

Learning Point Group  
**SMART PASS**

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## Terms and Conditions

THIS IS A CONTRACT. PLEASE READ CAREFULLY THE FOLLOWING TERMS BEFORE USING YOUR LEARNING POINT SMART PASS. BY USING YOUR SMART PASS, AND THE RESOURCES AND SERVICES PROVIDED TO YOU IN ASSOCIATION WITH YOUR SMART PASS, YOU ACCEPT AND AGREE TO ALL OF THE COVENANTS AND CONDITIONS IMPOSED IN THIS AGREEMENT. IF YOU DO NOT AGREE TO THESE TERMS, YOU MAY NOT UTILIZE THE SMART PASS OR THE SERVICES PROVIDED THEREIN.

BY USING LEARNING POINT'S SMART PASS, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND AND AGREE TO THE TERMS HEREIN. YOU ALSO AGREE TO REVIEW THIS AGREEMENT PERIODICALLY TO BE AWARE OF MODIFICATIONS TO THE AGREEMENT, WHICH MODIFICATIONS LEARNING POINT GROUP MAY MAKE AT ANY TIME. THE MOST CURRENT VERSION OF THESE TERMS AND CONDITIONS WILL BE POSTED ON THE LEARNING POINT WEBSITE. YOUR CONTINUED USE OF THE SMART PASS WILL BE DEEMED YOUR CONCLUSIVE ACCEPTANCE OF CURRENT AND PREVIOUS VERSIONS OF THE SMART PASS AGREEMENT.

### 1. Contact Information.

Address  
Learning Point Group  
10000 NE 7<sup>th</sup> Ave, Suite 400  
Vancouver, WA 98685

Customer Service  
Email: [workshops@learningpointgroup.com](mailto:workshops@learningpointgroup.com)  
Telephone: Toll Free 1-888-823-1646  
Website: [www.learningpointgroup.com](http://www.learningpointgroup.com)

### 2. Definitions.

“Smart Pass” refers to the provision by Learning Point Group to the Pass Holder to enroll employees from the Smart Pass Holder Organization into any of Learning Point's current Smart Pass Offerings at no charge beyond the Smart Pass fee.

“Pass Holder” refers to the person or entity that purchases the Smart Pass from Learning Point Group and ultimately holds the privileges of the Smart Pass and bears responsibility for the terms and conditions set herein.

“User” and “Attendee” refer to any person who uses the Smart Pass, as authorized by the Pass Holder, to gain access to and attend any of the Learning Point Offerings designated for Smart Pass purposes, and thereby use any of the content, materials, and obtained in said Workshops.

“Access” or “Accessing” means accessing, using, registering for workshops, attending workshops (online and in person), viewing the content and training materials, and otherwise utilizing any content or materials associated with Learning Point's workshops and training resources.

“Agreement” or “Terms” refers to these Terms and Conditions of Use and any subsequent modifications.

“Website” or “Site” refers to the website maintained on the World Wide Web by Learning Point Group, available at <http://www.learningpointgroup.com>, or other URLs designated by Learning Point Group, and includes a listing of scheduled workshops, events, tools, resources, terms, conditions, and associated information.

“You” or “Your” refers to the Pass Holder and/or User.

### 3. Modification of Terms.

Learning Point Group reserves the right to modify these Terms at any time. Except as otherwise stated herein, any change to these

Terms is effective immediately after Learning Point Group posts the updated Terms on the Learning Point Group website. Notice will be given by posting the change to the Terms and Conditions on the Learning Point website. Pass Holder agrees to check the website periodically for changes to these Terms. Any use of the Smart Pass after changes have been made shall be deemed acceptance of those changed terms and/or conditions.

#### **4. Smart Pass Provision.**

Learning Point Group hereby grants each Pass Holder a limited, non-exclusive, non-sublicensable and non-transferable right to 1) reserve and register its employees in any and all of Learning Point's Smart Pass Offerings, 2) access to certain online Smart Pass Offerings and information, which may or may not be available at any given point in time, and 3) use the content and materials obtained in said Smart Pass Offerings according to the provisions and restrictions contained herein. These privileges are subject to the payment of the applicable Smart Pass fees and adherence to these Terms.

