

## JUNIPER EDUCATION SERVICE LIMITED'S STANDARD TERMS AND CONDITIONS

---

These terms and conditions (the "Conditions") govern the Client's access to and use of Juniper's services. By accessing or using the services provided by Juniper, the Client acknowledges and agrees to be bound by these Conditions. The Contract establishes the legal relationship between the Client and Juniper outlining the Client's rights, obligations, and limitations while using any and all services offered by and used by the Client. These terms operate as the complete terms governing the parties' legal relationship in superiority to all other and previous terms, unless otherwise expressly indicated by Juniper.

### PARTIES

---

(1) **JUNIPER EDUCATION SERVICES LIMITED (Juniper or "We" or "Us")** incorporated and registered in England and Wales with company number 12004688 whose registered office is Boundary House, 4 County Place, Chelmsford, Essex, CM2 0RE ("Company")

(2) **THE CLIENT (Client or "You")** whose details are set out on the relevant documentation including but not limited to: Order, Contract, Webform, E-Communication.

### DEFINITIONS

---

**Ad-Hoc Services:** services supplied for a fixed time or quantity and not supplied on a recurring or renewable basis provided by Juniper to the Client.

**Add-on Product:** any product which is purchased by the Client which is incidental to or related to the Services offered by Juniper.

**Agreements:** An 'Agreement' refers to any Service Level Agreement (SLA) or any other type of agreement that specifies the performance standards, service quality metrics, and mutual expectations agreed upon between the parties.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Cancellation Form:** the form contained at <https://junipereducation.org/cancellations>.

**Charges:** the fees the Client must pay Juniper for the provision of Services, as specified on the Order.

**CMS:** the Content Management System provided by Juniper to the Client.

**Commencement Date:** The date provided for at Clause 2.4 below.

**Conditions:** these terms and conditions, including any schedules.

**Contract:** the legally binding agreement between Juniper and the Client including the documents set out at Clause 2.1.

**Contract Year:** each 12-month period commencing from the Commencement Date and every anniversary of the Commencement Date thereafter.

**Deliverables:** any output of the services, all documents, products and materials developed by Juniper, its' agents, subcontractors, consultants and its' employees as part of or in relation to any of the services in any form including computer programs, data, reports and specifications (including drafts) and as further detailed in the relevant Order, agreement, email, webform, and/or contract and relevant schedules referenced.

**Initial Term:** the initial term set out in the Order and/or Contract or, in the absence of such definition, 12 months from the Commencement Date.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Juniper Representative:** the person named as such on the relevant Order, Agreements, email, webform, historically and/or Contract.

**Mandatory Policies:** Juniper business policies and codes as amended from time to time.

**Order:** means an order placed by the Client to Juniper and the acknowledgment by Juniper setting out the terms for Services, whether via an order form, embedded form, booking system or placed via email.

**Renewal Term:** An additional period added to the original duration of the Contract beyond its initial expiration date, for the same period as the Initial Term unless otherwise expressly set out on such Order or Contract.

**RPI:** the Retail Prices Index (or any official index replacing it).

**Services:** the services to be supplied and referred to in the Order, agreement, email, webform, historically and/or contract including any deliverables, to be provided by Juniper to the Client and as further described in the relevant schedule to these Conditions.

**Supplier Materials:** any materials provided to the Client by Juniper in provision of the Services.

**Term:** the Initial Term, together with any and all Renewal Terms unless terminated earlier in accordance with Section 5.

**Upgrades:** any enhancements, improvements or additions to the existing features and functionality of the Services. This includes, but is not limited to, the introduction of new features, performance enhancements, increased efficiency, expanded compatibility, and other changes that augment the overall user experience and capabilities of the software.

**VAT:** value added tax chargeable under the Value Added Tax Act 1994

## 1 INTERPRETATION

The following definitions and rules of interpretation apply in these Terms and Conditions.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these Conditions or any Order, Contract or Agreement.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a company shall include any company, corporation, or other body

corporate, wherever and however incorporated or established.

- 1.5 Schedules referred to in the Contract shall have effect as if set out in full in the body of these Conditions. Any reference to these Conditions includes such Schedules.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 Unless expressly provided otherwise in these Conditions, reference to a legislation or a legislative provision is a reference to it as it is in force as at the date of the Contract.
- 1.9 A reference to writing or written includes electronic communications.
- 1.10 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.11 A reference to these Conditions or to any other agreement or document referred to in these Conditions is a reference to these Conditions or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of these Conditions) from time to time.
- 1.12 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.13 Any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English term in that jurisdiction.
- 1.14 References to clauses and Schedules are to the clauses and Schedules of these Conditions and references to paragraphs are to paragraphs of the relevant Schedule.

## **2 BASIS OF CONTRACT**

---

- 2.1 This Contract is made up of the following documents:
- 2.1.1 order as defined in these Conditions;
- 2.1.2 if applicable, Agreements listed on or included with the Order; and these Conditions.
- 2.2 These Conditions will apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.3 Acknowledgment by any method by Us of the Order placed by You shall constitute an offer to provide the Services set out in the Order.
- 2.4 This agreement shall bind the parties on acceptance as specified in the Order by You from an authorised representative, the date of which the Contract shall come into existence (Commencement Date).
- 2.5 Any samples, drawings, descriptive matter or advertising issued by Us, and any descriptions or illustrations contained in our catalogues or brochures or on our website, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.6 Any estimate of prices given by Us shall not constitute an offer and is only valid for a period of 30 days from its date of issue.
- 2.7 Your continuing instructions, after acceptance by Us of the Order and in lieu of the return of a completed Order to Us by You, will indicate your acceptance of these Conditions as well as any other conditions or variations which We may agree in writing.

## **3 ACKNOWLEDGMENTS & WARRANTIES**

---

- 3.1 Subject to the exceptions and limitations upon its liability, Juniper warrants that it has the right, power, and authority to license software to the Client in accordance with these Conditions.
- 3.2 The Client acknowledges that:
- 3.2.1 Juniper cannot be aware of the extent of any potential loss or damage to the Client resulting from any failure of the software or any failure by Juniper to discharge its obligations under these Conditions;

3.2.2 the software cannot be tested in every possible combination and operating environment, and it is not possible to produce or maintain economically (if at all) computer programs known to be entirely error-free or which operate in an uninterrupted manner, and Juniper does not warrant that the software shall be as such;

3.2.3 the software has not been prepared to meet the Client's individual requirements, and it is the Client's responsibility to ensure that the facilities and functions of the software meet the Client's requirements.

- 3.3 Without prejudice to the Client's right to terminate these Conditions in accordance with Clause 6, the Client's sole remedy against Juniper for any failure of the software shall be to require Juniper to use all reasonable endeavours to correct such failure, free of additional charge, and within a reasonable time.
- 3.4 Each party represents and warrants that it has the legal power and authority to enter into the Contract. Juniper represents and warrants that it will provide the Services in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Services will perform substantially in accordance with normal use and circumstances. The Client represents and warrants that they have not falsely identified itself nor provided any false information to gain access to the Services, and that the Client's billing information is correct.

