

U-EXPLORE LIMITED

END USER LICENCE AGREEMENT

1. DEFINITIONS

- 1.1. "Annual Licence Fee" means the annual fee payable by the Customer for the Licence as determined by U-Explore and notified to the Customer from time to time.
- 1.2. "Authorised User" means the initial user of Licence, who is verified by the Company contacting the Customer, and thereafter any person the Customer determines at its sole discretion is a suitable user and meets all of the Customer's data protection and security check requirements to allow access to student data via the Online Web Application.
- 1.3. "Business Day" means any day other than a Saturday or Sunday or bank or public holiday in England and Wales.
- 1.4. "Customer" means the individual, partnership, company or organisation that has purchased a licence to use the Online Web Application from U-Explore, subject to the terms of this End User Licence Agreement.
- 1.5. "Customer Data" has the meaning given to it in Clause 9.1.
- 1.6. "Customer Representatives" means the Customer's staff and employees who are Authorised Users.
- 1.7. "Documentation" means the printed or electronic documentation (if any) supplied in conjunction with the Online Web Application, which describes the Online Web Application and provides instructions on its use, together with the Terms of Use (<http://website.u-explore.com/terms-of-use/>) and Privacy Policy at (<http://website.u-explore.com/privacy-policy/>).
- 1.8. "End User Licence Agreement" the licence agreement detailed in this document and incorporating all Documentation.
- 1.9. "Initial Licence Period" has the meaning given to it in Clause 2.4.
- 1.10. "Licence" means the licence granted by U-Explore to the Customer in accordance with this End User Licence Agreement.
- 1.11. "Licence Commencement Date" has the meaning given to it in Clause 2.4.
- 1.12. "Licence Renewal Period" has the meaning given to it in Clause 2.5.
- 1.13. "Online Web Application" means either or any combination (as the context permits) of the internet accessed:
 - (i) tracking system software known as "Pathways Tracker"; and/or
 - (ii) platform software known as "U-Explore Online", and/or
 - (iii) platform software known as "Start" and any associated products and/or paid upgrades used in conjunction with "Start",
 each of which are owned by U-Explore and licenced to the Customer subject to the terms of this End User Licence Agreement.
- 1.14. "U-Explore" means U-Explore Limited (registered number 8544080) whose registered office is at One Embankment, Neville Street, Leeds, LS1 4DW.
- 1.15. "Warranty Period" has the meaning given to it in Clause 4.1.

2. ONLINE WEB APPLICATION LICENCE

- 2.1. In consideration for payment of the applicable Annual Licence Fee and the Customer's compliance with this End User Licence Agreement, U-Explore hereby grants to the Customer a non-exclusive, non-transferable, revocable licence to use the Online Web Application (in object code form only) and the Documentation for the Customer's own internal educational purposes for the Initial Licence Period (as defined below).
- 2.2. The licence is:
 - 2.2.1. limited to use by the Customer and the Customer Representatives;
 - 2.2.2. subject to compliance of the Customer and Customer Representatives with any applicable policies and/or terms of use put in place by U-Explore, in its sole and absolute discretion, from time to time.

