyron. Kyron will indemnify, defend, and hold you harmless against any claim made or brought by a third party against you (and your officers, directors, employees, agents, and Users), and any resulting damages or costs (including reasonable attorneys’ fees) awarded by a court or included as part of a final settlement (each a “Claim”), against you alleging that your use of the Services (though not Beta Services) is in accordance with this Agreement or any Order Form infringes or misappropriates such third party’s intellectual property rights. The foregoing obligations do not apply with respect to any Claim based on or arising from (a) your unauthorized or illegal use of the Services, (b) your use of the Services combined with products, services, processes, content, or materials not authorized or supplied by Kyron, (c) Customer’s failure to use suitable modified or replacement Services provided by Kyron to avoid infringement, or (d) the unauthorized use of the Services by a third party using your username and password information. If Customer’s use of the Services is, or in Kyron’s reasonable opinion is likely to become, enjoined or materially diminished as a result of an infringement proceeding, then Kyron may either, at its sole option: (i) procure the continuing right of Customer to use the Services; (ii) replace or modify the Services in a functionally equivalent manner so that they no longer infringe; or (iii) terminate the Agreement with respect to the Services subject to the infringement claim in which case Kyron shall refund any pre-paid fees paid by Customer for the unexpired portion of the Term. This Section 6.1 states Kyron’s sole and exclusive liability, and Customer’s sole and exclusive remedy, for the actual or alleged infringement of any third-party intellectual property rights.

6.2. Indemnification by Customer. You will indemnify, defend, and hold us harmless, at your expense, against any Claim brought against us (and our officers, directors, employees, agents, Service Providers, and licensors) by a third party based upon or arising out of a breach of Section 3.2 (Restrictions on Use), 3.3 (Responsibility for End Users), 3.5 (Customer Content) or any of the foregoing clauses in Section 6.1(a) – (d).

6.3. Indemnification Procedures. The indemnified party will promptly notify the indemnifying party in writing of any such Claim; give the indemnifying party sole control of the defense or settlement of such a Claim; and provide the indemnifying party with any and all information and assistance reasonably requested by it in connection with the defense or settlement of the Claim. The indemnifying party shall not accept any settlement that (i) requires the indemnified party to make an admission of fault or wrongdoing; or (ii) imposes liability not covered by these indemnification provisions without the indemnified party’s consent.

7. Confidentiality

7.1 Confidential Information. During the term of this Agreement, each party (the “Disclosing Party”) may provide the other party (the “Receiving Party”) with certain information regarding the Disclosing Party’s business, technology, products, or services or other confidential or proprietary information (collectively, “Confidential Information”). For the avoidance of doubt, all non-public information regarding the Services, and the corresponding software and documentation, and all enhancements and improvements thereto will be deemed the Confidential Information of Kyron.

7.2 Protection of Confidential Information. The Receiving Party agrees that it will not use or disclose to any third party any Confidential Information of the Disclosing Party, except as agreed to by the Receiving Party or expressly permitted under this Agreement. The Receiving Party will limit access to the Confidential Information to those employees or independent contractors of such party who have a need to know, who have confidentiality obligations no less restrictive than those set forth herein, and who have been informed of the confidential nature of such information. In addition, the Receiving Party will protect the Disclosing Party’s Confidential Information from unauthorized use, access, or disclosure in the same manner that it protects its own proprietary information of a similar nature, but in no event with less than reasonable care. At the Disclosing Party’s request or upon termination of this Agreement, except as prohibited by law or by the order of a court or similar judicial or administrative body, the Receiving Party will return to the Disclosing Party or destroy (or permanently erase in the case of electronic files) all copies of the Confidential Information that the Receiving Party does not have a continuing right to use under this Agreement.

7.3 Exceptions. The confidentiality obligations set forth in this Section will not apply to any information that (a) becomes generally available to the public through no fault of the Receiving Party; (b) is lawfully provided to the Receiving Party by a third party free of any confidentiality duties or obligations; (c) was already known to the Receiving Party at the time of disclosure; or (d) the Receiving Party can prove, by clear and convincing evidence, was independently developed by employees and contractors of the Receiving Party who had no access to the Confidential Information. In addition, the Receiving Party may disclose Confidential Information to the extent that such disclosure is necessary for the Receiving Party to enforce its rights under this Agreement or is required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving Party promptly notifies the Disclosing Party in writing of such required disclosure and cooperates with the Disclosing Party if the Disclosing Party seeks an appropriate protective order.