## **4 SUPPLY OF SERVICES**

---

- 4.1 Juniper shall supply the Services to the Client in accordance with the Order and if relevant any schedules to these Conditions.
- 4.2 Juniper reserves the right to amend the Services if necessary to comply with any applicable law or regulatory requirement and Juniper shall notify the Client in any such event:
- 4.2.1 in addition to any updates or modifications made to the Services in relation to regulatory compliance, Juniper reserves the right to amend the Services for non-regulatory reasons such as, but not limited to, any software updates or Upgrades;
- 4.2.2 Juniper agrees to notify the Client of any significant non-regulatory changes, enhancements, or additions to the Services. This

notification will be provided in a reasonable time frame prior to implementation.

4.3 In supplying the Services, Juniper shall:

4.3.1 perform the services with the level of care, skill and diligence in accordance with good practice in its' given industry, profession or trade;

4.3.2 ensure that it obtains, and maintains all consents, licences and permissions (statutory, regulatory, contractual or otherwise) it may require, and which are necessary to enable it to comply with its obligations under the Contract.

4.3.3 observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Client's premises;

4.3.4 use all reasonable endeavours to meet any performance dates specified in the Order but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

4.4 Juniper explicitly disclaims any warranty regarding the attainment, achievability, or accomplishment of any stated or unstated result or objective within the Contract, whether by a specific completion date or any other date.

4.5 All resources supplied or requested are subject to availability and may be subject to a first-come first-served basis. Juniper will always endeavour to provide the Client with the exact resources requested or an appropriate alternative.

## 5 DURATION

---

5.1 The Contract will run from the Commencement Date and shall continue in full force and effect until the end of the Initial Term.

5.2 Unless terminated earlier in accordance with the Contract, the Contract shall automatically renew at the end of the Initial Term for a Renewal Term and thereafter shall continue to automatically renew in the same manner until terminated by either party in accordance with these Conditions.

5.3 If the Client purchases an Add-on Product, this shall be incorporated into the Contract for the Services and the term for the Add-On Product shall be calculated on a pro-rated basis such that the Add-on Product shall run for the same Term as the Services. The Add-on Product shall

accordingly renew in accordance with Clause 5.2 above on the same terms as the Contract.

5.4 At Our sole discretion (as to the granting and duration thereof), We may agree an extension with You to the Initial Term (or any Renewal Term).

5.5 Unless terminated earlier in accordance with Clause 6, the Contract shall continue in respect of Ad-Hoc Services, until such time as the Ad-Hoc Services have been completed whereupon the Contract shall automatically expire. Ad-Hoc Services shall not automatically renew or be extended unless otherwise agreed in writing between the parties.

## 6 TERMINATION

---

6.1 The Contract may be terminated by either party by providing a written notice of termination to the other no less than ninety (90) days prior to the end date of the Initial Term (or if applicable, any Renewal Term or extension otherwise agreed in accordance with Clause 5.4). Written notice of termination must be provided as follows:

(a) If terminated by Juniper, in the manner set out by Clause 27 below.

(b) If terminated by the Client, using the Cancellation Form.

6.2 Without prejudicing its other rights and remedies, either party may terminate the Contract by written notice in the same manner as set out at Clause 6.1 above if the other party commits a material breach of any term, condition, or provision of the Contract or licence and (if such a breach is remediable) fails to remedy that breach within 30 days of receiving written notice requiring the breach to be remedied.

6.3 Without prejudicing its other rights and remedies, either party shall be entitled to terminate the Contract immediately on notice without liability to the other party if:

6.3.1 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to the court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring),

having a receiver appointed to any of its assets or ceasing to carry on business;

6.3.2 the Client suspends, or threatens to suspend, or ceases or threatens to cease to continue all or a substantial part of its business (unless entitled to do so under the Contract);

6.3.3 the Client's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

6.4 Without prejudicing any other right or remedy available to Us, We may terminate the Contract with immediate effect by giving written notice to You if:

6.4.1 fail to pay any amount due under the Contract on the due date for payment and You remain in default after the expiry of 14 days after being notified in writing to make such payment; or;

6.4.2 there is a change of control of the Client, save for as permitted under Clause 25.

6.5 Without affecting any other right or remedy available to Us, We may suspend the supply of the Services under the Contract or any other contract between the parties if:

6.5.1 You fail to pay any amount due under the Contract on the due date for payment;

6.5.2 You become subject to any of the events listed in Clause 6.3.2 or Clause 6.3.3, or We reasonably believe that You are about to become subject to any of them;

6.5.3 We reasonably believe that You are about to become subject to any of the events listed in Clause 6.3.1.

6.6 Should Juniper offer the Client a free-trial period in respect of the Services, unless the Client does terminate the same by serving notice on Juniper in accordance with these Conditions prior to the expiry of that free-trial period, such period shall automatically convert to a subscription and shall be deemed to run for an Initial Term in accordance with Clause 5 of these Conditions and shall only be terminable by the Client in accordance with this Clause 6. The Client shall be liable for and shall pay all Charges due in accordance with Clause 9 of these Conditions.

## **7 CONSEQUENCES OF TERMINATION**

7.1 Upon expiry or termination for any reason the Client will pay to Juniper all costs and expenses including legal and other fees which are incurred by it as a result of the Client's breach (on a full indemnity basis) and all arrears, fees, charges or other payments arising in respect of the Services, licence or otherwise.

7.2 On termination or expiry of the Contract:

7.2.1 the Client shall immediately pay to Juniper all outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, Juniper may submit an invoice, which shall be payable immediately on receipt;

7.2.2 You shall return all Supplier Materials including access to the same, in accordance with Clause 7.3 below. Until they have been returned, You shall be solely responsible for their safe keeping, and You warrant that You will not use them for any purpose not connected with the Contract;

7.2.3 any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect;

7.2.4 termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

7.3 Following the termination of the Contract:

7.3.1 for a period of 30 days, Juniper will, upon the Client's request, grant access to its network and systems as necessary for the Client to retrieve the most recent backup of their data. The format of the data retrieval will be determined by Juniper at its sole but reasonable discretion;

7.3.2 the Client is advised to retrieve their data before the expiration of the Contract. Juniper shall retain a backup of the Client's data in line with its Data Retention Policy for a period of 90 days following contract termination, after which the data will be irretrievably destroyed or disposed of. Should the Client request a backup of its data within the period of 90 days (or such other time provided that the data has not already been

destroyed or disposed of), Juniper reserves its right to charge an administration fee for such access in relation to reasonable expenses incurred.

7.4 The accrued rights of the parties as at expiry or termination, or the continuation after expiry or termination of any provision expressly stated to survive or implicitly surviving expiry or termination, shall not be affected or prejudiced.