#### **5. Specific Smart Pass Privileges and Procedures.**

Smart Pass Holders, and their respective employees (Users) may reserve seats and/or register for Learning Point Group's Smart Pass Offerings, provided space is still available for a given Offering.

Smart Pass Offerings may be attended by any person or persons the Smart Pass Holder authorizes to attend the Offering using the Pass Holder's access code.

To reserve a seat or register for a given Offering, the Pass Holder must register the User on the Learning Point website and/or for the specific Offering, using the unique Smart Pass Code provided to the Pass Holder. The User's complete information must also be entered during registration. Registration must be completed by using the registration tool at [www.LearningPointGroup.com](http://www.LearningPointGroup.com) or by calling Learning Point at 1-888-823-1646.

Unless otherwise specified in writing, the Smart Pass is valid for 12 months from the date the Smart Pass was purchased.

Smart Passes are non-refundable. In the event that Learning Point cancels or discontinues a specific Offering for which the Smart Pass Holder had Users registered, and Learning Point does not provide a reasonable alternative for that specific Offering, the Pass Holder may request a Smart Pass refund. A portion of the original Smart Pass fee may then be refunded to the Smart Pass Holder based on the number of months remaining until the Smart Pass expires and the number of times the Smart Pass has already been used for Smart Pass Offerings at standard rates.

EXAMPLE: If the original Smart Pass fee was \$12,000, and a refund is requested with six months remaining with reasonable cause to request a refund, and the Smart Pass Holder had Users registered for 10 Smart Pass Offerings at a standard rate of \$500 per Offering, the following formula would apply. ( $\$12,000 / 12 \text{ months} = \$1,000 \times 6 \text{ months remaining} = \$6,000$ ) – (10 Offerings @ \$500 = \$5,000) = \$1,000 Refund.

Discounts, rebates or other special offers associated with the promotion of Learning Point's events outside of the Smart Pass Offerings may not be valid in conjunction with Smart Pass privileges.

The number of Smart Passes Learning Point Group offers to organizations will be limited. Learning Point Group may increase or decrease the price of a Smart Pass at any time and for any reason. In addition, Learning Point Group may increase or decrease the quantity of Smart Passes available for sale at any time for any reason. However, once a Smart Pass is purchased, Learning Point will honor that Smart Pass, at the price for which it was sold, and for the length of the Smart Pass term and according to these Terms and Conditions.

The rights and privileges associated with the Smart Pass are effective only upon payment in full of the Smart Pass fees.

Certain Smart Pass Offerings have a limited seating capacity. The "first-come-first-serve" rule applies to Smart Pass Holders. If a given Offering becomes full before You register for that workshop, Your right to reserve a seat in that Offering will not apply. Information on available offerings and dates will be maintained current on the Learning Point website.

Users and Attendees are solely responsible for ensuring that they have sufficient means, equipment, and transportation to access the Offerings for which they register, whether online or in person.

#### **6. Modifications, Scheduling, Cancellations, and Restrictions.**

Learning Point Group strives to provide the Offerings as they are scheduled, without cancellation or rescheduling. To that end, Learning Point Group will make all reasonable efforts to hold each and every Offering as scheduled and to keep the Learning Point

website current and accurate. However, from time to time, certain Offerings may be cancelled or rescheduled due to conditions outside of Learning Point's reasonable control. Such conditions include, but are not limited to: low enrollment, participant cancellations, force majeure, acts of God, and power outages.

In the event that Learning Point cancels or discontinues a specific Offering for which the Smart Pass Holder had Users registered, and Learning Point does not provide a reasonable alternative for that specific Offering, the Pass Holder may request a Smart Pass refund. A portion of the original Smart Pass fee may then be refunded to the Smart Pass Holder based on the number of months remaining until the Smart Pass expires and the number of times the Smart Pass has already been used for Smart Pass Offerings at standard rates.

