

This page (together with our Privacy Policy and Terms of Website Use tells you information about us and the legal terms and conditions (**Terms**) on which we sell any of the products (**Products**) and services (**Services**) listed on our website (**our site**) to you. Details of the Products and Services purchased by you can be seen in full when placing an order with us.

These Terms will apply to any contract between us for the sale of Products and Services to you (**Contract**). Please read these Terms carefully and make sure that you understand them, before ordering any Products or Services from us. Please note that before placing an order you will be asked to agree to these Terms. If you refuse to accept these Terms, you will not be able to order any Products or Services from us.

You should print a copy of these Terms or save them to your computer for future reference.

We amend these Terms from time to time. Every time you wish to order Products or Services, please check these Terms to ensure you understand the terms which will apply at that time.

1. Information about us

1.1 We operate the website eftgroup.co.uk. We are EFT Systems limited, a company registered in England and Wales under company number 01172575 and with our registered office at Cobden House, 39a Cobden Road, Southport, PR9 7TR, which is also our main trading address.

1.2 Contacting us

- (a) You can contact us by telephoning our customer service team at 01704 229431 or by e-mailing us at admin@eftsystems.co.uk to discuss any questions or complaints about the Products or Services. You can return goods to us using our main trading address.
- (b) If you wish to give us formal notice of any matter in accordance with these Terms, please see clause 19.
- (c) If we have to contact you or give you notice in writing, we will do so by e-mail or by pre-paid post to the address you provide to us in your order.

2. Our Products

2.1 All goods supplied by us shall be in accordance with (i) the current edition of the relevant Product Description Leaflet as published from time to time by us (copies of which are available from us upon request) and (ii) those further specifications or descriptions (if any) expressly listed or set out on the face of the Order. No other specification, descriptive material, written or oral representation, correspondence or statement, promotional or sales literature shall form part of or be incorporated by reference into the Order. The images of the Products on our site are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that

your computer's display of the colours accurately reflect the colour of the Products. Your Products may vary slightly from those images.

2.2 The packaging of the Products may vary.

2.3 We reserve the right to amend the Products if required by any applicable statutory or regulatory requirements.

3. Our Services

3.1 We will provide the Services to you in accordance with this Contract, in particular the Specification.

3.2 The Services will begin on the Commencement Date and be performed for the period set out in the Specification attached to the Email Confirmation, save where there is any lawful earlier termination of this Agreement.

3.3 Whilst we will use reasonable endeavours to meet any milestone dates set out in the Specification such dates are approximate only and time of performance is not of the essence.

3.4 We will not be liable for any delay in or failure of performance of the Services (including any failure to achieve any milestone or other date) so far as caused by an Event Outside Our Control or by your failure to perform your obligations under this Agreement.

3.5 We may make any changes to the Services:

- (a) needed to comply with applicable law or safety requirements; or
- (b) which do not materially affect the nature or quality of the Services;

and will notify you in advance of such changes.

4. Our obligations

4.1 We will:

- (a) perform the Services: (i) using all reasonable care and skill; and (ii) in accordance with best practice for services of that type;
- (b) use sufficient personnel who have appropriate skills and experience for their duties;
- (c) co-operate with you and comply with your reasonable instructions;
- (d) provide and use sufficient and appropriate equipment and materials required to provide the Services;
- (e) ensure that the Services comply with the Specification for the Warranty Period;

- (f) ensure that the Products and Services are fit for any purpose set out in the Specification and are of reasonable quality and are free from defects in design, installation and workmanship;
- (g) obtain and maintain all licences, permits and other consents required for its performance of the Services;
- (h) comply with all applicable laws and regulations; and
- (i) observe all rules and regulations notified to Us and in force at your installation address.

5. Your obligations

5.1 You will pay the price for the Products and Services in accordance with this Contract.

5.2 You will:

- (a) afford us access to your site or location and prepare them for supply of the Services;
- (b) afford us access to your personnel; and
- (c) provide us such facilities, information and assistance (ensuring that information is complete and accurate);

in each case as required to allow us to perform the Services.

5.3 You will also:

- (a) co-operate fully with us and follow our reasonable instructions in relation to the performance of the Services;
- (b) obtain and maintain all necessary licences and consents for the performance of the Services;
- (c) keep all documents, equipment, materials and our property (**Our Materials**) at the supply location or your premises safely and at your own risk and in the same condition as they were in when supplied (fair wear and tear excepted); and
- (d) not dispose of or use any of our Materials without our prior written agreement.