## **8 CLIENT'S OBLIGATIONS**

---

8.1 The Client shall at all times and in all respects:

8.1.1 ensure that the Order and the Contract is complete and accurate;

8.1.2 co-operate with Juniper in all matters arising under the Contract or otherwise relating to the performance of the Services;

8.1.3 perform its obligations in accordance with the terms of the Contract;

8.1.4 pay the Charges in accordance with the Order, or such increases put in force or agreed in accordance with Clause 9.4;

8.1.5 ensure that You keep Juniper informed to any changes to your business relevant to the Services including but not limited to the appropriate contact details for the purposes of Clause 27;

8.1.6 provide unobstructed and safe access to its premises and data, and such other facilities as may reasonably be requested by Juniper and agreed with the Client in advance, for the purposes of delivery of the Services;

8.1.7 provide in a timely manner, such material and other information as Juniper may require and ensure that it is accurate in all material respects;

8.1.8 instruct the Client's personnel to co-operate and assist Juniper where reasonably requested to do so;

8.1.9 comply with all applicable laws, statutes, regulations and the Mandatory Policies;

8.1.10 obtain and maintain all necessary licences, qualifications, permits and consents required to enable Juniper to perform the Services and otherwise comply with its obligations under the Contract;

8.1.11 be solely responsible for procuring and maintaining its network connections and

telecommunications links from its systems to Juniper's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client network connections or telecommunications links or caused by the internet;

8.1.12 inform Juniper of all health and safety rules and regulations and any other reasonable security requirements that apply at the delivery address.

8.2 If Juniper's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees (Customer Default):

8.2.1 without limiting or affecting any other right or remedy available to Us, We shall have the right to suspend the performance of the Services until You remedy the Customer Default, and to rely on the Customer Default to relieve Us from the performance of any of our obligations in each case to the extent the Customer Default prevents or delays the performance of any of our obligations;

8.2.2 We shall not be liable for any costs or losses sustained or incurred by You arising directly or indirectly from your failure or delay to perform any of your obligations as set out in this Clause 8.2;

8.2.3 You shall reimburse Us on a full indemnity basis and on written demand for any costs or losses sustained or incurred by Us arising directly or indirectly from the Customer Default;

8.2.4 Juniper will continue to charge for user licences during any period of suspension;

8.2.5 Juniper reserves the right to impose a reconnection fee in the event the Client is suspended and thereafter requests access to the Services. Unless the payment is disputed, which should be notified in writing to Us within 14 days of receipt of the invoice;

8.2.6 the Client agrees and acknowledges that Juniper has no obligation to retain customer data and that such customer data may be irretrievably deleted if the account is in arrears.

8.3 If the Client initially enters into the Contract and subsequently changes its status during the Initial Term or Renewal Term, including, but not limited to, becoming an academy, joining or leaving a multi-academy trust (MAT), the Contract will continue in force, and both Juniper and the Client

will remain bound by these Conditions. In the event of such a status change, the Client must promptly notify Juniper in writing. Juniper reserves the right to review and if necessary, renegotiate the Contract to reflect the Client's new status and operational requirements. If there is a change of control of the Client in this regard, Clause 25 shall apply.

## **9 CHARGES**

---

- 9.1 The Charges payable by the Client in respect of the Services are set out in the Order.
- 9.2 Within sixty (60) days prior to each anniversary of the Commencement Date, Juniper will issue an invoice.
- 9.3 Juniper will be entitled to be reimbursed by the Client for all out-of-pocket expenses (including but not limited to travelling, hotel and subsistence expenses but not parking fines or road traffic offence fines) incurred by Juniper in the proper provision of the Services. Juniper also reserves its rights to charge an administration fee in respect of any reasonable administration requested of Juniper by the Client in performance of the Contract.
- 9.4 Juniper reserves the right to adjust the Charges at any time for the Services. Juniper reserves its right to increase the Charges by no more than the increase in RPI plus 6% in the preceding 12-month period and does not need to provide written notice to You. For any increase above the RPI plus 6%, Juniper must provide You with written notice and agree these with You before they take effect. Juniper further reserves its right to increase the Charges per capita at any time in accordance with the pricing model set out in the Order, without obtaining your agreement first.
- 9.5 The Client shall pay each invoice submitted by Juniper:
  - 9.5.1 in accordance with the due date stated on the invoice;
  - 9.5.2 in full by cheque or in cleared funds (without deduction for or on account of any taxes, levies, imports, duties, charges, fees and withholdings at any time save as required by law) to a bank account nominated in writing by Juniper and;
  - 9.5.3 time for payment shall be of the essence of the Contract.

9.6 If any sum is due to Juniper under the Contract, Juniper may without prejudice to any other rights or remedy charge a Late Payment Fee in accordance with The Late Payment of Commercial Debts (Interest) Act 1998 and in addition to the late payment fee, charge daily interest at a rate of 8% per annum above the Bank of England's base rate from time to time in force on such overdue sums from the day after the original due date until paid in full.

9.7 All amounts payable by the Client under the Contract are stated exclusive of value-added tax (VAT).

9.8 In the event of a payment being overdue beyond the agreed-upon payment terms, Juniper reserves the right to forfeit any discounts or promotional offers previously applied to the invoice(s) associated with the overdue payment on reasonable notice to the Client. The forfeiture of discounts may include, but is not limited to, discounts, promotional codes, loyalty rewards, or any other price reductions granted by Juniper.

## **10 INTELLECTUAL PROPERTY**

---

10.1 The Client shall not acquire in any way any title, rights of ownership, Intellectual Property Rights of whatever nature in the software or in any copies of it. All such interests and rights are and shall remain the exclusive and absolute property of Juniper or any licensor of Juniper as applicable.

10.2 The rights in the underlying design and code components, including the CMS and general design elements, remain vested in and are the absolute property of Juniper or any licensor of Juniper.

10.3 The rights in the specific content created for the Client under the Contract, unless otherwise agreed upon, shall be owned by the Client (but not including any templates or materials provided by Juniper). Juniper retains the option to negotiate separate terms for the sale or inclusion of these rights as part of a tender deal if required.

10.4 The Client agrees to do all such acts and things as Juniper may reasonably require for the purpose of preserving or perfecting the vesting of rights as outlined above.

10.5 Those modifications supplied for use as part of the software will be deemed to form part of the software and be subject to the licence.

10.6 The Client agrees not to conceal, modify, remove, or destroy in any way any proprietary markings of Juniper or any licensor of Juniper on or in the software including without limitation any copyright notices or confidential legends placed upon or contained within the software or any related materials and documentation. The Client shall incorporate or reproduce such proprietary markings in any permitted back-up or other copies.

10.7 The Client acknowledges and understands that the software contains confidential and proprietary information, and the Client shall:

10.7.1 not provide or otherwise make any of the software available for any reason to any other person except as permitted by the Contract or otherwise in accordance with express written authority signed by an authorised Juniper Representative;

10.7.2 keep confidential the software and limit access to the same to those of its representatives who either have a need to know or who are engaged in the use of the software;

10.7.3 during the term of the Contract, the Client agrees that it shall not, without the prior written consent of Juniper, hire, engage, contract with, or otherwise involve consultants, contractors, or third parties (collectively referred to as "Third Parties") who are direct competitors of Juniper in the same industry or who have a conflict of interest that may compromise the confidentiality, security, or interests of Juniper;

10.7.4 promptly notify Juniper in writing of any proposed engagement or involvement with Third Parties, providing full details of the proposed engagement, including the identity of the Third Party, the nature of the engagement, and any potential conflicts of interest;

10.7.5 maintain an accurate and up-to-date record of the number of instances of the software installed which are in use by the Client and of users and representatives in each environment;

10.7.6 use its reasonable endeavours to ensure that all relevant representatives are advised that the software constitutes confidential and proprietary information of Juniper and/or any licensor of Juniper and that all Intellectual Property Rights therein are the property of Juniper and/or any licensor of Juniper and that they owe a duty of confidentiality to Juniper and/or any licensor of Juniper.

