

## Terms of Use – TU/e Learning Management System

Last update: 3 February 2017

These terms of use (**Terms of Use**) with regard to the Learning Management System (**LMS**) by Technische Universiteit Eindhoven (**TU/e**) is subject to the following conditions and restrictions. Access to and use of LMS is only available to a user, being a (natural) person affiliated with the TU/e in any way, including its personnel, faculty staff and/or students, who is authorized by the TU/e to access and use (a part of) the LMS (**User**). By using the LMS, User has agreed to the terms as set out below.

### 1. Admission

Only TU/e's students, TU/e's staff and any other person with an official TU/e account provided by TU/e, may enter the LMS.

### 2. User obligations

User agrees to: (i) comply with all applicable laws, rules and regulations, including the [Privacy Policy](#), and [TU/e's regulations for computer and network use \(Network Use Regulations\)](#) and these Terms of Use (ii) use reasonable security precautions with regard to entering LMS; (iii) cooperate with TU/e's reasonable investigation of outages, security problems, and any suspected breach of this Terms of Use; (iv) comply with all license terms or terms of use for any software, content, or website, if communicated by TU/e, when it uses or accesses the LMS; (v) give TU/e accurate, current, and complete information that may be useful and required for performance of the LMS and shall guarantee that provided information shall be correct and complete; (vi) use reasonable efforts to prevent unauthorized access to or use of the LMS, notify TU/e of any known or suspected unauthorized use of User's account, or any other breach of security. If there is a conflict between the articles in this Terms of Use and all applicable laws, rules and regulations, the applicable law, rules and regulations will have priority over these Terms of Use.

### 3. Availability

TU/e shall try to ensure that the LMS is provided to the User in due care. TU/e may make adjustments to the content or scope of LMS and shall not be obliged to maintain, change or add certain features or functionalities to LMS. TU/e may temporarily suspend the LMS in full or in part for the purpose of carrying out preventive, corrective or adaptive maintenance to the LMS.

### 4. Guarantee

TU/e and Instructure, Inc., located in Salt Lake City, Utah, United States of America (**Instructure**) as the hosting provider of our LMS shall together provide the LMS to User on a 'as is' and 'as available' basis. No guarantee is given for the faultless and uninterrupted functioning of the LMS. No guarantee or declaration is given as regards the accuracy or completeness of the information published on the LMS or to which it provides access to. TU/e and Instructure disclaim warranties of any kind, whether oral, express, implied or statutory, this with the exception of warranties that cannot be disclaimed according to (applicable) Dutch law.

### 5. Update Terms of Use

The Terms of Use may be updated and changed by TU/e in its sole discretion at any time. When changes are made, TU/e will make a new copy of the Terms of Use available [here](#). Any changes to the Terms of Use will be effective immediately for new Users of LMS and will be effective thirty (30) days after posting of notice of such changes on [www.tue.nl/termsfuseandprivacy](http://www.tue.nl/termsfuseandprivacy) for an existing User. If a User does not agree to any change(s) after receiving a notice of such change(s), User shall stop using the LMS. Otherwise continued use of the LMS constitutes the acceptance of the updated Terms of Use.

## 6. Intellectual property rights

Intellectual property rights attached to all software, hardware or other items and facilities (including documentation) provided by TU/e, is owned by TU/e and/or its licensors, including Instructure. All data, details, information and any other documents or content that the User submits, sends or places in the LMS, remains the property and responsibility of User (**User Content**). Neither TU/e nor Instructure are responsible to pre-screen User Content. User grants TU/e and Instructure, during its use of the LMS, a fully paid, perpetual, worldwide, irrevocable, royalty-free, non-exclusive and fully sub licensable license to use, distribute, reproduce, modify and adapt its User Content for purposes of operating and providing the LMS.

## 7. Suspension

TU/e may suspend User's use or access to LMS if: (i) TU/e reasonably believes that the LMS is being used (or have been or will be used) by User in violation of the Terms of Use; (ii) User does not cooperate with TU/e's investigation of any suspected violation of the Terms of Use; (iii) TU/e believes that LMS has been accessed or manipulated by a third party via User's account without TU/e's consent or in violation of this Terms of Use; (iv) TU/e reasonably believes that suspension of User's use of LMS is necessary to protect its network, other users, or others in general; (v) TU/e reasonably believes that the use of LMS by User may expose TU/e, its affiliates, its licensors or any third party to liability; or (vi) suspension is required by law. TU/e will give User reasonable advance notice of a suspension under this article if possible. In addition, User's use or access to the LMS may be suspended by TU/e or Instructure reasonably believes that the LMS is being used (or has been or will be used) by User in violation of the Network Use Regulations.

## 8. Termination

TU/e may terminate User's access to LMS permanently if: (i) User uses the LMS in violation of this Terms of Use and fails to remedy the violation within 5 (five) days of TU/e's notice; (ii) User uses the LMS in violation of this Terms of Use and, in TU/e's reasonable (commercial) judgment, termination is necessary to protect TU/e, or any third party from operational, security, or other risk; (iii) User's account has been suspended for 5 (five) days or more; or (iv) User fails to comply with any other provision of this Agreement and does not remedy the failure within 5 (five) days of TU/e's notice to User describing the failure; or (v) once User is no longer registered with TU/e's Student Information System or employed by TU/e. TU/e determines, in TU/e's reasonable (commercial) judgment, that immediate termination without notice is necessary to protect TU/e or any third party, including Instructure, from operational, security, or other risk. Upon termination, User must discontinue to use the LMS in every way.

## 9. Notices

User communications regarding the LMS should be sent to:

Technische Universiteit Eindhoven  
Attn: Helpdesk Canvas  
P.O. Box 513  
5600 MB Eindhoven  
The Netherlands  
E-mail: [canvas@tue.nl](mailto:canvas@tue.nl)

## 10. Liability

All liability for any damage which might be incurred as a result of access to and use of the LMS including any damage resulting from the use of third party websites or applications offered through the LMS is excluded to the extent possible under applicable Dutch law. This limitation of liability applies to TU/e as well as its licensors, including Instructure.

The User shall indemnify TU/e and Instructure from any liability and/or claim against TU/e or Instructure made by others in relation to any infringement of the rights of those others where such infringement is attributable to the User through use of the LMS, including infringement of intellectual property rights and/or tortious actions towards others and in relation to violation of any applicable laws. Any liability of and/or claims against TU/e or Instructure by others in this respect will be passed on to or recovered from the User.

#### **11. Waiver**

Any waiver or failure by LMS to enforce any article of the Terms of Use on one occasion will not be deemed a waiver of any other provision or of such article on any other occasion.

#### **12. Severability**

If any article in this Terms of Use is held invalid or unenforceable by a body of competent jurisdiction, such article will be construed, limited or, if necessary, severed to the extent necessary to eliminate such invalidity or unenforceability. The remaining articles of this Terms of Use will remain in full force and effect.

#### **13. Applicable law and disputes**

Any disputes arising out of these Terms of Use will be resolved in accordance with Dutch law. The competent Dutch court shall have sole jurisdiction in case of any such disputes, to the extent possible under Dutch law.

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