

The Education Alliance

Standard Terms and Conditions of Purchase

1. DEFINITIONS AND INTERPRETATIONS

In these terms and conditions:-

- 1.1 **"Buyer"** means The Education Alliance; "Confidential Information" means any information concerning the business, contracts, affairs, clients, customers, suppliers or any other such information of either party.
- 1.2 **"Contract"** means this contract for the purchase of the Goods and/or Services and all appendices hereto, including the Purchase Order;
- 1.3 **"Data Protection Legislation"** means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data.
- 1.4 **"Delivery Location"** means the delivery location notified to the Seller by the Buyer to which the Goods are to be delivered;
- 1.5 **"Goods"** means the goods which are detailed within the Purchase Order and are the subject matter of this Contract; "Offer" means the Sellers quotation for the Goods and/or Services;
- 1.6 **"Purchase Order"** means the Buyer's purchase order for the Goods and/or Services;
- 1.7 **"Seller"** means the person or company named as the seller or supplier in the Purchase Order;
- 1.8 **"Services"** means any services which are detailed within the Purchase Order and are the subject matter of this Contract;
- 1.9 **"Terms"** means the terms and conditions of purchase;
- 1.10 **"Special Conditions"** means any conditions in addition to these Terms agreed between the Buyer and the Seller and detailed with the Purchase Order.

2. ESTABLISHMENT AND TERMS OF CONTRACT

- 2.1 No Contract for the purchase of the Goods and/or Services shall be concluded until the Buyer has issued a Purchase Order in writing.
- 2.2 All Purchase Orders are given by the Buyer and accepted by the Seller subject to these Terms and any applicable Special Conditions. All other terms, conditions and/or warranties attempted to be introduced by the Seller whether express or implied are hereby excluded with the exception of conditions expressly accepted by the Buyer in writing.
- 2.3 The Seller may, for its own administrative convenience, issue its standard terms and conditions of sale. The Seller understands and agrees that such standard conditions of sale shall function only as a confirmation of order and shall otherwise have no contractual effect. These Terms and any Special Conditions apply to the Contract to the exclusion of any other terms that the Seller is likely to impose or incorporate or which are implied by trade, custom, practice or cause of dealing.

3. DELIVERY OF GOODS

- 3.1 The Seller is responsible for ensuring that the Goods are properly packed and marked, and secured in such manner as to enable them to reach their destination in good condition and delivered to the Delivery Location at the time and place specified in the Purchase Order.
- 3.2 Time is of the essence in this Contract. In the event of delay in delivery, or if the Goods and/or Services do not comply with the Purchase Order the Buyer may at its option either:
 - a. accept delivery at the later time, subject to compensation payable by the Seller to the Buyer calculated as set out in clause 3.4; or
 - b. reject the Goods and/or Services, without prejudice to the Buyer's right to compensation for the Seller's breach of Contract or to its rights under clause 13; or
 - c. terminate the Contract; or
 - d. refuse to accept any subsequent delivery of the Goods and/or ServicesHaving initially chosen option (a), the Buyer may, at any time until actual delivery, choose option (b) if the Seller has subsequently failed to achieve its amended delivery time.
- 3.3 The Seller shall immediately notify the Buyer in writing if there is reason to believe that the agreed delivery time will not be met. Such notification shall state the cause of the delay and the likely delayed delivery time.
- 3.4 The amount of compensation payable under clause 3.2(a) and 3.2 (b) shall be the greater of:
 - a. the amount of such costs damages and losses suffered by the Buyer as the Buyer can evidence resulted from such delay or non-delivery, calculated on the normal principles of the English law of damages; and
 - b. a sum payable by way of interest accruing on a day-to-day basis until full payment is received at a rate of 2% above the base rate from time to time in force of the Bank of England
- 3.5 The Seller shall not deliver the Goods in instalments without the Buyer's prior written consent. Where it is agreed that the Goods are to be delivered in instalments they may be invoiced and paid for separately. However, failure by the Seller to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Buyer to the remedies in clause 3.2 above.