6. Warranty

6.1 We warrant that:

- (a) for a period of 12 months from completion of the Services (the **Warranty Period**), the Services will comply with the Specification;
- (b) we have clear title to the Products and the right to transfer them to you; and
- (c) the Products will be fit for any purpose held out by us.

- 6.2 Where the Services fail to comply with clause 6.1, we will, at our option, re-perform them to comply with this Contract, provided that:
- (a) you inform us in writing during the Warranty Period and within 5 Business Days of discovery that the Services do not comply with clause 6.1; and
 - (b) you give us a reasonable opportunity to investigate any defective Services.
- 6.3 The terms of this Agreement will apply to any re-performed Services.
- 6.4 We will not be liable for any failure of any Services to comply with clause 6.1 to the extent:
- (a) caused by your failure to comply with our instructions in relation to the Services;
 - (b) caused by us following any Specification or other document supplied by or instruction from you;
 - (c) where you alter the Services or the results of the Services without our prior written agreement; or
 - (d) where you use the Services or the results of the Services after notifying us that the Services do not comply with clause 6.1.
- 6.5 Except as set out in this clause 6:
- (a) we give no warranty in relation to the Services; and
 - (b) we will be under no liability for our failure to comply with the warranty in clause 6.1.

In particular, the terms implied by of the Supply of Goods and Services Act 1982, ss 13, 14 and 15 are expressly excluded.

7. Entire agreement

- 7.1 For the purposes of these Terms, a business customer is defined as including any learning provider, not-for profit organisation or person who is not purchasing the Products as an individual who is not purchasing the Products for their own domestic use.
- 7.2 You confirm that you have authority to bind any business on whose behalf you purchase the Products for.
- 7.3 These Terms, the Order and any document expressly referred to in them constitute the entire agreement between you and us and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter.

7.4 You acknowledge that in entering into this Contract you do not rely on any statement, representation, assurance or warranty that is not set out in these Terms or any document expressly referred to in them.

7.5 You and we agree that neither of us shall have any claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

8. How the contract is formed between you and us

8.1 After you place an order by email or otherwise, you will receive an e-mail from us acknowledging that we have received your order and that we are processing it. However, please note that this does not mean that your order has been accepted. Our acceptance of your order will take place as described in clause 8.2.

8.2 We will confirm our acceptance to you by sending you an e-mail that confirms the terms of your Order (**Email Confirmation**). The Contract between us will be formed when we send you this Email Confirmation.

8.3 We will send you an email to confirm when we have performed the Services you have ordered.

8.4 These terms shall override any contrary different or additional terms or conditions (if any) contained on or referred to in an order form or other documents or correspondence from you, and no addition alteration or substitution of these terms will bind us or form part of any Order unless they are expressly accepted in writing by a person authorised to sign on our behalf.

8.5 If we are unable to supply you with a Product, for example because that Product is not in stock or no longer available or because we cannot meet the date of delivery or because of an error in the price on our site as referred to in clause 15.4, we will inform you of this by e-mail and we will not process your order. If you have already paid for the Products, we will refund you the full amount including any delivery costs charged as soon as possible.

9. Changes

9.1 If you wish to make a change to your Order then please contact us. We will let you know if the change is possible. If it is possible we will let you know about any changes to the price of your Order, the timing of supply or anything else which would be necessary as a result of your requested change and ask you to confirm whether you wish to go ahead with the change. This change will need to be emailed to us whereby you will receive a further Email Confirmation if that change has been processed. If we cannot make the change or the consequences of making the change are unacceptable to you, we will continue with your original Order.

9.2 Please note that we may make minor changes to the Products to reflect changes in the relevant laws and regulatory requirements or to implement minor technical adjustments and improvements.

9.3 In the event that we have to make more significant changes to the Products, we will notify you of the same and allow you to cancel the contract and obtain a full refund for any Products paid for and/or delivered to you within 7 days of being notified of these changes.

10. Our right to vary these Terms

10.1 We amend these Terms from time to time. Please note that these Terms were last updated in August 2019.

10.2 Every time you order Products from us, the Terms in force at the time of your order will apply to the Contract between you and us.

10.3 We may revise these Terms as they apply to your order from time to time to reflect the following circumstances:

(a) changes in relevant laws and regulatory requirements; and

(b) changes in the production, supply or distribution of the Products.