7.4 Publicity. You grant us the right to add your name and company logo to our marketing materials, customer list and website.

8. Limited Warranties

8.1 Limited Warranties. Kyron represents and warrants, for Customer's benefit only, that the Services will be provided in a professional and workmanlike manner in accordance with industry standards and the applicable Documentation. Kyron’s sole liability (and Customer’s sole and exclusive remedy) for any breach of this limited warranty will be, at no charge to Customer, for Kyron to use commercially reasonable efforts to correct the reported non-conformity, or if Kyron determines such remedy to be impracticable, either party may terminate the applicable Subscription Term, and Customer will receive as its sole remedy a refund of any fees Customer has pre-paid that are applicable to the period after such termination. The limited warranty set forth in this Section will not apply: (a) if Customer does not make a claim within thirty (30) days of the date on which Customer first noticed the non-conformity; or (b) if the error was caused by Customer’s misuse or modifications to the Services or use of the Services in conjunction with third-party hardware, software, or services.

8.2 Warranty Disclaimers. EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE SERVICES AND BETA SERVICES ARE PROVIDED “AS IS” AND NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR

A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. KYRON MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING (A) THE SUITABILITY OR COMPLETENESS OF THE SERVICES, INCLUDING WHETHER THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE; (B) THE RESULTS CUSTOMER MAY OBTAIN BY USING THE SERVICES; (C) THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS; OR (D) THE PRESERVATION OR MAINTENANCE OF THE CUSTOMER CONTENT WITHOUT LOSS OR CORRUPTION.

9. Limitation of Liability

9.1 Kyron Learning engages in monitoring of its systems for language that is obscene, contains hate speech, constitutes harassment, is sexually explicit, or that indicates a risk of self-harm or violence in students' responses to lesson plans. If harmful language or threats are detected, Kyron Learning will send an alert to the student's teacher or agreed upon contact at the school district. If there is no agreed upon contact, the alert will go to the teacher. Kyron Learning does not represent to have training in threat assessment and does not measure the seriousness of a threat or the level of potential danger present in harmful language. Any threat assessment or contacting of parents or law enforcement will be performed by the student's school. While Kyron Learning will use reasonable efforts to detect harmful language or threats and send the school notifications of such harmful language or threat, Kyron Learning does not provide any guarantees as to its ability to detect indications of harmful language or threats and does not recommend schools rely solely on Kyron's detection abilities but instead continues to use and rely on their own existing monitoring protocols and systems.

9.2 CAPS. EXCEPT FOR EXCLUDED CLAIMS AND AS REFERENCED IN SECTION 9.5, EACH PARTY'S TOTAL AGGREGATE LIABILITY WILL BE LIMITED TO THE SUM OF ALL FEES PAID AND PAYABLE BY CUSTOMER TO KYRON IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE APPLICABLE CLAIM.

9.3 DISCLAIMER. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR LOSS OF PROFITS, REVENUE, DATA, OR BUSINESS OPPORTUNITIES, FAILURE OF SECURITY MECHANISMS, OR INTERRUPTION OF BUSINESS.

9.4 EXCLUSIONS. "EXCLUDED CLAIMS" MEAN ANY CLAIMS ARISING FROM OR RELATING TO A PARTY'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT.

9.5 DATA BREACH CAP. THE CAP REFERENCED IN SECTION 9.2 SHALL NOT APPLY TO ANY CLAIMS ARISING FROM OR RELATING TO A BREACH OF A PARTY'S OBLIGATIONS UNDER THE DPA OR APPLICABLE DATA PRIVACY OR SECURITY LAW, OR KYRON'S BREACH OF ITS OBLIGATIONS UNDER SECTION 5.2, RESULTING IN THE UNAUTHORIZED ACCESS TO OR USE OF ANY CUSTOMER CONTENT ("DATA BREACH"). EACH PARTY'S TOTAL AGGREGATE LIABILITY FOR ALL CLAIMS ARISING FROM OR RELATING TO A DATA BREACH, COMBINED, SHALL BE SUM OF TWO (2) TIMES ALL FEES PAID AND PAYABLE BY CUSTOMER TO KYRON IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING SUCH DATA BREACH.