EXAMPLE: If the original Smart Pass fee was \$12,000, and a refund is requested with six months remaining with reasonable cause to request a refund, and the Smart Pass Holder had Users register for 10 Smart Pass Offerings at a standard rate of \$500 per Offering, the following formula would apply.  $(\$12,000 / 12 \text{ months} = \$1,000 \times 6 \text{ months remaining} = \$6,000) - (10 \text{ Offerings} @ \$500 = \$5,000) = \$1,000 \text{ Refund.}$

Learning Point Group endeavors to provide the highest quality learning experience to its Users. To that end, Learning Point Group reserves the right, in its sole discretion, to change, modify, or discontinue any aspect or feature of its Offerings and the content therein. Such changes, modifications, additions or deletions will be effective immediately upon the change being made. In addition, Learning Point Group reserves the right, in its sole discretion, to restrict or refuse Access, in whole or in part, to any Smart Pass Holder, User, or other person, if it deems that such access would be disruptive or detrimental to the experience of any other User; or if Learning Point deems that a breach of this Agreement has occurred.

To ensure proper enrollment for each Offering and preserve the learning experience for all Users, Smart Pass Holder and User agree to attend and participate in any and all Offerings for which they have registered. If the User must cancel or reschedule, the User or Smart Pass Holder is required to contact Learning Point Group by telephone (360-992-0830) or email ([workshops@learningpointgroup.com](mailto:workshops@learningpointgroup.com)) at least 10 business days prior to the scheduled Offering date and receive a cancellation confirmation. If a registered User does not show for the Offering and has not cancelled or rescheduled at least 10 business days prior to the event and received a confirmation code, the User will be considered a "No Show." In the case where there is a pattern of three or more "No Shows" from a given Smart Pass, Learning Point Group reserves the right to deactivate that Smart Pass until the "No Show" issue is resolved and reactivation fee of \$500 is paid by the Smart Pass Holder. Once the fee is paid, the Smart Pass Holder will be able to resume use the Smart Pass. If a Smart Pass Holder has repeated deactivations due to "No Shows," Learning Point Group reserves the right to cancel the remainder of their Smart Pass without refund.

## **7. Prohibited Conduct.**

Smart Pass Holders and Users expressly agree to refrain from doing, either personally or through an agent, any of the following "Prohibited Conduct":

Copy, record, modify, redistribute, republish, alter, create derivative works from, assign, license, transfer or adapt any of the content, information, text, video, graphics, source code or HTML code, or other content available in the Learning Point Offerings, Materials, or Website.

Remove or modify any copyright, trademark, legal notices, or other proprietary notations from the content available in the Learning Point Offerings, Workshops, Media, Materials, or Website.

Capture, download, save, upload, print or otherwise retain information and content available on the Site other than what is expressly allowed by these Terms.

Transmit, install, upload or otherwise transfer any virus, advertisement, communication, or other item or process to the Site that in any way affects the use, enjoyment or service of the Site, or adversely affects Learning Point's computers, servers or databases.

Permit or provide others Access to Your user name and password or otherwise, or the name and password of another authorized User.

Transfer the content to another person; "frame," "mirror," "in-line link," or employ similar navigational technology to the Site content; or "deep link" to the Site content.

Violate or attempt to violate Learning Point's security mechanisms, access any data or server You are not authorized to access or otherwise breach the security of the Site or corrupt the Site in any way.

Engage in any other conduct which violates the Copyright Act or other laws of the United States.

Use any device (such as a “web crawler” or other automatic retrieval mechanism) or other means to harvest information about other Users, the Site or Learning Point.

Use the Site to violate a third party’s intellectual property, personality, publicity or confidentiality rights; upload, download, display, publish, perform, create derivative works from, transmit, or otherwise distribute information or content in violation of a third party’s intellectual property rights.

Misrepresent Your identity or personal information when Accessing the Site; forge any TCP/IP packet header or any part of the header information in any e-mail so that the e-mail appears to be generated by Learning Point.

