

# TERMS OF USAGE EXAM.NET

## 1. GENERAL INFORMATION

Welcome to Exam.net ( "Exam.net", "the Service", "the Services", "the Platform", "the Website"), provided to you ("the user", "you") by the Swedish limited company Teachiq AB, registration number 556538-9409, mailing address Granparksstigen 5, 182 73 Stocksund, Sweden ("Teachiq", "we", "us"). Your usage of the Services is conditioned by the terms in this document ("Terms of usage", "User terms").

If you are using Exam.net as a teacher, all terms in these Terms of usage applies to you. If you are using Exam.net as a student without registering an account, only section 3 "Using Exam.net as a student", section 4 "Uploaded material and Code of Conduct" and section 5 No warranty", apply to you.

**You accept the User terms in this document by checking the box "Accept our user terms [...]"** when you register a user account on the Website.

Any personal data that you might disclose to us will be treated and processed in accordance with our Privacy policy, which is applicable when you register your user account, when you use our Services and when you communicate with us.

Persons under the age of 13 may not use the Service without parental consent.

**Please note that we cannot provide our Services to you unless you accept these User terms.**

## 2. USER ACCOUNT AND PASSWORD

To be able to use the Services you must register a user account and sign in to Exam.net. **You accept the User terms in this document when registering an account.**

You create your account by going to the Website, selecting "Register" and providing the requested information. Tap "Register" to submit your registration. An account can also be created by signing in using your Google or Microsoft account.

When creating your user account, you will be prompted to share certain information about yourself, for example your first and last name and your email address. This personal data will be used to provide the Services to you. Read more about how we process your personal data in our Privacy policy.

In some cases, we may need to verify the provided user information, in order to make sure that you are an eligible user. **You accept that we share certain personal data of yours, such as name and email address, with your school representatives** (for example head master, school administrator or similar) for that purpose.

Your user account is private and you may not transfer your account to a third party. **You are responsible for protecting your user name and password** so that unauthorized persons do not gain access to your account. You also accept that you may not share (deliberately or by carelessness) your user name and/or password with any third parties, nor let a third party use your account or your access to the Services. If you have reason to believe that an unauthorized third party has gained

access to the Services, you are obliged to notify us immediately. We have the right to, but are not obliged to, disable your account if we have reason to believe that a third party has gained unauthorized access to your user account.

### 3. USING EXAM.NET

The Services are primarily aimed at teachers and students as users. Under the conditions set forth in this Agreement you are given a non-exclusive, non-transferable, revocable, right to use the Service for its intended purposes.

#### Using Exam.net as a teacher

After having registered an account, the teacher is able to create and upload tests, quizzes, exams and similar material (in this document referred to as "exams") on the Platform. Exams that are uploaded to Exam.net are considered User material, please refer to section 8 for terms and conditions on User material.

For every exam, the teacher may enable and disable a range of tools in the exam settings. When the teacher has finished editing the exam and its settings, he/she may let students access the exam and see the questions and/or the writing area in Exam.net. The students go to Exam.net and access the specific exam by using a so called "exam key", distributed by the teacher. The student enters the exam key on the Website and gains access to the Platform and the specific exam.

During the exam, the teacher can monitor the progress of the students' work on Exam.net.

When the exam is finished, the teacher can view the students' answers, and print and/or download the answers to a chosen space or folder of his/her choice and control, for sake of clarity, outside of Exam.net.

#### Using Exam.net as a student

A student using Exam.net gains access to a specific exam by using a so called "exam key", distributed by the teacher. When the student is ready to start the exam, he/she goes to the Website and enters the exam key. The student is then prompted to provide a set of personal data, for example first name, last name, group/class or e-mail address. What personal information the student has to provide is set by the teacher in the exam settings.

Teachiq has no other purpose to collect and process student personal data apart from ensuring that the teacher can connect submitted answers to the right student and to prevent cheating. Teachiq never uses student personal data or contact details for its own use.

**The responsibility for ensuring that applicable parties' consent to Teachiq collecting and processing personal data for students in order to provide the Service, lies solely on the educational institution and its principal organizer.**

### 4. UPLOADED MATERIAL AND CODE OF CONDUCT

**You are responsible for all user material** (please refer to section 8) or other information or communication uploaded to the Website by you, as well as any material uploaded by students who are using the Services and their compliance with these User terms.

