

OT-SAT eLearning Modules
SCORM Package – Usage Licence Terms

1. Introduction

- 1.1. In these Terms of Use, references to “we”, “our”, “us” and “Secolve” means Secolve Pty Ltd as trustee for the Secolve20 Unit Trust ABN 82 520 455 692, and including its employees, contractors, agents and assigns.
- 1.2. These terms of use, and the terms set out in each Proposal that refers to these terms of use, as well as all policies provided to you by us from time to time, shall govern your access and use of the eLearning content described in the Proposal (“**Content**”), which may include text, graphics, images, audio, video or other materials).
- 1.3. By accessing and using our Content, you accept these terms of use in full; accordingly, if you disagree with these terms of use or any part of these terms of use, you must not access or use our Content.
- 1.4. If you are accepting these terms of use on behalf of a company, business, or other legal entity (whether as authorised employee, agent or attorney), you represent that you have the authority to bind such entity and its affiliates to these terms of use, in which case the terms “**you**” or “**your**” shall refer to such entity and its affiliates.
- 1.5. All defined terms in these terms shall, unless expressly defined in these terms, have the meaning given to them in the Proposal.

2. Grant of licence

- 2.1. We grant to you a non-transferable, non-exclusive licence to use the Content during the Term in accordance with the Licence Scope.
- 2.2. The licence granted to you is strictly limited to, and you shall use the Content solely in accordance with the Licence Scope described in the Proposal.
- 2.3. You shall not grant sub-licences, in whole or in part, of any of the rights granted under this agreement, or sub-contract any aspects of exploitation of the rights licensed to it, without our prior written consent.
- 2.4. For the avoidance of doubt, the Content is provided “as is” and no updates to the Content will be provided unless otherwise agreed by the parties.

3. Intellectual Property Rights

- 3.1. We retain ownership of all intellectual property rights in the Content and in any feedback, improvements or work generated or developed following the date of this agreement which is based on the Content or an underlying work in relation to the Content (“**Derivative Works**”).

- 3.2. You assign to us, and shall assign, all other intellectual property rights in any development of the Content or any Derivative Work you may create, by way of future assignment of copyright and database right. You shall execute this assignment or confirmatory assignment as we may require.
- 3.3. You irrevocably consent, and must procure that any third-party contributor irrevocably consents, to us doing any act or making any omission in relation to Derivative Works you create that would (but for this consent) infringe any moral right you or any other person may have under the *Copyright Act 1968* (Cth) or any similar law, including without limitation, failing to attribute or incorrectly attributing authorship of the material, and altering the material (in whole or in part) in any medium and in any context.
- 3.4. The intellectual property rights assigned to us under section 3.2 shall form part of the Content, and of the licence granted, from the date of that assignment.

4. Translations

- 4.1. We may offer machine-generated translations of the Content (“**Translations**”). All Translations are supplied “as-is” and may contain inaccuracies inherent in automated translation tools.
- 4.2. If you reasonably believe a Translation contains an error or is otherwise inaccurate, you may notify us in writing, identifying the specific issue and suggested correction. We will investigate the notification and, if we accept that the Translation contains a material error, we will, at no additional cost to you, make the correction.
- 4.3. Any corrections and feedback made to a Translation are considered Derivative Works, and as such, all intellectual property rights in and to them shall vest in, and are hereby assigned to, us immediately on creation, in accordance with Section 3.

5. Your obligations and rights

- 5.1. You may not change, amend or develop the Content in any way without our prior written consent.
- 5.2. You shall comply with all applicable laws in performing your obligations and exercising your rights under this agreement.
- 5.3. You shall not without our consent make, any public announcements about the Content.
- 5.4. You shall not, and shall procure that your users and permitted sub-licensees shall not, infringe any moral rights (as defined in Chapter IV of the Copyright, Designs and Patents Act 1988) that subsist in respect of the Content.

5.5. You shall ensure that the Content is kept secure and in an encrypted form, and shall use the best available practices and systems applicable to the use of the Content to:

- a) enforce the use restrictions of this agreement; and
- b) prevent, and take prompt and proper remedial action against, unauthorised access, copying, modification, storage, reproduction, display or distribution of the Content.

5.6. If you become aware of any misuse of any Content, or any security breach in connection with this agreement that could compromise the security or integrity of the Content or otherwise adversely affect us, you shall, at your expense, promptly notify us and fully co-operate with us to remedy the issue as soon as reasonably practicable. We may suspend your rights under the Agreement until the misuse or security breach is remedied.