10.8 Juniper reserves the right, in its sole discretion, to grant or deny consent for the engagement of Third Parties.

10.9 The Client shall effect and maintain adequate security measures to safeguard the software from unauthorised access, use or copying by any person.

10.10 The Client shall notify Juniper as soon as reasonably practicable if the Client becomes aware of any unauthorised access to, use or copying of any part of the software by any person.

10.11 The Client shall, at reasonable times during working hours on being given reasonable written notice allow Juniper to check on the use by the Client of the software and all materials and information belonging to or under the control of Juniper to which the Client is given access or receives directly or indirectly as a result of the operation of the Contract. Juniper shall comply with the Client's reasonable policies on confidentiality, security, health and safety at work, entry times and conduct of visitors to the Client's premises which have been notified in writing to Juniper.

10.12 In the event that new inventions, designs or processes evolve in performance of or as a result of the use of the software, the Client acknowledges that it shall have no rights and expressly waives any such moral rights that it holds in relation to the same.

## **11 LIMITATION OF LIABILITY**

11.1 The extent of the parties' liability under or in connection with the Contract, howsoever arising and whether or not caused by negligence or misrepresentation shall be as set out in this clause 11.

- 11.2 Nothing in this clause shall limit the Client's payment obligations under the Contract.
- 11.3 Nothing in the Contract limits any liability which cannot be legally limited, including liability for:
- 11.3.1 death or personal injury caused by negligence;
- 11.3.2 fraud or fraudulent misrepresentation;
- 11.3.3 and breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 11.4 Subject to clauses 11.5 and 11.6, the total of Juniper's liability for each Contract Year to the Client for all loss and damage shall not exceed the amount paid by You as stated in the Order or that which is required to return You to the position You would have been in had the Services been completed, whichever is the lesser.
- 11.5 Subject to Clause 11.5 and 11.6, the following types of loss are wholly excluded:
- 11.5.1 loss of profits;
- 11.5.2 loss of data;
- 11.5.3 loss of savings, discount or rebate (whether actual or anticipated);
- 11.5.4 loss of sales or business;
- 11.5.5 loss of agreements or contracts;
- 11.5.6 loss of use or corruption of software, data or information;
- 11.5.7 loss of opportunity;
- 11.5.8 loss of anticipated savings;
- 11.5.9 loss of or damage to goodwill and;
- 11.5.10 indirect or consequential loss.
- 11.6 Juniper has given commitments as to compliance of the Services with relevant specifications in Clause 4.3. In view of these commitments, the terms implied by Sections 3,4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 11.7 Unless the Client notifies Juniper that the Client intends to make a claim in respect of an event within the notice period, Juniper shall have no liability for that event. The notice period for an event shall start on the day on which the Client became, or ought to have reasonably become

aware of it having grounds to make a claim in respect of the event and shall expire 3 months from that date. The notice must be in writing and identify the event and the grounds for the claim in reasonable detail.

- 11.8 Nothing in Clause 6 or 7 in relation to termination of the Contract shall affect the validity of this Clause.

## 12 INDEMNITIES

---

- 12.1 The Client shall indemnify Juniper (whether or not negligent or at fault) against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Juniper arising out of or in connection with:

12.1.1 any breach of the warranties contained in clause 3;

12.1.2 the Client's breach or negligent performance or non-performance of the Contract;

12.1.3 the enforcement of the Contract;

12.1.4 any claim made against Juniper for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or connection with the use of the software and Client data and;

12.1.5 any claim made against Juniper by a third party arising out of or in connection with the provision of the 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 Client, its employees, agents or subcontractors.

- 12.2 Juniper shall indemnify the Client (save for if negligent or such misconduct was wilful) against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs and all other reasonable professional costs and expenses) suffered or incurred by the Client out of or in connection with any claim for copyright infringement in the United Kingdom arising out of the use of the Services.

12.3 Liability under this indemnity is conditional on the party receiving the benefit thereof discharging the following obligations. If any third party makes a claim, or notifies an intention to make a claim which may reasonably be considered likely to give rise to a liability under this indemnity (Claim), the person receiving the benefit thereof shall:

(a) as soon as reasonably practicable, give written notice to the party with the burden of the indemnity (Indemnifier), specifying the nature of the Claim in reasonable detail;

(b) not make any admission of liability, agreement or compromise in relation to the Claim prior to the written consent of the Indemnifier, provided that the party may settle the Claim (after giving prior written notice of the terms of settlement) to the Indemnifier if the party believes that failure to settle the Claim would be prejudicial to it in any material respect;

(c) give the Indemnifier and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers and to any relevant assets, accounts, documents and records within the power or control of that party, so as to enable the Indemnifier and its professional advisers to examine them and to take copies of (at the Indemnifier's expense) for the purpose of assessing the Claim and;

(d) subject to the Indemnifier providing security to the party to the party's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as the Indemnifier may reasonably request to avoid, dispute, compromise or defend the Claim.

12.4 If a payment due from the Indemnifier under this clause is subject to tax (whether by way of direct assessment or withholding at its source), the party with the benefit of thereof shall be entitled to receive from the Indemnifier such amounts as shall ensure that the net receipt, after tax, to that party in respect of the payment is the same as it would have been were the payment not subject to tax.

12.5 Nothing in this clause shall restrict or limit the party with the benefit of the indemnities' general obligation at law to mitigate any loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.

12.6 Liability under this indemnity is limited under Clause 11.

### **13 NON-SOLICITATION**

---

13.1 The Client shall not (without the prior written consent of Juniper) at any time from the Commencement Date until the expiry of 12 months after the expiry or termination of the Contract whether directly or indirectly, solicit or entice away from Juniper or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant, officer, agent or subcontractor of Juniper in the provision of the Services (Restricted Person).

### **14 FORCE MAJEURE**

---

14.1 Neither party shall be in breach of this agreement or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control including, but not limited to, acts of God, flood, drought, earthquakes or other natural disaster, epidemic or pandemic, terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations, nuclear, chemical or biological contamination or sonic boom, any law or any action taken by a government or public authority including without limitation imposing an export or import restriction, quota or prohibition or failing to grant a necessary licence or consent, collapse of buildings, fire, explosion or accident, non-performance by suppliers or subcontractors and interruption or failure of utility service. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 2 months, the party not affected may terminate this agreement by giving 14 days' written notice to the affected party.

### **15 SET OFF**

---

15.1 Except as expressly set out in this Contract, each party shall pay all sums that it owes to the other party under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law. The parties agree that this clause reflects the intention that all

payments shall be made in full, without any reduction or deduction, unless explicitly mandated by relevant legal provisions.