**You accept and guarantee** that you will not publish, transfer, distribute or upload any material to the Services that:

- is incorrect, misleading or false
- promotes or encourages illegal activity
- is racist or ethnically offensive and/or agitates against a minority (such as a national or ethnic group)
- is defamatory, in any way sexually offensive or contains pornography
- is an attack on sexual orientation or religious beliefs or in any way discriminating, or
- is harmful, offensive, objectionable or illegal in any way or is a violation of the rights of a third party (inclusive but not exclusively limited to copyrights and trade marks)

**Furthermore, you accept and guarantee** that you will not, and will not allow any third party to:

- use the Services to transfer or upload files or other contents that contains viruses, trojans, corrupted data, malware or other software or programs that can cause damage to computers, equipment or properties,
- use the Services to slander, harass, discriminate or threaten another person or in any other way violate a person's rights,
- distribute or reproduce all of or part of the Services,
- change, separate or decompile any part of the Services, unless it is expressly allowed according to mandatory legislation,
- use software that automatically reads and/or collects data from the Services,
- use the Services to request or encourage another user to violate the regulations in these Terms of usage,
- misuse the Services or use them for any unauthorized or unlawful purpose (including promotion of viruses on the Website or usage of the Services that in any way violates the rights of another person)

The Services may allow you to send messages to other users. **You are responsible for all messages sent by you** through the Services and **you guarantee** that you will not send messages that violate these Terms of usage, and will not harass or threaten other users.

**Please note that you may not enter any type of sensitive data (special category data)** in the text fields that Exam.net may contain. Examples of such data or information could be – but is not limited to - grades, reviews, notes or remarks on social or medical status or development/progress for an individual. For questions on sensitive data or special category data, send us a message on **privacy@exam.net**.

If you receive messages, images or other material that you think might violate these User terms, or if you believe that the Services are being used for illegal purposes or for purposes that are non compliant with these User terms and conditions, please contact us on **info@exam.net** or **Teachiq AB Granparksstigen 5 18273 Stocksund, Sweden**. Teachiq reserves the right to immediately remove contents from the Website that it, in its own discretion, finds non-compliant with the User terms or policies published on the Website, or in any other way is harmful to Teachiq or its users.

## 5. NO WARRANTY

The Services are provided to you as is and as available. We do not, directly, implicitly or in any other way, guarantee or warrant the access to, quality of, adequacy for a specific purpose or accuracy of the Services or that the provision of the Service will be uninterrupted or that it is free from bugs, errors, or any other defects. You assume all risk for using, and for any results obtained or liability

incurred by or as a result of using, the Service, or from using any information obtained from using the Service, or for failing to access the Service on any occasion.

Except as expressly set out in these User terms all warranties, representations, terms, conditions or undertakings whether implied by statute, custom, trade usage, course of dealing or otherwise (including any implied warranty, representation, term, condition or undertaking of satisfactory quality or fitness for a particular purpose) are, to the fullest extent permitted by law, hereby excluded.

## 6. INTERNET CONNECTION AND TECHNICAL ENVIRONMENT

Exam.net is a cloud service where the user (the teacher) creates a personal account. The Service is hosted by a well-known company, with data storage in the Netherlands.

The accessibility and functionality of the Services are dependent on several technical aspects out of Teachiq's control including, but not limited to, internet access and server capacity. Teachiq takes no responsibility for the functionality of these technical aspects. You hereby accept that situations could arise where the Services may not be accessible for you, such as, but not limited to, various types of technical maintenance and circumstances out of Teachiq's control, for which Teachiq is never responsible. Furthermore, we do not take responsibility for any fees connected with establishing and maintaining access to the Services, such as operators' or roaming fees.

## 7. COLLECTING, PROCESSING AND ERASING DATA

Upon use of the Service, we will process personal data as a data controller ("**Controller**") in accordance with our Privacy Policy. Please notice that if the Service is used through the service of an educational institution, the Privacy Policy does not apply and we will process your personal data as a data processor ("**Processor**").