5.7. We may require you to cease all use of any of the Content if we reasonably believe that your use of this Content infringes the intellectual property rights of any third party, or breaches any applicable law or regulation.

6. Warranties

6.1. Each party warrants to the other that it has full power and authority to enter into and perform its obligations under this agreement.

6.2. You warrant that your use of the Content and use of any Derivative Works:

- a) will not infringe any third party's intellectual property rights;
- b) is not defamatory, libellous, obscene, or otherwise unlawful;
- c) does not violate any applicable law, statute or subordinate legislation; and
- d) does not, to the best of your knowledge and belief, contain any viruses, Trojan horses, worms, time bombs, or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data or personal information.

7. Indemnity

7.1. You shall indemnify us against all claims, liabilities and expenses arising out of:

- a) your activities under this Agreement;
- b) personal injury;
- c) any infringement of any rights of us or of any third party by the use of the Content by you; or
- d) your failure to comply with all applicable laws and regulations.

8. Infringement

- 8.1. Each party shall promptly notify the other of any actual or suspected infringement of the Content that comes to its attention (**Infringement**).
- 8.2. You shall co-operate fully with us by taking all steps required by us (in our sole discretion) in connection with any Infringement, including, without limitation, legal proceedings in our name or in the joint names of the parties. We shall be responsible for the cost of any legal proceedings we decide to bring or defend, and we are entitled to any damages, account of profits and/or awards of costs recovered. You shall use your best endeavours to assist us in any legal proceedings relating to any Infringement.

9. Fees

- 9.1. Information regarding the fees in respect of our Content may be provided to you or your organisation in various forms including via email, quote, proposal, or advertised fees on the Platform or our website.
- 9.2. You must pay to us the fees in respect of our provision of Content in advance, in cleared funds, in accordance with any instructions that we have provided to you.
- 9.3. We may vary fees from time to time for a licence to the Content by advising you of the new fees, but this will not affect fees for Content that has been previously paid.
- 9.4. If you dispute any payment made to us, you must contact us immediately and provide full details of your claim.
- 9.5. If you owe us any amount under or relating to these terms of use, we may suspend or withdraw the provision of Content to you.

10. Limited warranties

- 10.1. We do not warrant or represent:
 - a) the completeness or accuracy of the information contained in the Content;
 - b) that the material in the Content is up to date;
 - c) that the Content will operate without fault; or
 - d) that the Content will remain available.
- 10.2. We reserve the right to discontinue or alter any or all of our Content, at any time in our sole discretion without notice or explanation; and save to the extent expressly provided otherwise in these terms of use, you will not be entitled to any compensation or other payment upon the discontinuance or alteration of any Content.
- 10.3. The Content is for informational purposes only. We make no warranties or representations, express or implied, regarding the accuracy, reliability, or

effectiveness of our Content in delivering training, achieving specific results, or improving security. Any reliance you place on our Content is strictly at your own risk.

- 10.4. To the maximum extent permitted by applicable law and subject to Section 11.1, we exclude all representations and warranties relating to the subject matter of these terms of use, our Content and your use of the Content.

11. Limitations and exclusions of liability

11.1. Nothing in these terms of use will:

- a) limit or exclude any liability for death or personal injury resulting from negligence;
- b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- c) limit any liabilities in any way that is not permitted under applicable law; or
- d) exclude any liabilities that may not be excluded under applicable law, and, if you are a consumer, your statutory rights will not be excluded or limited by these terms of use, except to the extent permitted by law.

11.2. The limitations and exclusions of liability set out in this Section 11 and elsewhere in these terms of use:

- a) are subject to Section 11.1; and
- b) govern all liabilities arising under these terms of use or relating to the subject matter of these terms of use, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in these terms of use.

11.3. We will not be liable to you in respect of any losses arising out of any event or events beyond our reasonable control.

11.4. We will not be liable to you in respect of any business losses, including (without limitation) loss of or damage to profits, income, revenue, use, production, anticipated savings, business, contracts, commercial opportunities or goodwill.

11.5. We will not be liable to you in respect of any special, indirect or consequential loss or damage.

11.6. You accept that we have an interest in limiting the personal liability of our officers and employees and, having regard to that interest, you acknowledge that we are a limited liability entity; you agree that you will not bring any claim personally against our officers or employees in respect of any losses you suffer in connection with the Content, or these terms of use (this will not, of course, limit or exclude the liability of the limited liability entity itself for the acts and omissions of our officers and employees).