4. SUPPLY OF SERVICES

- 4.1 The Seller shall from the date(s) set out in the Purchase Order and for the duration of the Contract supply the Services to the Buyer in accordance with these Terms and any Special Conditions.
- 4.2 The Seller shall meet any performance dates for the Services that the Buyer notifies to the Seller from time to time and time is of the essence in relation to any of those performance dates.
- 4.3 In providing the Services, the Seller shall:
- a. fully co-operate with the Buyer in all matters relating to the Services, and comply with all instructions of the Buyer;
 - b. perform the Services with the best care, skill and diligence in accordance with best practice in the Seller's industry, profession or trade;
 - c. use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Seller's obligations are fulfilled in accordance with the Contract;
 - d. ensure that the Services will conform in all aspects and specifications set out in the Purchase Order, and that the Services shall be fit for any purpose that the Buyer expressly or impliedly makes known to the Seller;
 - e. provide all equipment, tools and vehicles and such other items as are required to provide the Services;
 - f. use the highest quality goods, materials, standards and techniques, and ensure that all goods and materials supplied and used during the supply of the Services or transferred to the Buyer will be free from defects in workmanship, installation and design;
 - g. obtain and at all times maintain all licenses and consents which may be required for the provision of the Services;
 - h. comply with all applicable laws, regulations, policies, guidelines or industry codes which may apply to the supply of the Services;
 - i. observe and comply with all health and safety rules and regulations and any other security requirements that apply at any of the Buyer's premises;
 - j. hold all materials, equipment and tools, drawings, specifications and data supplied by the Buyer to the Seller ("Buyer's Materials") in safe custody at its own risk, maintain the Buyer's Materials in good condition until returned to the Buyer, and not dispose or use any of the Buyer's Materials other than in accordance with the Buyer's written instructions or authorization;
 - k. not do or omit to do anything which may cause the Buyer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Seller acknowledges that the Buyer may rely or act on the Services;
 - l. comply with any additional obligations as set out in the Purchase Order or notified to the Seller by the Buyer at any time.
- 4.4 The Buyer shall provide the Seller with reasonable access at reasonable times to the Buyer's premises for the purpose of the supply of the Services.

5. PRICE

- 5.1 The price stated in the Purchase Order ("the Price") is exclusive of VAT and shall not be subject to escalation, indexation or other variation save as expressly provided.
- 5.2 The Price shall include the costs of packing, marking, transport and insurance to the point of delivery.
- 5.3 Where the Goods and/or Services being supplied by the Seller are similar to those being supplied to other trade buyers, the Price shall take into account the highest level of discount afforded to any such buyer.
- 5.4 The Seller shall not be entitled to assert any credit, set-off or counterclaim against the Buyer in order to justify withholding payment of any such amount in whole or in part. The Buyer may, without limiting any other rights or remedies it may have, set off any amount owed to it by the Seller against any amounts payable by it to the Seller under this Contract.

6. RISK AND TITLE

- 6.1 Title to the Goods, and the risk of loss or of damage to the Goods, shall pass to the Buyer on delivery at the Delivery Location.

7. INSPECTION AND QUALITY CONTROL

- 7.1 The Seller shall have a satisfactory quality assurance system appropriate to the kind of goods in question. The Buyer shall at any time have the right to make inspections and tests at the Seller's premises and/or the premises of any subcontractor to make sure that the Goods are being supplied in accordance with the agreed quality assurance system and otherwise in accordance with the Contract. The Seller is obliged to assist in carrying out such tests, and on request by the Buyer shall produce test results, certificates of materials, and calculations.
- 7.2 If, consequent upon tests or otherwise, defects are discovered, in order to ensure that the Goods comply with the warranties in clause 9 below, the Seller shall rectify such defects promptly at its own expense.
- 7.3 Notwithstanding any such inspection or testing, the Seller shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Seller's obligations under the Contract and the Buyer shall have the right to conduct further inspections and tests after the Seller has carried out its remedial actions

8. REJECTION OF THE GOODS AND/OR SERVICES

- 8.1 If within 30 days after delivery of the Goods to the Delivery Location the Buyer discovers a defect with the Goods (or any part of them) and/or the Seller fails to supply the Services by the applicable performance date(s) or the Goods and/or Services are otherwise not in accordance with the Contract, the Buyer may at its option by notice to the Seller either:
- a. reject the Goods and/or reject any subsequent performance of the Services, in which case the Seller shall at its expense remove the Goods from the Delivery Location and/or cease the supply of the Services, no payment shall be due by the Buyer in respect of the Goods and/or Services, and the Seller shall be liable to compensate the Buyer for any losses, damages or costs of whatever nature (including all and any indirect, special and/or consequential losses) suffered by the Buyer due to the Seller's breach of Contract (including