10.4 If we have to revise these Terms as they apply to your order, we will contact you to give you reasonable advance notice of the changes and let you know how to cancel the Contract if you are not happy with the changes. You may cancel the Products or Services you have yet to receive. If you opt to cancel, you will have to return (at our cost) any relevant Products you have already received and we will arrange a full refund of the price you have paid, including any delivery charges.

11. Delivery – this clause applies only in the event that you have ordered Products but not Services from us

11.1 Unless otherwise stated in the Order, the price quoted includes delivery to the address specified in the Order, provided that we reserve the right to make an additional charge to cover any increase in transport costs occurring before the date of delivery.

11.2 We will contact you within 30 days after the date of the Email Confirmation. Any time or date for delivery given by us is given in good faith but is an estimate only. Occasionally our delivery to you may be affected by an Event Outside Our Control. See clause 18 for our responsibilities when this happens.

11.3 Delivery of an Order will take place by courier or equivalent postage which requires it to be signed for on receipt.

- 11.4 If no one is available at your address to take delivery, we will leave you a note that the Products have been returned to our premises, unless you have nominated someone else to accept delivery, in which case, please contact us to rearrange delivery. Please note that it will be your responsibility to pay the cost of any further delivery.
- 11.5 As you are a business customer, time will not be of the essence and we shall not be liable for any delay in the delivery of the Products that is caused by an Event Outside Of Our Control or caused by your failure to provide us with information and/or delivery instructions needed to complete your Order.
- 11.6 Delivery of an Order will be completed when signed for at your address. Products will be owned by you and shall be your responsibility from that time. You shall be deemed to have accepted all goods upon their delivery by us to the address specified in the Order.
- 11.7 Each Delivery will include a delivery note which shows the date of the Order, order number, the type and quantity of the Products purchased by you and an invoice requesting payment in accordance with clause 16.
- 11.8 If we are unable, through circumstances beyond our control (including without limitation lack of shipping instructions from you), to deliver the Products within 14 days after notification to you or your agent that the Products are ready for delivery, we shall be entitled to arrange storage on your behalf, whereupon delivery shall be deemed to have taken place, all risk in the Products shall pass to you, and delivery to you of the relevant warehouse receipt shall be deemed to be delivery of the Products for the purposes of this Clause 11. All charges incurred by us for storage or insurance shall be paid by you within 30 days of submission of an invoice.
- 11.9 We will replace free of charge any Products proved to our satisfaction to have been damaged in transit provided that within 24 hours after delivery both we and the carriers have received from you notification in writing of the occurrence of the damage and also, if and so far as practicable, of its nature and extent.

12. Warranty

- 12.1 We warrant that on delivery, any Products shall:
- a. conform with their description;
 - b. be free from material defects in design, material and workmanship;
 - c. be of satisfactory quality in accordance with the Sale of Goods Act 1979, and;
 - d. be fit for any purpose held out by us.
- 12.2 Subject to clause 12.7, if:

- a. you give us notice in writing within a reasonable time of discovery that a Product does not comply with the warranty set out in clause 12.1;
- b. we are given a reasonable opportunity of examining such Product; and
- c. you return such Product to us at our cost,

we shall, at our option, repair or replace the defective Product, or refund the price of the defective Product in full where the defects appear under proper use within 12 months from the date of delivery, PROVIDED THAT notice in writing of the defects complained of shall be given to us upon their appearance, and such defects shall be found to our reasonable satisfaction to have arisen solely from our faulty design, workmanship or materials.

- 12.3 Any repaired or replaced Products shall be redelivered by us free of charge to the original point of delivery but otherwise in accordance with and subject to these Terms save that the period of 12 months referred to in Clause 12.2 shall be replaced by the unexpired portion of that period only.
- 12.4 Alternatively, we shall be entitled at our absolute discretion to refund the price of the defective Products in the event that such price shall already have been paid by you to us, or, if such price has not been so paid, to relieve you of all obligation to pay the same by the issue of a credit note in your favour in the amount of such price.
- 12.5 In respect of all goods manufactured and supplied to us by third parties we will pass on to you (in so far as possible) the benefit of any warranty given to us by such third parties and will (on request) supply to you details of the terms and conditions of such warranty and copies of any relevant product information sheets, technical data sheets or product leaflets issued by such third parties and you shall be solely responsible for complying with all of these.
- 12.6 Our obligations and liability under these Terms shall exclude all other liability to you whether contractual, tortious or otherwise for defects in the Products or for any loss or damage to or caused by the Products, and all other conditions, warranties, stipulations or other statements whatsoever concerning the Products, whether express or implied, by statute, at common law or otherwise howsoever, are hereby excluded; in particular (but without limitation of the foregoing) we give no warranties regarding the fitness for purpose, performance, use, nature or quality of the Products, whether express or implied, by statute, at common law or otherwise howsoever.
- 12.7 We will not be liable for a Product's failure to comply with the warranty in clause 12.1 if;
- a. you make any further use of such Product after giving a notice in accordance with clause 12.2(a);