The following shall apply when Teachiq process personal data on behalf of an educational institution, unless the parties have entered into a separate data processing agreement:

Each party shall at all times comply with its respective obligations under, as applicable,

- a) the relevant data protection act in each jurisdiction implementing the Directive 95/46/EC on the protection of individuals with regard to the processing of personal data; and
- b) Regulation (EU) 2016/679 the General Data Protection Regulation and any national legislation enacted with respect to Regulation (EU) 2016/679

as the same may be amended, modified or replaced from time to time ("**Data Protection Legislation**").

In the course of providing the Service, Teachiq acknowledges that it may be provided with and have access to personal data (as defined in the Data Protection Legislation). In respect of which, the parties acknowledge that the educational institution shall be the Controller and Teachiq shall be Processor and Teachiq shall:

- a) only process the personal data on behalf of the educational institution relating to the data subjects, the User terms and pursuant to supplementary written instructions provided by the educational institution;

- b) inform the educational institution if Teachiq finds that the given instructions are, in Teachiq's opinion, in breach of applicable Data Protection Legislation or that further instructions are needed for the processing;
- c) implement and maintain appropriate technical and organizational measures as required by Data Protection Legislation, to ensure a level of security appropriate to the risks involved in the processing of the personal data including, inter alia, the pseudonymisation and encryption of personal data; the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services; the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident; a process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing;
- d) commit to disclose personal data which is processed on behalf of the educational institution only to the personnel to which a disclosure is necessary, for the purpose of providing the Service. Teachiq also commits to ensure that all the personnel to whom personal data may be disclosed, commits to undertake confidentiality and has received training regarding the processing of personal data. Teachiq shall take all reasonable steps to ensure the reliability and trustworthiness of personnel which will have access to any personal data;
- e) use the personal data obtained as a result of the provision of the Service only for the purposes of providing the Service;
- f) comply with the express written instructions or directions of the educational institution in connection with the use of such personal data;
- g) treat the personal data as confidential information of the educational institution for the purposes of providing the Service;
- h) not disclose personal data to any third party without the written authority of the educational institution, unless mandatory applicable law so prescribes;
- i) be entitled to transfer personal data to any country outside the EU/EEA without the prior written consent of the educational institution. Teachiq shall ensure that such transfer is conducted in accordance with Data Protection Legislation, such as by entering into the standard contractual clauses approved by the European Commission;
- j) be entitled to engage any sub-processor for the processing of personal data and upon engaging such, Teachiq shall prepare a written sub-processor agreement that shall impose the same obligations on the sub-processor as set forth in this section 7 and in Appendix 1 regarding Teachiq's obligations. Teachiq shall inform the educational institution of any intended changes concerning the addition or replacement of other sub-processors and give the educational institution the opportunity to object to such changes. If the sub-processor fails to fulfil its data protection obligations, Teachiq shall remain fully liable to the educational institution for the performance of the sub-processor's obligations and for the acts and omissions of the sub-processor;
- k) assist the educational institution, at the educational institution's expense, in fulfilling the educational institution's obligations to respond to and serve data subjects' requests and rights regarding, as applicable under Data Protection legislation, transparency and information, access, rectification, erasure, data portability, restriction of processing,

objection to processing of personal data and automated individual decision-making. Teachiq shall also assist the educational institution in the fulfilment of the educational institution's responsibilities as required by applicable Data Protection Legislation such as regarding implementing and maintaining appropriate technical and organizational measures for the protection of personal data, conducting data protection impact assessments and prior consultations, notification of data breaches to the supervisory authority and if applicable to the concerned data subjects;

h) without undue delay report to the educational institution if a breach of security occurs, leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

m) provide the educational institution with all necessary information to demonstrate Teachiq's compliance with this section 7 and applicable Data Protection Legislation. Teachiq shall allow audits as may be requested by the educational institution once (1) per year or by any relevant supervisory authority, to verify Teachiq's compliance with this section 7 and applicable Data Protection Legislation. Audits shall be conducted upon reasonable notice and during regular business hours at Teachiq's premises to enable the educational institution to review Teachiq's records, relevant IT systems and documentation; and

n) at the choice of the educational institution, delete or return all personal data to the educational institution after the end of the provision of the Service. Supplier shall also delete existing copies of the personal data unless European Union or member State law requires storage of the personal data.