- 2.3. The Customer agrees that any use of or attempt to use the Online Web Application by any users other than the Customer or Customer Representatives shall constitute a material breach by the Customer of this End User Licence Agreement.
- 2.4. The Licence becomes effective, subject to Clause 3.1, with effect from the date agreed between U-Explore and the Customer (either by email or otherwise in writing), when paid upgrades of the Online Web Application are first made available to the Customer, and as detailed and confirmed on the invoice addressed to the Customer for such paid upgrades to the Online Web Application ("Licence Commencement Date") and shall continue for an initial period of 12 months from the Licence Commencement Date ("Initial Licence Period"), subject to earlier termination in accordance with Clause 5.
- 2.5. Upon the expiry of the Initial Licence Period (and each anniversary of such date thereafter, where applicable), the Licence will renew automatically for further periods of twelve months (each a "Licence Renewal Period"), subject to earlier termination of the Licence in accordance with Clause 5.
- 2.6. The Customer acknowledges that it is only licenced to use the Online Web Application and Documentation in accordance with the express terms of this End User Licence Agreement and not further or otherwise.
- 2.7. The Online Web Application and Documentation and all copyright and other intellectual property rights of whatever nature therein shall remain the property of U-Explore and are licenced rather than sold to the Customer.
- 2.8. The Customer shall notify U-Explore immediately if the Customer becomes aware of any unauthorised use of the whole or any part of the Online Web Application or Documentation by any person.
- 2.9. The Customer undertakes to treat as confidential all information contained or embodied in the Online Web Application and Documentation.
- 2.10. The Customer shall effect and maintain adequate security measures to safeguard the Online Web Application and Documentation from theft or unauthorised access.
- 2.11. The Customer shall not (and shall procure that the Customer's Representatives shall not):
 - 2.11.1. (except as expressly permitted by law) make any attempt, nor permit any other party to make any attempt, to disassemble, decompile or reverse engineer the Online Web Application, or to translate, modify, create derivative works from, duplicate the functionality of, adapt, enhance or extend the Online Web Application;
 - 2.11.2. access (or attempt to access) the Online Web Application in source code form or in unlocked coding;
 - 2.11.3. permit the Online Web Application or any part of it to be combined with, or become incorporated in, any other programs;
 - 2.11.4. (except as expressly permitted by law) copy the Online Web Application or Documentation except where such copying is required for the normal use of the Online Web Application; and/or
 - 2.11.5. rent, lease, sub-licence, loan, translate, merge, adapt, vary or modify the Online Web Application or Documentation.
- 2.12. The Licence shall apply to the Online Web Application. The Licence does not grant the Customer any right to receive any new versions or new releases of the Online Web Application which for the avoidance of doubt shall (unless otherwise determined by U-Explore in its sole and absolute discretion) be subject to separate licence terms and fees, however U-Explore reserves the right (from time to time) to replace current versions and/or releases of the Online Web Application with new versions and/or releases of the Online Web Application (and the Customer shall promptly comply with any instructions from U-Explore in relation to the same).
- 2.13. U-Explore reserves the right to suspend access to all or part of the Online Web Application from time to time in order to carry out scheduled and/or emergency maintenance.
- 2.14. The Customer shall, on reasonable written notice from U-Explore, provide U-Explore with such access to its (and its Customer Representatives') premises, systems and records (to the extent such

records relate to the Online Web Application) as U-Explore may reasonably require to verify if the Customer is in compliance with this End User Licence Agreement.

- 2.15. The Customer shall (and shall procure that the Customer's Representatives shall) comply with the terms of this End User Licence Agreement and Documentation including, but not limited to, the Terms of Use and Privacy Policy.

3. ANNUAL LICENCE FEE

- 3.1. Payment by the Customer of the Annual Licence Fee to U-Explore is payable immediately upon the date of the Licence Commencement Date and an invoice will be issued to the Customer on or about that date for the first Initial Licence Period.
- 3.2. U-Explore shall be entitled to invoice the Annual Licence Fee and the Customer shall pay the same (in accordance with the terms of the applicable invoice) prior to the commencement of each Licence Renewal Period (as applicable) and each such Annual Licence Fee is to be paid prior to the commencement of the relevant Licence Renewal Period. For the avoidance of doubt, any delay in issuing an invoice by U-Explore shall not prohibit it from issuing that invoice at a later date.