- b. the defect arises because you failed to follow our oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Product or (if there are none) good trade practice;
- c. the defect arises as a result of us following any drawing, design or specification supplied by you;
- d. you alter or repair the Product without our written consent; or
- e. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions.

12.8 Except as provided in this clause 12, we shall have no liability to you in respect of a Product's failure to comply with the warranty set out in clause 12.1.

12.9 These terms shall apply to any repaired or replacement Products supplied by us under clause 12.2.

13. Termination and reasons we may suspend the supply of products or services to you.

Our rights to end the contract

13.1 We may end or suspend our performance of a contract for a Product or Service at any time by writing to you if:

13.1.1 you do not make any payment to us when it is due;

13.1.2 you do not, within a reasonable time, allow us to deliver the Products to and perform the Services for you;

13.1.3 you are in breach of clause 22;

13.1.4 you commit any material breach of any of the terms of the Agreement and (if such a breach is remediable) fail to remedy that breach within 30 days of your being notified of the breach; or a petition is filed, an order is made, or a resolution is passed for your winding up or if an order is made for the appointment of an administrator to manage your affairs, business and property, or if such an administrator is appointed or if documents are filed with the Court for the appointment of an administrator or if notice of intention to appoint an administrator is given by you or your directors or by a qualifying charge holder, or if a receiver is appointed of any of your assets or undertaking or if circumstances arise which entitle the Court or a creditor to appoint a receiver or manager or which entitle the Court to make a winding-up order or if you

take or suffer any similar or analogous action in consequence of debt; or you cease, or threaten to cease, to trade.

13.2 We may have to suspend the supply of a Product to:

- a. deal with technical problems or make minor technical changes;
- b. update the Product to reflect changes in relevant laws and regulatory requirements;
- c. make changes to the Product as requested by you or notified by us to you as per clause 9.

13.3 We will contact you in advance to tell you we will be suspending supply of the Product, unless the problem is urgent or an emergency. You may contact us to end the contract for a Product if we suspend it, or tell you we are going to suspend it, in each case if suspended for more than 14 days and we will refund any sums you have paid in advance for the Product in respect of the period after you end the contract.

14. International delivery

14.1 We deliver to the countries listed on our site. Please review the information on our site carefully before placing an Order with us as there may be some international restrictions on some of our Products.

14.2 If you order Products from us for delivery internationally, being an address outside of the UK, your order may be subject to import duties and taxes which are applied when the delivery reaches the destination. Please note that we have no control over these charges and we do not predict their amount. You will be responsible for any such duties and taxes.

15. Price of products

15.1 The prices of the Products will be as quoted on our site and/or order form at the time you submit your Order. We take all reasonable care to ensure that the prices of Products are correct at the time when the relevant information was given to us. However please see clause 15.4 for what happens if we discover an error in the price of any Products that you have ordered.

15.2 Prices for our Products may change from time to time, but changes will not affect any order you have already placed.

15.3 Unless otherwise indicated on our Invoice, the price of our Products include VAT (where applicable) at the applicable current rate chargeable in the UK for the time being. However, if the rate of VAT changes between the date of your order and the date of delivery, we will adjust the VAT you pay, unless you have already paid for the Products in full before the change in VAT takes effect.

15.4 Our site and literature contain a large number of Products. It is always possible that, despite our reasonable efforts, some of the Products on our site may be incorrectly priced. We will normally check prices as part of our dispatch procedures so that:

- (a) where the Product's correct price is less than the price stated on our site at the time of the Email Confirmation, we will charge the lower amount when dispatching the Products to you; and
- (b) if the Product's correct price is higher than the price stated on our site, we will contact you as soon as possible to inform you of this error and we will give you the option of continuing to purchase the Product at the correct price or cancelling your order. We will not process your order until we have your instructions. If we are unable to contact you using the contact details you provided during the order process, we will treat the order as cancelled and notify you in writing. However, if we mistakenly accept and process your order where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may cancel supply of the Product and refund you any sums you have paid.