- 11.7. Our aggregate liability to you in respect of any contract to provide services to you under these terms of use shall not exceed the total amount paid and payable to us under the contract.

12. Termination

- 12.1. Without affecting any other right or remedy available to us, we may terminate the Agreement with immediate effect by giving notice to you if:
- a) you fail to pay any amount due under this Agreement on the due date for payment and remains in default not less than 30 days after being notified to make such payment; or
 - b) you commit a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified to do so; or
 - c) there is a change in the control of your business (within the meaning of section 1124 of the Corporation Tax Act 2010).
- 12.2. On any expiration or termination of this Agreement:
- a) all rights and authorisations granted by us to you under this agreement shall automatically terminate and immediately revert to us; and
 - b) you shall immediately cease all use of the Content, and shall, at our option and according to our instructions, immediately return to us or destroy all Content in your possession or subject to your control including from back-up systems and any cached Content within your control.

13. Trade marks

- 13.1. Secolve, OT-SAT, our logos and our other registered and unregistered trademarks are trademarks belonging to us; we give no permission for the use of these trademarks, and such use may constitute an infringement of our rights.
- 13.2. The third party registered and unregistered trademarks or service marks on our Content are the property of their respective owners and, unless stated otherwise in these terms of use, we do not endorse and are not affiliated with any of the holders of any such rights and as such we cannot grant any licence to exercise such rights.

14. Data Protection and Privacy

- 14.1. "Data Protection Laws" means all applicable data protection and privacy legislation in force in the jurisdiction(s) in which the relevant party is located, which may include (i) the GDPR to the extent that it forms local laws arising from Section 3 of the European Union (Withdrawal Act) 2018 (UK GDPR); (ii) the General Data Protection Regulation ((EU) 2016/679) (GDPR); (iii) the Data Protection Act 2018; (iv) the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426); and (v) the Privacy Act 1988 (Cth) as amended and any amendments to these laws as updated from time to time.

14.2. The parties agree to comply with their obligations under the applicable Data Protection Laws. This Section 18 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Laws.

14.3. Where necessary for the purposes of this agreement, the parties will enter into a data processing agreement.

15. No partnership or agency

15.1. Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

15.2. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

16. Variation

16.1. We may revise these terms of use from time to time.

16.2. The revised terms of use shall apply to the access and use of the Content from the date of publication of the revised terms of use, and you hereby waive any right you may otherwise have to be notified of, or to consent to, revisions of these terms of use.

16.3. If you have given your express agreement to these terms of use, we will ask for your express agreement to any revision of these terms of use.

17. Assignment

17.1. You hereby agree that we may assign, transfer, sub-contract or otherwise deal with our rights and/or obligations under these terms of use - providing, if you are a consumer, that such action does not serve to reduce the guarantees benefiting you under these terms of use.

17.2. You may not without our prior written consent assign, transfer, sub-contract or otherwise deal with any of your rights and/or obligations under these terms a of use.

18. Severability

18.1. If a provision of these terms of use is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions will continue in effect.

18.2. If any unlawful and/or unenforceable provision of these terms of use would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.

19. Third party rights

- 19.1. A contract under these terms of use is for our benefit and your benefit, and is not intended to benefit or be enforceable by any third party.
- 19.2. The exercise of the parties' rights under a contract under these terms of use is not subject to the consent of any third party.

20. Entire agreement

- 20.1. Subject to Section 11.1, these terms of use, together with the Proposal, shall constitute the entire agreement between you and us in relation to your use of our Content, and shall supersede all previous agreements between you and us in relation to your use of our Content.

21. Law and jurisdiction

- 21.1. These terms of use shall be governed by and construed in accordance with the laws of New South Wales, Australia.
- 21.2. Any disputes relating to these terms of use shall be subject to the exclusive jurisdiction of the courts of New South Wales, Australia.

22. Statutory and regulatory disclosures

- 22.1. We will not file a copy of these terms of use specifically in relation to each user or customer and, if we update these terms of use, the version to which you originally agreed will no longer be available. We recommend that you consider saving a copy of these terms of use for future reference.

23. Our details

- 1.1. The Content is owned by us.
- 1.2. You can contact us:
 - a) using our website contact form at <https://secolve.com/contact-us/>;
 - b) by telephone, on 1800 732 658; or
 - c) by email, using info@secolve.com.