## **16 COMPLIANCE WITH LAW**

---

16.1 Each party shall comply with all laws, enactments, regulations, regulatory policies, guidelines and industry codes applicable to them and shall maintain such authorisations and all other approvals, permits and authorities as are required from time to time to perform their obligations under or in connection with the Contract.

## **17 DISPUTE RESOLUTION**

---

17.1 If a dispute arises out of or in connection with the Contract or performance, validity or enforceability thereof (Dispute), then the parties shall follow the procedure set out in this clause, either party shall give written notice of the Dispute, setting out its nature and full particulars together with relevant supporting documents and on service the parties shall attempt in good faith to resolve the Dispute. You shall give written notice in accordance with our complaints policy on our website and;

17.2 no party may commence any court proceedings in relation to the whole or part of the Dispute unless it has attempted to settle the Dispute by good faith and the Dispute remains unsettled within 60 working days of the party giving written notice of the Dispute, providing the right to issue proceedings is not prejudiced by a delay.

## **18 WAIVER**

---

18.1 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

## **19 RIGHTS AND REMEDIES**

---

19.1 Except as expressly provided in these Conditions, the rights and remedies provided under these Conditions are in addition to, and not exclusive of, any rights or remedies provided by law.

## **20 FURTHER ASSURANCE**

---

20.1 The Client shall at the request of Juniper, and at the cost of the Client, do all acts and execute all documents which are necessary to give full effect to the Contract.

## **21 COSTS AND EXPENSES**

---

21.1 Each party shall pay its own costs and expenses incurred in connection with the negotiation, preparation and signature of the Contract (and any documents referred to in it) unless otherwise agreed between both parties. Expenses incurred in the performance of the Contract between the parties are covered by the relevant clauses in these Conditions.

## **22 SEVERANCE**

---

22.2 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part provision shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part-provision of the Contract is deemed deleted under this clause, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **23 ENTIRE AGREEMENT**

---

23.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or verbal, relating to its subject matter.

23.2 Each party agrees that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement,

representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent, negligent misrepresentation or negligent misstatement based on any statement in the Contract.

## **24 JOINT VENTURES**

---

24.1 No joint venture, partnership, employment or agency relationship exists between the parties as a result of the Contract or use of the Services.

## **25 ASSIGNMENT AND OTHER DEALINGS**

---

25.1 The Client shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without the prior written consent of Juniper.

25.2 Juniper shall be authorised to assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

25.3 If there is a change of control of the Client, the Client hereby acknowledges and agrees to execute an assignment transferring any or all of its rights and obligations to that entity after the written consent of Juniper has been obtained.

## **26 THIRD PARTY RIGHTS**

---

26.1 The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. The rights or the parties to rescind or vary the Contract are not subject to the consent of any person.

## **27 NOTICES**

---

27.1 Unless otherwise stated elsewhere within these Conditions, any notice or other communication given to a party under or in connection with this Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service to its registered office address (if a company) or its principal place of business (in any other case); or sent by a fax or by email to the relevant party's email address specified in the Order, or such other email address notified to Juniper in accordance with Clause 8.1.5

27.2 Any notice or communication shall be deemed to have been received:

27.2.1 if delivered by hand, at the time the notice is left at the proper address;

27.2.2 or if sent by pre-paid first-class post or other next working day delivery service, at 9:00am on the second Business Day after posting;

27.2.3 or if sent by fax or by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. Business hours mean 9:00am to 5:00pm Monday to Friday on a Business Day in the place of receipt.

27.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## **28 VARIATION**

---

28.1 No variation of this Contract shall be effective unless it is in writing, signed by the parties (or their authorised representatives), and expressly states that it is amending this Contract, save for that Juniper shall have a unilateral right to vary these Conditions to add/remove Schedules as appropriate if Juniper ceases to or offers new services accounted for in the Schedules.

## **29 GOVERNING LAW & JURISDICTION**

---

29.1 This Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

29.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.

## **SCHEDULE 1 – EDUCATION RESOURCES SERVICES**

---

This Schedule is to be treated as supplemental to these Conditions and relates to the Clients who have purchased services related to the provision by Juniper of Items on a first come, first served basis in relation to its Education Resources Services.

These Conditions shall apply in full force to these terms, save for as provided otherwise by these terms. Where this schedule conflicts with the Conditions, the terms set out in this Schedule shall prevail.

### **DEFINITIONS**

---

**LMS:** library management system used by Juniper to record Items loaned.

**Items:** those books, artefacts and other items loaned to the Client from Juniper's library catalogue as set out in the Order, agreement, email, webform or as otherwise agreed in writing for Juniper to supply the Client.

**Term:** as stated on the Order, or if not stated one educational term.

**Total Loss:** the Items are, in Juniper's reasonable opinion or the opinion of its insurer(s), damaged beyond repair, lost, stolen, seized or confiscated.

**Visits:** a visit by Juniper or one of its personnel to the Client's site where the Items are held.

### **1 CLIENT'S OBLIGATIONS**

---

1.1 The Client agrees that, in addition to the obligations contained at Clause 8 of the Conditions, at all times and in all respects, it shall:

(a) employ all reasonable efforts (including complying with any instructions provided by Juniper) to take care of the Items on loan;

(b) permit Juniper access to the address provided for delivery to deliver, inspect and collect the Items;

(c) maintain the Items at its own expense in good and substantial repair as it was on the Commencement Date and shall make good any damage;

(d) make no alteration to any of the Items;

(e) keep Juniper fully informed of all material matters relating to the Items;

(f) store the Items at the delivery address and shall not attempt to move or otherwise part with

possession of the Items without the prior written consent of Juniper;

(g) not to use any of the Items for an unlawful purpose;

(h) make the Items available for collection at the end of the Term;

(i) ensure the Items are identifiable as Juniper's property;

(j) immediately inform Juniper of any loss or damage to the Items.

## **2 JUNIPER'S OBLIGATIONS**

---

### **2.1 Juniper shall:**

(a) ensure all Items loaned are recorded on a LMS which the Client has access to;

(b) deliver the Items to the address provided for delivery (with time not being of the essence) on the due date or otherwise as agreed;

(c) provide Items which conform in all material aspects with their description.

## **3 ACKNOWLEDGMENTS**

---

3.1 The Client acknowledges that the Items are second-hand and as such will not be in perfect condition. Juniper makes no warranty that the Items are fit for purpose.

3.2 The Client acknowledges that if delivery instructions are not provided in a timely manner that Juniper reserves its right to re-hire part or all of the Items to a third-party, and that some of the Items may not be available to the Client in such an event when delivery is arranged.

## **4 FEES**

---

4.1 If You deny Juniper access to the address provided for delivery in contravention of Clause 1.1(b), We reserve the right to charge You additional costs as a consequence related to subsequent attempts to deliver the Items including but not limited to storage and insurance fees.

4.2 If the Items are not made available for collection by Juniper at the expiry of the Term, We shall continue to charge you for the Items for as long as you are in possession of the same.

4.3 Where a Total Loss has occurred, the Client shall be liable to pay to Juniper, a sum equal to the cost of replacing the Items which have been subject to a Total Loss.