16. How to pay

16.1 You can only pay for Products using the various methods for payment listed on our Invoice.

16.2 Unless otherwise stated in the Order, payment of the price of the Products and or Services comprised in each Order shall become due not later than 30 days from the date of our invoice. If making payment by debit or credit card, we will charge your debit card or credit card upon sending you the Email Confirmation. We reserve the right to request you to pay an initial deposit equal to 50% of the total cost of an Order when we accept an Order from you.

16.3 If you fail to pay in full for our Products or Services by the due date, we may, without limiting our other rights, charge interest and compensation payments at the statutory interest rate (as defined by the Late Payment of Commercial Debts (Interest) Act 1998 or at the rate of 8 percent per annum, whichever is the higher. Interest will accrue on a daily basis and apply from the due date for payment until actual payment in full, whether before or after judgment.

17. Our liability

17.1 We only supply the Products for internal use by your business, and you agree not to use the Product for any resale purposes or for distribution outside of your business.

17.2 Nothing in these Terms limits or excludes our liability for:

- (a) death or personal injury caused by our negligence;

- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- (d) defective products under the Consumer Protection Act 1987.

17.3 Subject to clause 17.2, we will under no circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

- (a) loss of profit, sales, business or revenue;
- (b) loss or corruption of data, information or software;
- (c) loss of business opportunity;
- (d) loss of anticipated savings;
- (e) loss of goodwill; or
- (f) any special, indirect or consequential loss of any nature whatsoever.

17.4 Subject to clause 17.2, our total liability to you in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Products specified in the Order.

17.5 Except as expressly stated in these Terms, we do not give any representation, warranties or undertakings in relation to the Products. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Products are suitable for your purposes.

18. **Events outside our control**

18.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under a Contract that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in clause 18.2.

18.2 An **Event Outside Our Control** means any act or event beyond our reasonable control, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural

disaster, or failure of public or private telecommunications networks or impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport.

18.3 If an Event Outside Our Control takes place that affects the performance of our obligations under a Contract:

- (a) we will contact you as soon as reasonably possible to notify you; and
- (b) our obligations under a Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects our delivery of Products to you, we will arrange a new delivery date with you after the Event Outside Our Control is over.

18.4 You may cancel a Contract affected by an Event Outside Our Control which has continued for more than one year. To cancel please contact us. If you opt to cancel, you will have to return, at our cost, any relevant Products you have already received and we will refund the price you have paid, including any delivery charges.

19. Communications between us

19.1 When we refer, in these Terms, to "in writing", this will include e-mail.

19.2 Any notice or other communication given by you to us, or by us to you, under or in connection with the Contract shall be in writing and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service or e-mail.

19.3 A notice or other communication shall be deemed to have been received: if delivered personally, when left at our registered office; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or if sent by e-mail, one Business Day after transmission.

19.4 In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee. In our case, any email should be sent to [insert email address].

19.5 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

20. Title and Risk

- 20.1 The risk in the Products shall pass to you when the Products are despatched in accordance with clause 11.
- 20.2 Title to the Products shall not pass to you until we receive payment in full for all Products we have ever supplied to you, in which case title to the Products shall pass to you at the time of payment.
- 20.3 Even though title to our Products may not have passed to you, we shall be entitled to sue for their price once payment has become due.

21. Intellectual property rights

- 21.1 For the purposes of these terms, intellectual property shall mean Patents, Registered Designs, Unregistered Designs, Registered Trademarks and Copyright only, having effect in the United Kingdom, in each case whether registered or unregistered at the time of entering into these Terms.
- 21.2 All intellectual property rights contained in or arising out of the Products shall be owned by us. We warrant that we are not aware of any actual or alleged infringements of any intellectual property rights of third parties which relate to the Products other than those (if any) which we have disclosed to you prior to acceptance of the Order.
- 21.3 We shall have no liability to you (other than as provided in this clause 21) in the event that the Products to be supplied under the Order infringe any intellectual property rights of a third party (including without limitation by reason of their possession, sale or use, whether alone or in association or combination with any other goods). We give no warranty that the Products to be supplied under the Order will not infringe as aforesaid, and all conditions, warranties, stipulations or other statements whatsoever relating to such infringement or alleged infringement (if any), whether express or implied, by statute, at common law or otherwise howsoever, are hereby excluded.
- 21.4 In the event that any claim is made against you for infringement of intellectual property rights arising directly from the use or sale by you of the goods, we at our own expense shall conduct any ensuing litigation and all negotiations for a settlement of the claim. We will bear the costs of any payment (either by way of a lump sum or a continuing royalty payment) made in settlement, or as a result of an award in a judgment against us in the event of litigation.
- 21.5 The benefit of Condition 21.4 is granted to you by us only in the event that you:
- 21.5.1 give us reasonable notice in writing of any such claim being made or action threatened or brought against you;
 - 21.5.2 make no admission of liability or take any other action in connection therewith;
 - 21.5.3 permit us to have the conduct of the claim pursuant to Clause 21.4; and