- but not limited to the costs incurred by the Buyer for obtaining substitute Goods and/or Services from a third party), or
- b. accept the Goods and/or Services subject to the Seller at its expense promptly rectifying any defect or other nonconformity of the Goods and/or Services with the Contract, in which case the Seller shall compensate the Buyer for the breach of these obligations. On demand the Seller shall return to the Buyer all documents, models and designs received, and any copies which it may have made thereof.

9. WARRANTIES BY THE SELLER

- 9.1 The Seller warrants to the Buyer that the Goods delivered and/or Services supplied shall in all respects correspond with their description and shall meet the quantity, quality and specifications stated in the Purchase Order, and shall not have defects of any kind and shall comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging and delivery of the Goods and/or supply of the Services and shall be of satisfactory quality (within the meaning of the Supply of Goods and Services Act 1982 as amended) and fit for purpose, held out by the Seller or made known to the Seller by the Buyer expressly or by implication and in this respect the Buyer relies on the Seller's skill and judgement.
- 9.2 The Seller warrants to the Buyer that the Goods and/or Services shall fully conform to any regulations of any public authority applicable to goods of that, or similar, description, and that the Buyer shall in no way be constrained in its use of the Goods and/or Services, or in the resale of the Goods, by such regulations.
- 9.3 The Seller's responsibility for breach of the warranties contained in this clause shall not in any way be affected or reduced by previous tests or inspections carried out by or on behalf of the Buyer.
- 9.4 The provisions of this clause shall be in addition to, and not in substitution for, all rights of a buyer of Goods and/or Services of a similar description which are implied by law.
- 9.5 The Seller shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under this Contract and it shall at all times comply with all applicable laws.

10. INDEMNITY

- 10.1 The Seller shall keep the Buyer indemnified in full against all costs, expenses, damages, liabilities and losses (whether direct or indirect, special or consequential), including any interest, penalties, and legal and other professional fees and expenses awarded against or incurred or paid by the Buyer as a result of or in connection with:
 - a. Any claim made against the Buyer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the supply or use of the Goods and/or Services, to the extent that the claim is attributable to the acts or omissions of the Seller, its employees, agents or subcontractors;
 - b. Any claim made against the Buyer by any party arising out of, or in connection with, the supply of the Goods and/or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Seller, its employees, agents or subcontractors; and
 - c. Any claim made against the Buyer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods and/or Services.

This clause 10.1 shall survive termination of the Contract

- 10.2 The Customer's rights and remedies under these Terms are in addition to its rights and remedies implied by statute and common law.

11. CHANGE IN THE GOODS

- 11.1 The Buyer has the right at any time before delivery of the Goods and/or the supply of the Services to require alterations to the specifications as set out in the Contract. The Seller shall use its best endeavours to accommodate such requests within the time frame for delivery and/or performance date(s) of the Services, and in so far as it cannot do so, shall minimise the extension of time required, subject to which the contractual delivery and/or performance date(s) shall be extended.
- 11.2 The Price for the Goods and/or Services shall be increased or reduced (as the case may be) by an amount equal to the extra cost which the Seller unavoidably and necessarily incurs, or the savings which the Seller should achieve, as the result of complying with the Buyer's requirements
- 11.3 The Seller shall not delay or interrupt fulfilment of the Contract on account of any disagreement between the parties as to the variation in the Price arising under this clause.

12. PAYMENT OF THE PRICE

- 12.1 Payment of the Price shall be made in respect of correctly rendered invoices within 45 days after receipt of the invoice.
- 12.2 All invoices shall be marked with the Buyer's Purchase Order number or such other identification as requested by the Buyer. Invoices shall indicate clearly to what the amount it refers.
- 12.3 Payment shall be made in the currency specified on the Purchase Order.