4. WARRANTY AND REMEDIES FOR DEFECTS

- 4.1. U-Explore warrants that the Online Web Application will perform substantially in accordance with the Documentation for a period of thirty days from the Licence Commencement Date ("**Warranty Period**").
- 4.2. Subject to Clause 4.3, if within the Warranty Period, the Customer notifies U-Explore in writing of any defect or fault in the Online Web Application as a result of which it fails to perform substantially in accordance with the Documentation, U-Explore will, at its sole and absolute discretion (and as the Customer's sole and exclusive remedy for breach of the warranty in Clause 4.1), repair or replace the Online Web Application.
- 4.3. The remedy in Clause 4.2 shall not apply if the defect or fault in the Online Web Application results from any use of the Online Web Application in contravention of the terms of this End User Licence Agreement.
- 4.4. U-Explore does not warrant that the Online Web Application will operate error free or without interruption and or that it will be fit for any particular purpose and it is the Customer's responsibility to ensure that it meets their requirements. Any condition, warranty, representation or other term concerning the supply of the Online Web Application and Documentation which might otherwise be implied into, or incorporated in, this End User Licence Agreement whether by statute, common law or otherwise, is excluded to the fullest extent permitted by law.

5. TERMINATION OF LICENCE

- 5.1. U-Explore may terminate the Licence forthwith upon giving notice in writing to the Customer if the Customer or any of the Customer Representatives commits any material or repeated breach of its obligations under this End User Licence Agreement, the Terms of Use or the Privacy Policy (as referred to in the definition of Documentation) or any other agreement or arrangement in place between U-Explore and the Customer at the relevant time.
- 5.2. U-Explore may terminate the Licence immediately upon notice to the Customer in the event of any late payment by the Customer of, when due, the Annual Licence Fee or any other amount due and payable to U-Explore under or in connection with this End User Licence Agreement or any other agreement or arrangement.
- 5.3. Either party shall be entitled to terminate the Licence with effect from the expiry of:
- 5.3.1. the Initial Licence Period, by serving the other with no less than 3 months' written notice prior to the expiry of the Initial Licence Period; and
- 5.3.2. a Renewal Licence Period, by serving the other with no less than 3 months' written notice prior to the expiry of the applicable Renewal Licence Period.
- 5.4. Upon termination of the Licence for any reason:
- 5.4.1. all rights granted to the Customer under this Licence shall cease and the Customer shall immediately return to U-

Explore (or, if requested by U-Explore, delete) all copies of the Online Web Application and the Documentation;

- 5.4.2. the Customer shall not be entitled to any refund in respect of any Annual Licence Fee; and

- 5.4.3. U-Explore reserves the right to delete (and shall not be under any obligation to store, maintain or deliver up) Customer Data (subject to Clause 5.5).

- 5.5. U-Explore may (but shall not be obliged to) offer post-termination services to the Customer involving the storage, maintenance and/or delivery up of Customer Data. The scope of any such services shall be agreed in advance in writing between the parties and the Customer shall pay charges for the same in accordance with U-Explore's then current rate card.

- 5.6. The provisions of Clause 1, this Clause 5, Clause 6, Clause 7, Clause 9 and Clause 10 (together with any other provisions which either expressly or impliedly are intended to survive termination) shall survive termination of the Licence however caused.

6. LIABILITY AND INDEMNITY

- 6.1. Subject to Clause 6.5, U-Explore shall not under any circumstances be liable, whether for breach of contract, misrepresentation (whether tortious or statutory), tort (including without limitation negligence), breach of statutory duty, or otherwise, under or in connection with the Licence or this End User Licence Agreement for any:

- 6.1.1. loss or corruption of the Customer's data (or that of its staff, employees or pupils or any other Customer Representatives);
- 6.1.2. business or operational interruption;
- 6.1.3. loss of anticipated savings, revenue, profits or contracts;
- 6.1.4. loss of opportunity, goodwill or reputation; or
- 6.1.5. indirect or consequential loss or damage.

- 6.2. Subject to Clause 6.5, U-Explore's total aggregate liability whether for breach of contract, misrepresentation (whether tortious or statutory), tort (including without limitation negligence), breach of statutory duty, or otherwise, under or in connection with the Licence or this End User Licence Agreement in the Initial Licence Period and in any Renewal Licence Period (if applicable), shall not exceed the Annual Licence Fee payable by the Customer in respect of the applicable period.