21.5.4 (at our expense) give all reasonable information, co-operation and assistance to us (including without limitation lending your name to proceedings) in relation to the conduct of the claim;

21.5.5 in the event that it is made a condition of any settlement made by us, or judgment awarded against you, pursuant to Clause 21.4, return or destroy, as applicable, all infringing Products still under your control subject to a refund by us of any payment for such Products already made less a reasonable allowance for depreciation of the Products by reason of their use (if any) by you prior to their return or destruction as aforesaid.

21.6 The provisions of Clause 21.4 shall not apply to any infringement caused by us having followed a design or instruction furnished or given by you nor to any use of the Products in a manner or for a purpose which shall have been specifically prohibited in writing by us, nor to any infringement which is due to the use of such Products in association or combination with any other product.

21.7 The foregoing states our entire liability to you and your sole and exclusive remedies against us in connection with claims based on or resulting from the infringement of intellectual property rights, of any kind whatsoever, of third parties.

21.8 In agreeing to these terms:

- a. you acknowledge that all intellectual property rights of ours will remain our property and that you shall not attempt to transfer these rights to any third party; and
- b. you shall not use these intellectual property rights for any commercial gain or any purpose other than the use of the Products by you and your employees, consultants and/or agents.

22. Confidentiality

22.1 For the purposes of this agreement, **Confidential Information** shall mean any information relating to the Products, including but not limited to any content, concepts, illustrations, examples, processes, trade-secrets and know-how.

22.2 Upon entering into this agreement, you agree to:

- a. not use or exploit the Confidential Information in any way save for using it for education purposes in your place of business;

- b. not to disclose, discuss or make available any Confidential Information to anyone not directly employed on a full time basis by you, including but not limited to any self-employed or locum member of staff;
- c. not to disclose, discuss or make available any Confidential Information to any other business;
- d. not to keep copies of any Confidential Information in any place save for your place of business, and;
- e. apply the same security measures to the Confidential Information as you would apply to your own confidential information.

22.3 In the event that you are a self-employed individual, agent, consultant or other locum, in addition to the requirements in clause 22.2 you also agree not to:

- a. not to distribute, share or otherwise give any Confidential Information to any school, learning provider or other not-for profit organisation, and;
- b. to keep copies of the Confidential Information safe at all times and to not leave copies of the Confidential Information at any place of business, save for your own;

23. **Dispute resolution**

23.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (**Dispute**) then, except as expressly provided in this agreement, the parties shall follow the dispute resolution procedure set out in this clause:

23.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documentation. On service of the Dispute Notice the parties shall attempt in good faith to resolve the Dispute;

23.1.2 if the parties are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the parties will attempt to settle it by mediation in accordance with the in accordance with the London Court of International Arbitration Mediation Rules. To initiate the mediation, a party must serve notice in writing (**ADR notice**) to the other party requesting a mediation. The mediation will start not later than 30 days after the date of the ADR notice. Unless otherwise agreed by the parties, the place of mediation shall be nominated by the mediator.

23.2 No party may commence any court proceedings in relation to any dispute arising out of this agreement until 30 days after the appointment of a mediator, provided that the right to issue proceedings is not prejudiced by a delay. However, either party may at any time seek urgent interim relief from the courts or emergency arbitrator relief.

24. Other important terms

- 24.1 We may transfer our rights and obligations under a Contract to another organisation, but this will not affect your rights or our obligations under these Terms.
- 24.2 You may only transfer your rights or your obligations under these Terms to another person if we agree in writing.
- 24.3 This Contract is between you and us. No other person shall have any rights to enforce any of its terms, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 24.4 Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.
- 24.5 If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 24.6 A Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. You and we both agree that the courts of England and Wales will have non-exclusive jurisdiction.