13. TERMINATION

- 13.1 The Buyer shall be entitled to cancel the Purchase Order in respect of all or part of the Goods and/or Services by giving notice to the Seller at any time prior to delivery and/or supply of any Services in which event the Buyer's sole liability shall be to pay the Seller the Price for the Goods and/or Services in respect of which the Buyer has exercised its right of cancellation, less the Seller's net saving of cost arising from such cancellation
- 13.2 The Buyer shall not in any circumstances be liable for any indirect, special or consequential losses including, without limitation, loss of profit, (anticipated or otherwise) loss of business, loss of goodwill or loss of revenue.
- 13.3 The Buyer shall be entitled to terminate the Contract without liability to the Seller by giving notice to the Seller at any time if:

- a. the Seller makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being a company) becomes subject to an administration or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or
- b. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Seller; or
- c. the Seller ceases, or threatens to cease, to carry on business; or
- d. the Seller's financial position deteriorates to such an extent that in the Buyer's opinion the Seller's capability to adequately fulfill its obligations under the Contract has been placed in jeopardy; or
- e. the Buyer reasonably apprehends that any of the above events is about to occur in relation to the Seller and notifies the Seller accordingly; or
- f. the Seller breaches any of these Terms or Special Conditions

14. ASSIGNMENT AND SUBCONTRACTING

14.1 The Seller shall not assign all or any part of this Contract.

14.2 The Seller shall not subcontract any part of this Contract without the prior written consent of the Buyer, which will only be given if and to the extent specified in the Purchase Order forming part of the Contract.

15. WAIVER

15.1 The waiver of, or forbearance in any circumstance from enforcement by either party of any right which it may have hereunder shall not in any way limit its ability to claim for breach of Contract in respect of any other circumstance

16. EFFECTIVE DATE

16.1 These Terms and any Special Conditions shall apply to all Contracts entered into with the Buyer and supersede all previous conditions in any form issued by the Buyer.

17. DATA PROTECTION

17.1 The Buyer and Seller shall comply with all the obligations imposed on a data controller and a data processor under the Data Protection Legislation, and any material breach of the Data Protection Legislation by one party shall, if not remedied within thirty days of written notice from the other party, give grounds to the other party to terminate the Contract with immediate effect, in which case clause 13.1 shall apply.

17.2 The Seller acknowledges and by accepting the Purchase Order consents to such processing and disclosure of personal data relating to the Seller in accordance with the Data Protection Legislation which may be required in connection with the Buyer's legitimate commercial interests.

18. CONFIDENTIALITY

18.1 Subject to clause 12.2, each party undertakes that it shall not at any time disclose to any person (which shall include any companies) any Confidential Information of the other party.

18.2 Each party may disclose the other party's Confidential Information to its employees, officers, representatives, subcontractors or professional advisors who need to know such information for the purposes of the Contract, or as may be required by law. Each party shall ensure that, if Confidential Information is disclosed under this clause 18.2, that person is aware of the obligations under this clause 18.

18.3 Neither party shall use the other party's Confidential Information for any purpose other than to perform its obligations under the Contract.

19. THIRD PARTIES

19.1 For the purpose of the Contracts (Rights of Third Parties) Act 1999 the agreement is not intended to and does not give any person who is not party to it any right to enforce any of its provisions

20. SEVERABILITY

20.1 If any clause or part thereof shall be held to be unlawful or unenforceable this Contract shall be read and construed as if such clause or part thereof were omitted.

21. NOTICES

21.1 Any notice given under or pursuant to the Contract shall be in writing and shall be given by courier, by hand or by recorded delivery to the other parties registered office. Any notice shall be deemed effectively given if sent by courier, by hand or by recorded delivery upon the delivery at the registered office of the relevant party.

22. PROPER LAW

22.1 The construction, validity and performance of the Contract shall be governed by the Law of England. The Contract shall be deemed to have been made in England and the parties to the contract hereby submit to the exclusive jurisdiction of the English Courts.

23. SUPPLIER EXPECTATIONS

23.1 The Supplier shall comply with all relevant anti-discrimination legislation, including but not limited to, the Race Relations Act 1976 (as amended) and the Disability Discrimination Act

23.2 The Supplier shall adhere to The Education Alliance's Equal Opportunity Policy at all times when working with The Education Alliance.

23.3 The Supplier shall adhere to the Modern Slavery Act 2015, including but not limited to, taking a robust approach to slavery and human trafficking within its supply chains and paying their staff the minimum wage.