- 6.3. U-Explore shall not be liable for any failure to perform or delay in performing its obligations under this End User Licence Agreement where such failure or delay is due to any cause beyond its reasonable control, and a reasonable extension of time shall be allowed for performing such obligations. For these purposes the following are considered (without limitation) beyond U-Explore's "reasonable control": acts or omissions of suppliers and/or sub-contractors; failure of the internet; any Act Of God, terrorist attacks or inclement weather; accidental damage, vandalism or fire; failure or shortage or power supplies; strike, lock-out, trade dispute or labour disturbance; and/or any act or omission of Government, highways authorities, or other competent authorities.

- 6.4. Nothing in this End User Licence Agreement shall limit or exclude U-Explore's liability for:

- 6.4.1. death or personal injury resulting from U-Explore's negligence;
- 6.4.2. fraud or fraudulent misrepresentation; or
- 6.4.3. any other liability to the extent that it cannot be excluded or limited by English law.

- 6.5. Without prejudice to any other rights of U-Explore, the Customer shall indemnify, keep indemnified and hold harmless U-Explore against all costs (including without limitation legal costs and the cost of enforcement (on a full indemnity basis)) liabilities, claims, damages, direct, indirect or consequential losses (including without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss whether such losses are direct, indirect or consequential losses), expenses and/or judgments whatsoever, which it may suffer or incur, and arising from any breach by the Customer or any of the Customer's Representatives of any warranties, undertakings and/or representations given under

this End User Licence Agreement and/or any failure to comply with any responsibilities and/or liabilities of the Customer set out or referred to in this End User Licence Agreement.

7. ACCEPTANCE OF TERMS AND CONDITIONS

- 7.1. Where written acceptance of these terms is not received, the Customer shall be deemed to have accepted this End User Licence Agreement upon accessing the Online Web Application.
- 7.2. Without prejudice to the Customer's acceptance of the End User Licence Agreement in Clause 7.1 (which is continuing), the Customer shall be deemed to have re-accepted this End User Licence Agreement on each and every occasion upon which a Customer Representative accesses the Online Web Application.

8. SECURITY

- 8.1. The Customer must ensure that it and the Customer Representatives comply in full with the Privacy Policy and Terms of Use in respect of user names and passwords. In particular, login details and passwords must be kept confidential and all Customer Representatives must be Authorised Users. The Customer will inform U-Explore immediately if the Customer knows or suspects (or ought reasonably to know or suspect) that a user name or password has been disclosed to an unauthorised user or is being used in an unauthorised way. The Customer will not change or attempt to change a user name without U-Explore's written consent.
- 8.2. U-Explore reserves the right (at U-Explore's sole and absolute discretion):
 - 8.2.1. to suspend user names and password access to the Online Web Application if at any time U-Explore thinks that there has been or is likely to be a breach of security or of this End User Licence Agreement; and
 - 8.2.2. to ask the Customer to (in which case, the Customer shall) change any or all of the passwords the Customer and/or the Customer Representatives use in connection with the Online Web Application.
- 8.3. The Customer accepts and acknowledges that the Online Web Application is not guaranteed to be secure and U-Explore does not guarantee the prevention or detection of any unauthorised attempts to access the Online Web Application.