Advertise or otherwise solicit funds, goods or services at any Learning Point Workshops or to any Learning Point Workshop attendees.

Provide any commercial hosting service with access to the Learning Point website.

Resell or redistribute in any way any aspect of the content obtained from any Learning Point Group Offerings, Workshop, Materials, Media, or Website.

## **8. LIMITED WARRANTIES.**

ALTHOUGH LEARNING POINT GROUP HAS ATTEMPTED TO PROVIDE ACCURATE INFORMATION ON THE SITE, IT MAKES NO GUARANTEE OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE RELIABILITY, ACCURACY, TIMELINESS OR COMPLETENESS OF THAT INFORMATION AND ASSUMES NO RESPONSIBILITY FOR ANY ERRORS OR OMISSIONS THEREIN.

## **9. DISCLAIMERS AND LIMITATION OF LIABILITY.**

USER ACCESSES THE OFFERINGS, WORKSHOPS, AND WEBSITE AT HIS/HER/ITS OWN RISK. THE SMART PASS SERVICE IS PROVIDED ON AN “AS IS, AS AVAILABLE” BASIS WITHOUT WARRANTY OF ANY KIND (BEYOND THE WARRANTIES SET FORTH IN SECTION 10), EXPRESSED, IMPLIED OR STATUTORY, AND ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD PARTIES’ RIGHTS ARE SPECIFICALLY DISCLAIMED. LEARNING POINT GROUP DOES NOT WARRANT ANY PARTICULAR RESULT FROM USE OF CONTENT OBTAINED FROM THE OFFERINGS, WORKSHOPS, OR WEBSITE. LEARNING POINT GROUP DOES NOT WARRANT THAT THE INFORMATION IN THE OFFERINGS, WORKSHOPS, OR WEBSITE IS ACCURATE, COMPLETE OR COMPLIES WITH ANY PARTICULAR LAW OR REGULATION, OR THAT THE OPERATION OF AND YOUR ACCESS TO THE WEBSITE WILL BE UNINTERRUPTED, ERROR-FREE, VIRUS-FREE OR COMPLETELY SECURE. UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (TORT, CONTRACT OR OTHERWISE) SHALL LEARNING POINT GROUP OR ANY OF ITS AFFILIATES, AGENTS, EMPLOYEES, SHAREHOLDERS, DIRECTORS, OFFICERS, THIRD PARTY CONTENT PROVIDERS, SUCCESSORS OR ASSIGNS BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOSS OF DATA, LOSS OF PRODUCTIVITY OR CONTRACT, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES. YOUR USE OF THE WORKSHOPS, MATERIALS, AND WEBSITE IS AT YOUR SOLE RISK AND ANY CONTENT THAT YOU OBTAIN OR DOWNLOAD IS DONE SO AT YOUR OWN DISCRETION AND RISK, AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOU OR YOUR COMPUTER SYSTEM IN EXCESS OF THE AMOUNT LEARNING POINT GROUP RECEIVED FROM THE YOU AND/OR THE PASS HOLDER TO PURCHASE THE SMART PASS. IN NO EVENT WILL LEARNING POINT GROUP BE LIABLE FOR ANY DAMAGES IN EXCESS OF THE AMOUNT LEARNING POINT GROUP RECEIVED FROM THE PASS HOLDER FOR THE SMART PASS, EVEN IF LEARNING POINT GROUP SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. IN NO EVENT WILL WARRANTIES PROVIDED BY LAW, IF ANY, APPLY UNLESS THEY ARE REQUIRED TO APPLY BY STATUTE NOTWITHSTANDING THEIR EXCLUSION BY CONTRACT. THIS DISCLAIMER IS APPLICABLE TO ANY DAMAGE OR INJURY RESULTING FROM THE NEGLIGENCE OR AN OMISSION OF LEARNING POINT GROUP, COMPUTER VIRUS OR OTHER SIMILAR ITEM, TELECOMMUNICATIONS ERRORS, OR UNAUTHORIZED ACCESS TO OR USE OF USER INFORMATION THROUGH THEFT OR ANY OTHER MEANS. LEARNING POINT GROUP IS NOT LIABLE FOR CRIMINAL, TORTIOUS, OR NEGLIGENT ACTIONS OR OMISSIONS OF THIRD PARTIES THAT ADVERSELY AFFECT THE USERS OR PASSHOLDERS OF SMART PASS SERVICES, OFFERINGS, WORKSHOPS, WEBSITE, OR MATERIALS. NO DEALER, AGENT, OR EMPLOYEE OF LEARNING POINT GROUP IS AUTHORIZED TO MAKE ANY MODIFICATIONS, EXTENSION, OR ADDITIONS TO THESE LIMITED WARRANTIES OR DISCLAIMERS.