## 8. INTELLECTUAL PROPERTY RIGHTS AND USER MATERIAL

### Content

**You understand and accept that the Services may contain material supplied by us**, and that such material, in whole or parts of, can be subject to copyright. We (and, as applicable, our licensors) own all right, title and interest in and to the Services, including any data, information, and software therein. Title to the Services, data, information, and software shall vest solely with us and may be protected by copyright, trademark law and/or other intellectual property rights. These Terms of usage do not in any way entail a transfer of title or any other intellectual property rights to Service or its content to you.

We may terminate your right to use the Service at any time in the event of a material breach of one or more of the provisions contained herein, including but not limited to, perceived or actual infringement of any of our and/or our licensors' copyright or other intellectual property rights.

**You agree to respect intellectual property**, such as, but not limited to, copyright, brands, trade marks and company names (registered or not) included or displayed on the Website or that you have gained access to in connection to the Services. The above is also applicable for data compilations and material on the Website that are to be regarded as a database.

**The content of the Website is for private use of the Services only**, and you may not use the contents of the Website in contravention of applicable law or these User terms.

**You receive no other license to use any intellectual property**, other than that explicitly allowed according to these User terms.

**You understand and accept that content published on the Website** may belong to third parties, and that we are not in control of such content. Therefore, you understand and accept that we do not control, assume no liability for, and will not be held responsible for contents provided by third parties, displayed or made accessible on the Website.

#### User material

You may upload text, written comments, data, images, exercises, quizzes, tests, exams and other information ("User material") to the Website. **Please note that uploading or in any other way entering sensitive data, special category data or confidential material to the Website/the Services is not allowed.** This also applies to any text fields that Exam.net may contain. Examples of such information is – but is not limited to – grades, remarks or notes on social or medical status or progress for an individual, as well as scanned confidential tests and exams.

**The User material is your property**, or is the property of the third party that holds the rights to such User material (and no ownership right to User material is transferred to us under these User terms).

**You guarantee that you hold all the applicable rights** to show, upload and use the User material and you grant us the right to publish and use the User material as described. In case any User material infringes on the intellectual rights of any third party, you consent to immediately remove all infringing parts of the User material and you assume full liability for any claims arising out of such infringement. Teachiq is not to be held liable for any damage, costs or expenses caused by such an infringement.

We may review parts of the User material, but we do not commit to reviewing all User material. We reserve the right to remove any User material that violates the User terms, that poses a risk of causing infringement, that is deemed not qualified or for any other reason is deemed not to contribute to better Services.

If we become aware of or have reason to believe that your User material infringes on the intellectual properties of a third party, we have the right, but not the obligation, to remove all such material from the Website and we may deny further access to your User account, temporarily or permanently.

#### Anonymized data

By using the Services, information and meta data regarding the usage of the Services are generated, for example information on how often users sign in, or the proportion of exams where spell check is enabled. This kind of information is anonymous, and can neither directly nor indirectly be linked to a specific user or an individual (so called "Anonymous Aggregated Data").

In order to understand and develop the Services, we hold the rights to the Anonymous Aggregated Data, meaning that Teachiq is allowed to analyze, interpret, license and transfer Anonymous Aggregated Data.

## 9. LIMITATION OF LIABILITY

YOU ARE LIABLE FOR ALL DAMAGE CAUSED TO US, OR TO A THIRD PARTY, DUE TO YOUR BREACH OF THESE USER TERMS, INCLUSIVE OF BUT NOT LIMITED TO, MISUSE OF THE SERVICES. FURTHERMORE YOU ARE LIABLE TO US FOR ALL CLAIMS, DEMANDS, COSTS (INCLUSIVE OF REASONABLE LEGAL COSTS), DAMAGE, EXPENSES OR LOSS, CAUSED BY YOUR BREACH OF THESE USER TERMS. YOU AGREE TO INDEMNIFY AND HOLD HARMLESS TEACHIQ AND ITS AFFILIATES, AND THEIR DIRECTORS,

OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS AGAINST ANY AND ALL CLAIMS, ACTION, DEMANDS, LIABILITIES, LOSSES, EXPENSES, DAMAGES AND COSTS, INCLUDING BUT NOT LIMITED TO LEGAL FEES, THAT MAY BE INCURRED BY OR ASSERTED AGAINST TEACHIQ AS A RESULT OF YOUR USE OF THE SERVICE OR BREACH OF THESE USER TERMS.