9. DATA PROTECTION

U-Explore Online and Start Products Customers

- 9.1. The U-Explore Online and Start Products Customer acknowledges and agrees that U-Explore, its trusted partners and suppliers may use any data, including without limitation "Personal Data" as defined within the Data Protection Act 1998, as amended (collectively "Customer Data") provided by the U-Explore and/or Start Products Customer and/or Customer Representatives to U-Explore (whether directly or indirectly and whether via uploading to the Online Web Application or otherwise) for the following purposes:
 - 9.1.1. administering the U-Explore Online and/ or Start Products Customer's account;
 - 9.1.2. notifying the U-Explore Online and/ or Start Products Customer of changes to the Online Web Application;
 - 9.1.3. enabling U-Explore and (and where applicable, its suppliers) to licence the Online Web Application and provide any related services to the U-Explore Online and/ or Start Products Customer;
 - 9.1.4. for marketing or promoting the products, services and/or opportunities of, or offered by, U-Explore, its trusted partners and its suppliers; and
 - 9.1.5. for invoicing purposes.
- 9.2. The U-Explore Online and/ or Start Products Customer warrants, undertakes and agrees that it will grant or procure from Customer Representatives such consents to the use of Customer Data as may be necessary to enable U-Explore, its trusted partners and its suppliers to use such data for the purposes described in this Clause 9.

Pathways Tracker Customers

- 9.3. U-Explore acknowledges and agrees that it will not use any data, including without limitation "Personal Data" as defined within the Data Protection Act 1998, as amended (collectively "Customer Data") provided by the Pathways Tracker Customer and/or its Customer Representatives to U-Explore (whether directly or indirectly and whether via uploading to the Online Web Application or otherwise).

10. MISCELLANEOUS

- 10.1. U-Explore may vary the terms of this End User Licence Agreement and/or the Documentation at any time by posting changes to the same on U-Explore's website (at <http://www.u-explore.com> or such other URL as may be notified to the Customer from time to time by U-Explore).
- 10.2. U-Explore may transfer or assign its rights and obligations under this End User Licence Agreement to another organisation or entity.
- 10.3. The Customer may only transfer or assign its rights or obligations under this End User Licence Agreement to another person if U-Explore first agrees in writing, such agreement to be given or withheld in U-Explore's sole and absolute discretion.
- 10.4. This End User Licence Agreement, Documentation and any document expressly referred to in them, constitute the entire agreement between U-Explore and the Customer in relation to its subject matter. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of U-Explore or any other person which is not set out in this End User Licence Agreement or any document expressly referred to in it. The only remedies available for breach of any statement, promise or representation which was made prior to entry into this End User Licence Agreement and which is expressly set out in this End User Licence Agreement and any document expressly referred to in it shall be for breach of contract. Nothing in this Clause 10.4 shall be interpreted or construed as limiting or excluding the liability of either party for fraud or fraudulent misrepresentation.
- 10.5. If U-Explore fails to insist that the Customer performs any of its obligations under this End User Licence Agreement, does not enforce its rights against the Customer, or delays in so doing, U-Explore shall not have waived its rights to do so against the Customer. Any waiver of any rights under this End User Licence Agreement shall be in writing.
- 10.6. Each of the clauses of this End User Licence Agreement operates separately. If any court or competent authority decides that any clause is unlawful or unenforceable, the remaining clauses will remain in full force and effect.
- 10.7. This End User Licence Agreement (including, without limit, any non-contractual matters arising out of it) shall be governed by and construed in accordance with the laws of England and the parties hereby submit to the exclusive jurisdiction of the English courts (including, without limit, in relation to non-contractual matters arising out of it).
- 10.8. Any notice which may be given by either party under this End User Licence Agreement shall be in writing and either delivered personally or by recorded delivery (except as provided otherwise). Such notices must be sent to and marked for the attention of:
 - 10.8.1. the Directors to U-Explore's registered address, in the case of notices served by the Customer; and
 - 10.8.2. the Customer at the Customer's registered or head office address, in the case of notices served by U-Explore.
- 10.9. A notice is deemed to have been served if delivered:
 - 10.9.1. personally, at the time of delivery; and
 - 10.9.2. by recorded delivery, on the earlier of actual receipt and the date which is 2 Business Days after the date of posting.
- 10.10. This End User Licence Agreement is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else and no third party shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this End User Licence Agreement.