LEARNING POINT GROUP DISCLAIMS ALL WARRANTIES, AND SHALL HAVE NO LIABILITY FOR DAMAGES IN EXCESS OF THE AMOUNT LEARNING POINT GROUP RECEIVED FROM THE PASS HOLDER, ARISING FROM OR

RELATED TO ANY SUPPORT SERVICES FOR YOUR USE OF THE SITE. THE LAWS OF YOUR JURISDICTION MAY PROHIBIT OR MODIFY THE FOREGOING DISCLAIMERS AND LIMITATIONS ON DAMAGES, AND SUCH DISCLAIMERS OR LIMITATIONS ON DAMAGES MAY NOT APPLY TO YOU.

#### **10. Copyrights, Trademarks and Other Proprietary Rights.**

Learning Point Group or its third party content providers shall retain all worldwide rights in the intellectual property in and on its offerings, workshops, materials, and website, including, but not limited to, trademarks, service marks, trade dress, inventions, ideas, trade secrets, the source code, the HTML code, the “look and feel” of the Site, its color combinations, layout, and all other graphical elements, and the copyrights in and to its original content. You should assume that everything You read or see in the workshops, on the materials, and on the website is copyrighted, trademarked, or otherwise protected and owned or licensed by Learning Point Group, except as expressly stated on the materials, in the workshops, on the website, or in these Terms, nothing that You read or see may be copied, reproduced, modified, distributed, transmitted, republished, displayed or performed for commercial use without the prior written consent of Learning Point Group, except as provided in these Terms. Nothing in these Terms grants You an express or implied license to use any of Learning Point Group’s intellectual property except as set forth herein.

#### **11. Indemnification.**

Pass Holder and User agree to defend, indemnify and otherwise hold harmless Learning Point Group and its officers, directors, agents, employees, shareholders, successors and assigns from and against any cause of action or claim, including court costs, expenses and attorney fees, related to or arising from User’s or Pass Holder’s Prohibited Conduct or other improper or illegal use of the Smart Pass, Workshops, Materials, or Website, or breach of these Terms.

#### **12. Security; Authorized Use.**

Users and Smart Pass Holders are prohibited from violating or attempting to violate the security of the Website. Learning Point Group has the right but not the obligation to investigate occurrences of possible violations and will cooperate with all applicable law enforcement authorities in prosecuting violators. Learning Point Group may suspend Your Access while it conducts an investigation. Users are required to enter a user name and password to Access the Website. To protect against unauthorized Access to Your account, it is recommended that You close the browser when You have finished using the Site. You are responsible for maintaining the secrecy of Your username and password.

You represent and warrant that You are the person on whose behalf You claim to accept these Terms, or, if You are entering into these Terms on behalf of a person or entity, You represent and warrant that You have the power and authority to enter into these Terms and bind the person or entity. You also represent and warrant that You are an adult who is legally able to enter into these Terms.