## **5 TERMINATION**

---

5.1 Clause 6 of the Conditions shall apply.

5.2 On termination, Items loaned within the last 5-years from the date of termination shall be immediately made available for collection. Any items not returned will be charged to the Client at a reduced rate (based on RRP). The Client can request to purchase the Items at a reduced rate. If more than one collection is needed to collect the Items, the Client shall arrange and pay for those collections.

## **SCHEDULE 2 – PROFESSIONAL SERVICES**

---

This Schedule is to be treated as supplemental to the Conditions and relates to the Clients who have purchased services for professional training, consultancy and support services. This Schedule relates to the provision of professional services provided by Juniper.

The Conditions shall apply in full force to these terms, save for as provided otherwise by these terms. Where this schedule conflicts with the Conditions, the terms set out in this Schedule shall prevail.

### **DEFINITIONS**

---

**PS:** Juniper's Professional Services product.

**Training Courses:** Training Courses provided as part of PS, including but not limited to CPD, Primary, SISRA.

**Meetings:** Education finance & HR consultancy/support meetings, audits, internal scrutiny and governance and clerking provided as part of PS.

### **1 TRAINING COURSES BOOKING AND RIGHT TO CANCELLATION**

---

- 1.1 The Client shall receive a booking confirmation, after an order is placed, which will include details of the course, date, time, location and any applicable fees and expenses, including hotel stays to a minimum of 3-star accommodation. Payment of any fees shall be made in accordance with the payment terms on the invoice.
- 1.2 Should the Client wish to cancel or move/transfer its Training Course; the Client must notify Juniper in writing or electronically to the email address used to make the initial booking and return all Supplier Materials immediately in accordance with the information contained in the Order.
- 1.3 If a Client cancels a Training Course in accordance with Clause 1.2 above, it may be liable to pay a cancellation charge. If cancellation takes place:
  - (a) 4+ weeks prior (21+ business days prior), there shall be no charge payable except for expenses only in respect of CPD Training Courses;
  - (b) 2-4 weeks prior (11-20 business days), there shall be a cancellation charge in respect of CPD Training Courses and Primary Training Courses (being 50% of the Charges and expenses) but for SISRA Training Courses there shall be no charges except for expenses in relation to consultancy and;

(c) 2 weeks or less (10 or less business days), it shall be liable to pay a cancellation charge at the sole discretion of Juniper in respect of all Training Courses (but not more than the Charges paid for the Training Courses) and expenses.

1.3 If a Client transfers a Training Course in accordance with Clause 1.2 above, it shall be liable to pay an administrative fee at Juniper's sole discretion and for SISRA Training Courses the Client shall only be entitled to 1 transfer at 10 working days' notice and if notice is provided after this period, no refund shall be provided.

1.4 Juniper reserves its right to cancel or reschedule any Training Course at its discretion and will notify the Client as soon as possible of such cancellation or rescheduling and the Client's right to a refund, to be at the sole discretion of Juniper.

## **2 CLIENT'S OBLIGATIONS FOR TRAINING COURSES**

---

2.1 The Client acknowledges that it is responsible at all material times for:

(a) arriving on time to the venue;

(b) complying with the course requirements and rules;

(c) to prepare for the course as specified in the course materials and instructions; and;

(d) ensuring that the correct equipment is brought to the course and that such equipment is in full-working order and is sufficient to meet any requirements of the course e.g. (technical);

(e) comply with Juniper's terms in respect of cancellation and transfer and pay any such cancellation charges, admin fees or expenses as are necessary and arise out of the terms of the Contract.

## **3 MEETINGS**

---

3.1 Juniper also provides Meetings. The Client shall receive a date by which Meetings will be carried out.

3.2 The Client's obligations in respect of Meetings include:

(a) providing Juniper will all the necessary accurate and up to date information and documentation to carry out the Meetings;

(b) assist Juniper with any reasonable request made for further information in order to carry out the Meetings;

(c) ensure that Juniper is provided with all the necessary equipment and resources available to the Client in order to carry out the Meetings;

(d) accept the Charges in relation to the specific timeframe which the Meetings are to be carried out for and;

(e) ensure that the scope of the Meetings remain that as agreed with Juniper and that any third-party conducting the Meetings are not asked to perform any out-of-scope services not agreed.

3.3 Should the Client wish to cancel or reschedule the Meetings, the Client must notify Juniper in writing or electronically and will liaise with Juniper to set up any alternative Meetings as are necessary which can be made on an urgent basis if there is a deadline needed for the Meetings to take place. If the Client does not engage with Juniper to rearrange the Meetings, Juniper can terminate the Contract with immediate effect.

3.4 If the Client cancels the Meeting, any refund of the Charges shall be at the sole discretion of Juniper, and the Client may be liable for any fees already incurred in preparation for the Meetings. If the Client seeks to reschedule the Meeting, Juniper reserves its right to provide remote coverage instead depending on the notice given in respect of any rescheduling.

3.5 Juniper reserves its right to cancel or reschedule the Meetings at any time and at its discretion and will notify the Client as soon as possible. The Client's right to a refund will be at the sole discretion of Juniper except where the cancellation or rescheduling is the fault of the Client in failing to carry out its obligations above, in which case no refund will be provided in any circumstances.

## **4 DISPUTE RESOLUTION**

---

4.1 If a dispute arises out of or in connection with the Contract or performance, validity or enforceability thereof in relation to PS (Professional Services Dispute), then the parties shall follow the procedure set out in this clause:

(a) either party shall give written notice of the Professional Services Dispute, setting out its nature and full particulars together with relevant supporting documents and on service the parties

shall attempt in good faith to resolve the Professional Services Dispute. You shall give written notice in accordance with our complaints policy on our website and;

(b) if within 30 working days, the Professional Services Dispute is unable to be resolved the parties agree to enter into mediation in good faith to settle the Professional Services Dispute. To initiate the mediation, a party must give notice in writing together with three proposed mediators.

4.2 No party may commence any court proceedings in relation to the whole or part of the Professional Services Dispute until it has attempted to settle it by mediation and either the mediation has terminated or the other party has failed to participate in the mediation, providing the right to issue proceedings is not prejudiced by a delay.

4.3 If for any reason the Professional Services Dispute is not resolved within 60 working days of commencement of the mediation, the Professional Services Dispute shall be referred to and finally resolved by the courts of England and Wales in accordance with Clause 28.

### SCHEDULE 3 – DESIGN SERVICES & WEBSITES

This Schedule is to be treated as supplemental to the Conditions and relates to the Clients who have purchased design services from Juniper.

The Conditions shall apply in full force to these terms, save for as provided otherwise by these terms. Where this schedule conflicts with the Conditions, the terms set out in this Schedule shall prevail.

#### DEFINITIONS

**CMS:** the Content Management System provided by Juniper to the Client.

**CMS Licence:** A CMS Licence being a legal agreement that outlines the terms and conditions under which a CMS can be used.

**Designs:** any designs that arise from the output of the design services created by Juniper.

**Design Services:** any design service requested by the Client in the provision of the Services which may either be bespoke for the Client or a template design provided by Juniper.

**Interim Essential Website:** a website provided in the interim whilst Juniper is designing a bespoke website at a reduced price.

#### 1 DESIGN SERVICES

1.1 Designs must be approved by the Client in writing before the website is built and/or the print design is sent to press.