10. Dispute Resolution, Arbitration of Claims, and Class Action Waiver

YOU SHOULD READ THIS SECTION CAREFULLY, AS IT MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT.

10.1 Dispute Resolution. You may contact us at privacy@kyronlearning.com to address any concerns you may have regarding the Services. Kyron is able to resolve most concerns quickly to our Customers' satisfaction. You and Kyron agree to use commercially reasonable efforts through Kyron's internal dispute resolution processes to settle any dispute, claim, question, or disagreement and engage in good faith negotiations, which shall be a condition to either party initiating arbitration or a lawsuit.

10.2 Arbitration. If the parties do not reach an agreed upon solution within a period of thirty (30) days from the time of the commencement of informal dispute resolution under the initial dispute resolution

provision, then either party may initiate binding arbitration as the sole means to resolve claims, subject to the terms set forth below. Any claim that you might have against Kyron must be resolved through binding arbitration before the American Arbitration Association using its Commercial Arbitration Rules and must be brought within one (1) year of the claim arising.

The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability or formation of this Agreement, including but not limited to any claim that all or any part of this Agreement is void or voidable, or whether a claim is subject to arbitration. The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity. The arbitrator's award shall be written, and binding on the parties and may be entered as a judgment in any court of competent jurisdiction.

YOU UNDERSTAND AND AGREE THAT YOU WILL ARBITRATE WITH KYRON IN YOUR INDIVIDUAL OR CORPORATE CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS. Your claim may not be

joined with any claim of any other person, and there shall not be authority for any dispute to be arbitrated on a class-action basis. If any court or arbitrator determines that the class action waiver set forth in this Section is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provisions in this Section shall be deemed null and void in their entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

You understand and agree that unless you can demonstrate to Kyron that arbitration in California would create an undue burden for you, any arbitration hearing will be held in San Francisco County, California. If your claim is successful in arbitration, Kyron agrees to reimburse your reasonable attorneys' fees and costs.

You understand and agree that by entering into this Agreement, you and Kyron are each waiving the right to a jury trial or a trial before a judge in a public court. In the absence of this arbitration provision, you and Kyron might otherwise have had a right or opportunity to bring disputes in a court, before a judge or jury, and/or to participate or be represented in a case filed in court by others (including class actions). Other rights that you would have if you went to court, such as the right to appeal and to certain types of discovery, may be more limited or may also be waived.

Notwithstanding the parties' decision to resolve all disputes through arbitration, either party may bring an action in state or federal court to protect its intellectual property rights (meaning patents, copyrights, moral rights, trademarks, and trade secrets, but not privacy or publicity rights) or Confidential Information.

You have the right to opt out and not be bound by the arbitration and class action waiver provisions set forth in this Section by sending written notice of your decision to opt out to the following address: Kyron Learning, Attention Legal Notices, 809 Pico Lane, Los Altos, CA 94022 . The notice must be sent within thirty (30) days of the Effective Date, otherwise you shall be bound to arbitrate disputes in accordance with the terms of these paragraphs. If you opt out of these arbitration provisions, Kyron also will not be bound by them.

10.3 Venue. For any dispute not subject to arbitration, you and Kyron agree to submit to the personal and exclusive jurisdiction of and venue in the federal and state courts located in San Francisco County, California. You further agree to accept service of process by mail, and hereby waive any and all jurisdictional and venue defenses otherwise available.

10.4 Injunctive Relief. Notwithstanding the above provisions, Kyron may apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

11. Privacy

11.1 Privacy Policy. Please review our Privacy Policy, which also governs your use of the Services, to understand our practices regarding the information we collect about you through the Services. By using the Services, you indicate that you have read, understand and agree to the terms and conditions of our privacy policy, which can be found on our website <https://www.kyronlearning.com>, including its disclosures regarding collection, use, and disclosure of your information in accordance with our Privacy Policy.

11.3 State Privacy Laws. To the extent that Customer Content contains "personal information" that is subject to the California Consumer Privacy Act of 2018, its implementing regulations, and any amendments thereto (collectively, the "CCPA"), or any other substantially similar state privacy laws, Kyron agrees that it shall comply with all such laws and process such personal information as a service provider (as defined under the CCPA) and shall not (a) retain, use or disclose personal information for any purpose other than the purposes set out in this Agreement and/or as permitted by the CCPA; or (b) "sell" (as defined and understood within the requirements of the CCPA) personal information.