EXCEPT FOR ANY LIABILITY WHICH CANNOT BE WAIVED UNDER MANDATORY LAW, WE ARE NOT LIABLE TO YOU, OR TO ANY THIRD PARTY, UNDER ANY THEORY OF LIABILITY, FOR ANY DAMAGE OR LOSS OF ANY KIND, NEITHER DIRECT NOR INDIRECT, CONSEQUENTIAL, PUNITIVE OR OTHERWISE, INCLUSIVE OF BUT NOT LIMITED TO, LOSS OF INCOME, SAVINGS, PROFIT OR REVENUE, DISRUPTED ACTIVITY OR LOSS OF GOODWILL STEMMING FROM OR CONNECTED TO THESE USER TERMS OR THE USE OF, OR THE INABILITY TO USE, THE SERVICES. WE ARE NOT LIABLE FOR ANY THIRD PARTY DEMANDS TOWARDS YOU.

OUR AGGREGATE AND TOTAL LIABILITY UNDER THESE USER TERMS OR OTHERWISE RELATED TO THE SERVICES, IN RESPECT TO ONE OR MORE EVENTS OR SERIES OF EVENTS (WHETHER RELATED OR UNRELATED) UNDER NO CIRCUMSTANCES EXCEED AN AMOUNT OF 1,500 USD.

NOTWITHSTANDING ANY OTHER CLAUSE IN THESE TERMS, NEITHER PARTY EXCLUDES ITS LIABILITY FOR (I) DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE, (II) DAMAGES CAUSED BY ITS GROSS NEGLIGENCE OR WILFUL MISCONDUCT, OR (III) FRAUD.

You must make any claims for damages no later than three (3) months after you discovered or should have discovered the basis for the claim, otherwise your right to make such claim shall be forfeit.

## 10. INJUNCTIVE RELIEF

You acknowledge that any breach of these User terms may cause irreparable damage to us, the exact amount of which will be difficult or impossible to ascertain, and that the remedies at law for any such breach may be inadequate. Consequently, the user agrees that in the event of a breach of the abovementioned, in addition to any other remedy which may be available in this Agreement, in law or in equity, Teachiq shall be entitled to specific performance and injunctive relief (both temporary and permanent).

## 11. CHANGE OF TERMS AND TERMINATION OF THE SERVICES

We reserve the right to change these User terms. We will inform you of upcoming changes on [www.exam.net](http://www.exam.net) or via the email address provided by you.

We may, in our sole discretion and at any time, amend the Service provided that the functionality of the Service is not materially decreased. If we intend to change the Service by materially decreasing or removing functionality then we will inform you of upcoming changes on [www.exam.net](http://www.exam.net) or via the email address provided by you prior to such change becoming effective.

You have the right to, at any time and without previous notification, terminate your user account. Termination and de-registration is done by sending an email with your request to: **info@exam.net**.

We have the right to immediately deny access to the Services, if we have reason to believe that you are in violation of these User terms. Furthermore, we reserve the right to, at our own discretion, at any time modify, pause or terminate the Services, temporarily or permanently without previous



notification, if required by law or decision by authority. You accept that we are not responsible towards you or any third party for such modifications, pauses or terminations.

## 12. TRANSFERS OF THIS AGREEMENT

You are not allowed to transfer any rights, obligations or licenses granted to you by these User terms.

If the ownership of our business changes, we might transfer these User terms, information, user accounts including contents, to the new owners so that they can continue providing the Services to you.

Furthermore, we hold the right to, at our own discretion, transfer our obligations according to these User terms to a third party, in order for them to execute our obligations in our place.

## 13. GOVERNING LAW AND JURISDICTION

You accept that these User terms are subject to the exclusive jurisdiction of the Swedish courts and that the agreements in these User terms are to be governed and construed according to substantive Swedish law, without application of its conflicts of laws rules.