1.2 Juniper shall have no liability to the Client or to any third party for any delays in providing the Design Services where such delay is caused or contributed to by the Client's failure or delay in approving any designs submitted by Juniper.

1.3 The Charges will be payable in accordance with this paragraph 1.3, not the Conditions. The Client shall pay 50% of the Charges for the Design Services upon provision of an invoice on or before the Commencement Date and shall pay the remaining 50% upon provision of an invoice which shall be sent when the website is deployed to the Client, regardless of whether any changes need to be made.

1.4 Additional fees or charges may be payable in respect of any changes to Designs and will be payable in accordance with the Conditions.

1.5 The Client is responsible for checking the accuracy and content of any Designs produced by Juniper and Juniper shall have no liability to the Client or any third-party in respect of any errors or inaccurate information. Any corrective work required as a result of the Client's own failure may incur additional fees.

1.6 Where the Client has purchased a bespoke website, the Client can request an Interim Essential Website. If the Client cancels the order for a bespoke website, the Client shall be liable for the full cost for the Interim Essential Website.

1.7 If cancelling before the website design has been signed off, payment will be due for work that has been completed to the cancellation point, depending on the format of order confirmation this will either be a maximum of 100% of the website design portion or 50% of the full website costs.

1.8 If the Client fails to provide reasonable instructions or confirmation that the website can be deployed within a reasonable timeframe and not longer than 14 days after a request for the same, Juniper is entitled to invoice for the

remaining 50% which shall be payable upon receipt of the same in accordance with the payment terms set out therein.

## **2 WEBSITES**

---

2.1 Juniper grants the Client a non-exclusive, non-transferable revocable licence to use the CMS to update the website designed by Juniper from the date the Client's website is deployed to the end of the Term (as applicable or renewed thereafter).

2.2 The CMS may only be used for lawful purposes. Any unlawful use will result in immediate termination of the CMS Licence, including but not limited to:

(a) restricting or inhibiting another user from using the Services, including but not limited to Denial of Service (DOS) attacks;

(b) posting, publishing, transmitting, reproducing or distributing any unlawful, threatening, abusive, defamatory, pornographic or otherwise objectionable information of any kind, including without limitation any transmissions constituting or encouraging a criminal offence, giving rise to a civil liability or otherwise contravening any national, European or international law and laws protecting intellectual property; and;

(c) transmitting any unsolicited or bulk e-mail or engaging in any activity known or considered to be "spamming" or "mail bombing".

2.3 The Client hereby undertakes, in consideration of the grant of the CMS Licence, to not:

(a) copy the CMS or any part of it;

(b) translate, adapt, vary or modify the CMS;

(c) disassemble, decompile or reverse engineer the CMS;

(d) use the CMS for any other purpose other than publishing content to the agreed website;

(e) provide or otherwise make available the CMS in whole or in part in any form to any person other than the Client's employees without Juniper's written consent;

(f) not to disclose any login credentials to any third party, whether directly or indirectly, without Juniper's written consent.

## **3 DOMAIN NAMES**

---

3.1 Juniper shall procure domain names on behalf of the Client from various third parties and agrees to provide the Client with a copy of any third parties' terms in advance of their acceptance.

3.2 Upon confirmation from the Client of acceptance of those terms, Juniper shall proceed to purchase the domain names and the Client warrants that any delay in providing this authority may result in the desired domain name becoming unavailable, for which Juniper shall bear no liability. If the Client wishes to acquire additional domain names beyond the original agreement, additional charges may apply.

## SCHEDULE 4 – PUPIL PROGRESS (DATA, HOSTING & THIRD-PARTY TERMS)

---

This Schedule is supplemental to these Conditions and applies to Clients purchasing Pupil Progress services. Where this Schedule conflicts with the Conditions, the terms of this Schedule shall prevail.

### DEFINITIONS

---

**Customer Data:** all data, graphics, and information, including, without limitation, any hypertext links, scripts, recordings, sound, music, graphics or images that are created, installed, uploaded, or transferred in connection with the Services by Customer. Customer Data also includes information provided by Customer for account management purposes.

**Data Controller (or Data Owner):** see section 7.

**Data Processing:** see section 7.

**Data Processing Agreement:** the agreement between Pupil Progress and Customer that will be considered as Customer's instructions as to how to process Customer Data, including Personal Data, which can be found at <https://www.pupilprogress.com/data-processing-agreement>.

**Data Processor (or Data Supervisor):** see section 7.

**Data Subject:** see section 7.

**Operational Services:** services provided by Pupil Progress in setting up the Services for the use of Customer, and/or recurrent services during the Term.

**Optional Services:** other services, including without limitation enhanced support & maintenance, enhanced operational services, consultancy, implementation, training, data migration, advice or assistance which Pupil Progress may provide either for additional charge or without charge. Optional Services may be associated with additional terms and conditions.

**Personal Data:** see section 7.

**Services:** the provision of access to the Content, as detailed in the Terms of Service, together with services provided by Pupil Progress including Operational Services and Support & Maintenance services.

**Usage Data:** information collected automatically from software applications provided by Pupil Progress as part of its delivery of the Services (or third party software applications utilised by Pupil Progress as part of its delivery of the Services), which can include: the IP addresses or domain names of the computers utilised

by the Users who use the application, the URI addresses (Uniform Resource Identifier), the time of the request, the method utilised to submit the request to the server, the size of the file received in response, the numerical code indicating the status of the server's answer (successful outcome, error, etc.), the country of origin, the features of the browser and the operating system utilised by the User, the various time details per visit (e.g., the time spent on each page within the application) and the details about the path followed within the application with special reference to the sequence of pages visited, and other parameters about the device operating system and/or the User's IT environment.

## 6 DESIGN SERVICES

---

6.3 Customer Data. Customer retains all right, title, and interest in Customer Data. By any party using Customer's account and adding, creating, installing, uploading, or transferring Customer Data for use in conjunction with the Services, Customer grants Pupil Progress, its hosting Platform and any other software utilised in the delivery of the Services a non-exclusive, royalty-free, paid-up, transferable licence and approval to host, cache, copy, and display Customer Data, for the purpose of and in conjunction with providing the Services for the term of this Agreement. Customer represents that Customer has and will keep in effect during Customer's use of the Services, all licences and approvals necessary to grant Pupil Progress and its hosting Platform and any other software utilised in the delivery of the Services these rights and that they will be provided at no charge to Pupil Progress. Customer is responsible for complying with the terms of any such licence agreements including entitlements and permitted uses. Customer represents that by adding, creating, installing, uploading, or transferring Customer Data, or using APIs to do any of the foregoing, for use in conjunction with the Services, Customer is not exceeding any specified entitlement or permitted use or violating applicable licence agreements or applicable laws. Customer agrees to reimburse Pupil Progress for any reasonable costs and other amounts that Pupil Progress may incur from Customer's failure to obtain these licences or approvals.