12. General Provisions

12.1 Force Majeure. Neither party will be responsible for failure or delay of performance if caused by an act of war, hostility or sabotage; act of God; electrical, internet or telecommunication outage that is not caused by the obligated party; government restrictions; epidemic, pandemic or governmental order; or other event outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event.

12.2 Relationship of the Parties. The parties understand and agree that no joint venture, partnership, employment, or agency relationship exists between us.

12.3 Compliance with Laws. Each party agrees to comply with all Laws in its use and provision of the Services including, but not limited to export, privacy, data protection, and anti-spam laws and regulations. Without limiting the generality of the foregoing, Customer will not engage in any unsolicited advertising, marketing, or other activities using the Services, including without limitation any activities that violate the Telephone Consumer Protection Act of 1991, CAN-SPAM Act of 2003, or any other anti-spam laws and regulations or recording laws.

12.4 No Waiver. No delay in exercising any right or remedy or failure to object will be considered a waiver of such right or remedy, or of any other right or remedy. A waiver on one occasion shall not be a waiver of any right or remedy on any future occasion.

12.5 Severability. If any part of this Agreement or of an Order Form is determined to be invalid or unenforceable by applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement will continue in effect.

12.6 Notices. Notice to Kyron will be sent to the following email address privacy@kyronlearning.com, and will be deemed delivered as of the date the notice is actually received. We will send you notices at the email address you have provided in your Kyron subscription account information. We may give electronic notices by general notice via the Services or may give electronic notices specific to you by email to your email address(es) on record in our account information for you. You must keep all of your account information current.

12.7 Entire Agreement. This Agreement (together with any Order Forms and other agreements or policies referenced herein) constitute the entire agreement between you and us regarding our Services and supersedes and replaces any prior agreements we might have had between you and us regarding the Services.

12.8 Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld or delayed); provided, however, that either party may transfer or assign this Agreement, without the other party's consent, to an affiliate or in connection with a merger, acquisition, divestiture, spin off, corporate reorganization, change in control or similar such transaction or sale of all or substantially all of its stock or assets related to this Agreement, provided such party provides the other party of notice of such assignment promptly after the applicable assignment and transaction have been completed.

12.9 No Third-Party Beneficiaries. No person or entity not a party to the Agreement will be a third-party beneficiary.

12.10 Authority. Each party represents and warrants that (a) it has full corporate power and authority, and has obtained all corporate approvals, permissions, and consents necessary, to enter into this Agreement and to perform its obligations hereunder; (b) this Agreement is legally binding upon it and enforceable in accordance with its terms; and (c) the entering into and performance of this Agreement do not and will not conflict with any agreement, instrument, judgment, or understanding, oral or written, to which it is a party or by which it may be bound.

12.11 Precedence. In the event of a conflict of terms between this Agreement and any Order Form, the Order Form will control.

12.12 Governing Law. This Agreement and your relationship with us shall be governed and construed in accordance with the laws of the State of California, United States, without regard to its conflict of law provisions.

12.13 Changes. Kyron Learning reserves the right to modify this Agreement or its policies relating to the Service and other Applicable Terms, at any time, effective upon posting of an updated version of this Agreement, policies and/or other Applicable Terms on the Service. You are responsible for regularly reviewing this Agreement and such policies, the current version of which shall be made available as set forth herein through the Kyron Learning Site. If any change to this Agreement is not acceptable to you, your sole remedy is to terminate your use of the Service and any other rights under this Agreement. Any use of the Service after such publication shall constitute acceptance by you of such revised Agreement.

13. Notice of Claims of Intellectual Property Violations. We respond to notices of alleged copyright infringement under the DMCA. If you believe that your intellectual property rights have been infringed, please notify our legal team and we will investigate by e-mailing the following information to support@kyronlearning.com:

- a. Link with allegedly infringing video;
- b. Description of the intellectual property allegedly being infringed (e.g., copyright, trademark, patent, trade secret, trade dress)
- c. Your original date of ownership of the intellectual property allegedly being infringed
- d. A valid e-mail where we can reach out with further questions
- e. Registration certificate for your intellectual property right (if any)