You may not use the account, user name or password of someone else at any time. You agree to notify Learning Point Group immediately of any unauthorized use or loss of Your account, username, password and/or credit card information. You also agree to notify Learning Point Group immediately if You are aware of or suspect other unauthorized use of the Site and/or the Site content. Learning Point Group will not be liable for any loss that You incur as a result of someone else using Your Smart Pass, Pass Code or username and password with or without Your knowledge. You may be held liable for any losses incurred by Learning Point Group, its affiliates, officers, directors, employees, consultants, agents or representatives due to someone else’s use of Your account, user name or password. Learning Point Group will never ask You for Your Website password. If You need a new username and/or password, Learning Point Group will generate a new user name and password automatically through its computers and send it to Your e-mail or postal address.

#### **13. Termination of Agreement.**

In addition to Learning Point Group’s other rights, it may terminate this Agreement at any time and at its sole and absolute discretion. Learning Point may also terminate Access to the Offerings, Workshops, and Website, or cancel the Smart Pass without notice if it believes, in its sole judgment, that Pass Holder and/or User have breached or may breach any term or condition of this Agreement, or engaged in conduct that Learning Point Group deems inappropriate. In the event of termination of this Agreement, the provisions in this Section and the provisions found in Sections 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 shall survive in perpetuity.

#### **14. Privacy Policy.**

Learning Point Group values Your trust. In order to honor that trust, all of Learning Point’s employees are required to adhere to ethical standards in gathering, using, and safeguarding any information you provide. For more information, please review Learning Point’s Privacy Policy the terms of which are incorporated into this Agreement as if set forth in full.

#### **15. Miscellaneous.**

These Terms constitute the entire agreement between Learning Point Group and User regarding the subject matter hereof. Any previous agreement, whether oral or written, between Learning Point Group and User dealing with the subject matter hereof is superseded. These Terms may only be modified or amended in writing. If any portion of these Terms is determined to be unenforceable for any reason, such portion will be deemed severed and the remaining terms and conditions shall continue in full force

and effect. Upon User's breach or threatened breach of these Terms, Learning Point Group may pursue any legal or equitable remedy available, including but not limited to, direct, consequential and punitive damages and injunctive relief. Learning Point Group's remedies are cumulative and not exclusive. Failure of Learning Point Group to exercise any remedy or enforce any portion of this Agreement at any time shall not operate as a waiver of any remedy or of the right to enforce any portion of the Agreement at any time thereafter. User agrees that regardless of any statute or law to the contrary, any claim or action arising out of or regarding this Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred. By Accessing the Site, User signs for and accepts this shortening of the statutes of limitations. Learning Point makes no representation that the content of the Site is appropriate or available for use in all locations. Learning Point operates its Website from the United States and makes no representation that the Website complies with any foreign or international laws. You agree to comply with all applicable local laws, including any international laws, in using the Website. You may not assign Your rights or delegate Your duties under these Terms. The parties agree that no third party is an intended beneficiary of these Terms. Learning Point cannot provide notifications via post, only e-mail.

**16. Governing Law; Dispute Resolution; Forum and Venue.**

These Terms and any claim or action related to or arising from these Terms or content in the Workshops, Materials, or on the Website shall be governed by Washington State law, without regard to any provision that would make the laws of another jurisdiction applicable. All disputes between You and Learning Point Group shall be finally resolved through binding arbitration in Vancouver, Washington. The arbitration shall be conducted by one (1) arbitrator who is a retired judge. The parties shall conduct discovery as agreed upon or as permitted by the arbitrator. A party may file for an order on the arbitration decision exclusively in the Washington Superior Court, County of Clark or the United States District Court for Washington State. The parties shall share equally the costs of the arbitrator, arbitration body and arbitration facilities (if applicable). Each party may bring a claim or action for injunctive relief without submitting the claim to final and binding arbitration. Neither party shall have the obligation to post a bond or demonstrate actual harm before bringing a claim or action for injunctive relief. Each party consents to the exclusive jurisdiction and venue of the Washington Superior Court, Clark County or the United States District Court for Washington State for any equitable claim or other action related to or arising from these Terms. Each party shall bear his/her/its own expenses and attorneys' fees related to any arbitration, claim or action.

EFFECTIVE DATE: July 1, 2020