6.4 Customer Data Responsibilities. Customer is responsible for all Customer Data, including selection, creation, design, usage, licensing,

maintenance, testing, backup, and support. Customer is also responsible for any Personal Data, or any information Customer considers confidential that is included in Customer Data. Customer acknowledges that Pupil Progress does not control the transfer of data over telecommunications facilities, including the internet. Pupil Progress will continue to process Personal Data under the instructions set out in the Data Processing Agreement and under their responsibilities under UK data protection legislation.

6.5 Customer Data Confidentiality. Where Customer Data is clearly identified as confidential, Pupil Progress will:

(a) use the same care and discretion to avoid disclosure of such information as it uses to avoid disclosure of its own similar Confidential Information;

(b) disclose such information only to its employees or employees who have a need to know to provide the Services and;

(c) disclose such information only to subcontractors who have a need to know to provide the Services and Pupil Progress will have appropriate agreements in place with its subcontractors to meet the confidentiality obligations as set forth in this Agreement. Pupil Progress may disclose such information to the extent required by law. However, Pupil Progress will, to the extent possible, give Customer prompt notice to allow Customer a reasonable opportunity to obtain a protective order. Pupil Progress will continue to process Personal Data under the instructions set out in the Data Processing Agreement and under their responsibilities under UK data protection legislation.

6.7 Freedom of Memories. Pupil Progress is free to use in its business activities the ideas, concepts and know-how contained in any Customer Data which are retained in the memories of Pupil Progress employees who have had access to such information during the performance of the Services. Pupil Progress will continue to process Personal Data under the instructions set out in the Data Processing Agreement and under their responsibilities under UK data protection legislation.

## 7 PRIVACY

7.1 Compliance with Law. Both parties warrant that they will duly observe all their obligations under the Data Protection Act 2018 as amended. In this Agreement "Personal Data", "Data Controller", "Data Processor" and "Data Processing" shall be understood in their meanings as assigned by the Data Protection Act 2018 as amended. In addition, in this section 7 the terms "Process" and "Processing" shall be understood in their meanings as assigned by the Data Protection Act 2018 as amended. Pupil Progress Ltd is registered with the Information Commissioner's Office (ICO) under the registration reference ZA226391 and organisation name [www.pupilprogress.com](http://www.pupilprogress.com).

7.2 Data Controller. Customer is and shall remain the Data Controller of Customer Data it uploads or provides as part of the Services. Pupil Progress is a service provider to Customer and has the role of Data Processor. Pupil Progress does not own or otherwise act as Data Controller of Customer Data. It is Customer's responsibility to verify that the security and privacy protections offered by the Services are adequate and in compliance with all applicable laws governing the type of data included in Customer Data which is uploaded in or provided to the Services.

7.3 Data Processing. Without limitation to clauses 7.1 or 7.2, if Customer passes to Pupil Progress, or otherwise gives Pupil Progress access to, Personal Data under this Agreement:

(a) Pupil Progress will not Process Personal Data held by it under this Agreement except in accordance with this Agreement or otherwise on the instructions of Customer;

(b) Pupil Progress will acquire no rights or interest in the Personal Data and will return such Personal Data to Customer on demand;

(c) Pupil Progress will implement appropriate technical and organisational measures against unauthorised or unlawful Processing of Personal Data and against accidental loss or destruction of or damage to Personal Data;

(d) Pupil Progress will ensure that its employees will maintain proper records of the Processing of any Personal Data received from Customer or from any third party on behalf of Customer;

(e) Pupil Progress will not transfer Customer Data, including Personal Data, outside of the United Kingdom without written approval of Customer. If

Customer is based outside the UK and enters into this Agreement this will be taken as written consent to transfer Customer Data outside the UK in order to provide access for Customer to the services provided by Pupil Progress;

(f) Pupil Progress will continue to process Personal Data under the instructions set out in the Data Processing Agreement and under their responsibilities under UK data protection legislation.

7.4 Collection of Personal Data. Customer's access to the Services may be via Pupil Progress-controlled webpages which comprise the Platform (under the subdomain <https://app.pupilprogress.com/>). Collection and processing of Personal Data as such is governed by this Agreement and by the Data Processing Agreement.

7.5 Customer's interaction with Pupil Progress-controlled webpages which are not within the Platform (including but not limited to other sections of the domain <https://app.pupilprogress.com/>), and any Personal Data that may be collected by them, is governed by the Pupil Progress Privacy Policy <https://www.pupilprogress.com/privacy-policy/> rather than this Agreement and the Data Processing Agreement.

## 8 WARRANTIES & DISCLAIMERS

8.1 Warranties & Disclaimers. Pupil Progress does not warrant that the Service will be uninterrupted, error-free, or completely secure. Customer acknowledges that there are risks inherent in internet connectivity that could result in the loss of Customer privacy, Customer Data, and/or property. Pupil Progress has no obligation to provide security other than as stated in this Agreement. To the extent permitted by law, Pupil Progress disclaims any and all warranties, statutory or otherwise, not expressly stated in this Agreement, including the implied warranties of merchantability, satisfactory quality, fitness for a particular purpose, and non-infringement.

8.2 Suppliers and subcontractors' disclaimers. The disclaimers of this section 8 apply also to any suppliers and subcontractors of Pupil Progress.

## 9 TERM, TERMINATION & SUSPENSION

9.3 Data Retention. Any Customer Data entered into the Services by Customer, and any customisations

made to the services by or for Customer, during the period of the Agreement will be permanently lost at the end of the agreed retention period stated in the Data Processing Agreement. Customer must export its content before termination or the entered data will be permanently lost.

9.4 Termination of the Services by Pupil Progress. Pupil Progress may terminate Customer's access to Services, in whole or in part, or prevent access to any new Services if:

(i) in Pupil Progress' sole discretion there is an emergency situation, including but not limited to breach of security;

(ii) continued provision of Services, in whole or in part or Customer's use of Services in whole or in part may cause Pupil Progress to violate any law, rule, regulation, governmental policy, or court order;

(iii) use of Services in whole or in part, is inconsistent with a contractual commitment or intellectual property right of a third party;

(iv) Customer materially violates the terms of this Agreement or;

(v) there is a material violation by Customer of the provisions of any documents referred to and included as part of this Agreement including the Data Processing Agreement, Acceptable Use Policy, Privacy Policy or any Attachments. For the purposes of this Agreement, a "material violation" may consist of a single event, or of a pattern of violations over a period which together constitute a material violation.

9.5 Suspected Violations. Pupil Progress reserves the right to investigate complaints relating to use of the Services by Customer, Users, or someone using Services associated with Customer's account, or any potential violation of the terms and conditions of this Agreement (including but not limited to the provisions of any documents referred to and included as part of this Agreement including the Data Processing Agreement, Acceptable Use Policy, Privacy Policy or any Attachments). Notwithstanding any other terms, conditions, policies, or other rights available, Pupil Progress may take any action it deems appropriate, including without limitation, disclosing information to enforcement agencies. In addition to any other remedies available to it, Pupil Progress reserves the right to:

(a) restrict Customer's access to or terminate any of the Services, as described above;

(b) require the removal of offending Customer Data or;

(c) exercise other rights and remedies available at law or in equity.

## **13 GENERAL**

---

13.7 Rights of Third Parties. Unless expressly provided in this Agreement, no express term of this Agreement or any term implied under it is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.