

Terms and Conditions

1. INTERPRETATION

1.1 **Definitions.** In these Conditions the following definitions apply:

Agreement: the agreement between Wey ecademy and the Customer for the supply of the Services.

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

Charges: the charges payable by the Customer for the supply of the Services in accordance with Condition 5.

Conditions: these terms and conditions (as amended from time to time in accordance with the Agreement).

Intellectual Property Rights: patents, rights to inventions, copyright and related 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.

Services: the services to be supplied by Wey ecademy to the Customer.

Students: the Customer's students who are intended to benefit from the Services.

1.2 **Construction.** In these Conditions, the following rules apply:

(a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

(b) a reference to a **Party** includes its successors or permitted assigns;

(c) a reference to a **statute** or **statutory provision** is a reference to such statute or statutory provision as amended or re-enacted and includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

(d) any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms;

(e) any references to any **term dates** is a reference to the Wey ecademy term dates;

(f) the definition of any term by reference to any number, gender or tense shall not limit its meaning to that number, gender or tense; and

(g) a reference to **writing** or **written** includes e-mails (but not faxes).

2. BASIS OF CONTRACT

- 2.1 The Agreement constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Wey ecademy which is not set out in the Contract.
- 2.2 Any descriptive matter or advertising issued by Wey ecademy, and any descriptions or illustrations contained in Wey ecademy's marketing material, 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.
- 2.3 These Conditions apply to the Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.4 Any quotation given by Wey ecademy in respect of any Services (whether under the Agreement or not) shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

3. SUPPLY OF SERVICES

- 3.1 Wey ecademy shall supply the Services to the Customer in all material respects in accordance with the Agreement.
- 3.2 Wey ecademy shall have the right to make any changes to the Services which are necessary to comply with any applicable law, guidance or safety requirement, or which do not materially affect the nature or quality of the Services.
- 3.3 Wey ecademy warrants to the Customer that the Services will be provided using reasonable care and skill.
- 3.4 Wey ecademy will not provide equipment and facilities that may be required for students to physically attend the school.

4. CUSTOMER'S OBLIGATIONS AND RESTRICTIVE COVENANT

- 4.1 The Customer shall:
 - (a) co-operate with Wey ecademy in all matters relating to the Services;
 - (b) provide Wey ecademy with all such information, materials and assistance as Wey ecademy may reasonably require in order to supply the Services and to monitor its supply of the Services and its compliance with its own standards and the standards, laws and rules prescribed by any law, any regulator or any trade association;

- (c) ensure that all information provided pursuant to 4.1(c) above, is accurate in all material respects;
- (d) provide all such information as is reasonably requested by Wey ecademy to enable Wey ecademy to analyse the quality of its provision and, in particular and without limitation, by providing examination outcomes and the requested information in relation to the key measures of student engagement, attendance, adherence to and quality of homework.

5. CHARGES AND PAYMENT

- 5.1 The Charges for the Services shall be calculated, charged and invoiced with payment due 28 days from the date of invoice.
- 5.2 Wey ecademy will give the Customer written notice of any increase in the Charges three months before the proposed date of the increase.
- 5.3 The Customer shall pay each invoice submitted by Wey ecademy in full and in cleared funds to a bank account and in the currency of the invoice nominated in writing by Wey ecademy.
- 5.4 If any taxable supply for VAT purposes is made under the Contract by Wey ecademy to the Customer, the Customer shall, on receipt of a valid VAT invoice from Wey ecademy, pay Wey ecademy such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.5 If the Customer fails to make any payment due to Wey ecademy under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 1.5 per cent. per month from time to time. Such interest shall accrue on a daily basis (and compound monthly) from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 5.6 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Wey ecademy may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Wey ecademy to the Customer.
- 5.7 Wey ecademy is not responsible for examination fees or other costs to which it has not expressly agreed in writing.

6. INTELLECTUAL PROPERTY RIGHTS

All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by Wey ecademy.

7. CONFIDENTIALITY

- 7.1 A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain.
- 7.2 The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this Condition as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- 7.3 This Condition 7 shall survive termination of the Contract.
- 7.4 Nothing in these Conditions shall limit or exclude the Wey ecademys liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 7.5 Subject to Condition 7.4:
- (a) Wey ecademy shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
 - (b) Wey ecademys total liability to the Customer in respect of all other 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 lower of £100,000 and the amount which is equal to two times the total Charges paid to Wey ecademy by the Customer pursuant to the Contract.
- 7.6 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

8. TERMINATION AND RIGHT TO FEES IN LIEU OF NOTICE

- 8.1 Without limiting its other rights or remedies, either party may terminate (or suspend) the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;
- (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (d) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (e) any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in the sub-clauses to this Condition;
- (f) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business or the provision of its services;
- (g) the Customer's financial position deteriorates to such an extent, that in Wey eademy's opinion, the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (h) Wey eademy, in its absolute discretion, no longer wishes to provide the Services to that Customer in order to protect its reputation or for compliance reasons.

8.2 Without limiting its other rights or remedies, Wey eademy may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment and fails to pay all outstanding amounts within 30 days after being notified in writing to do so.

9. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) the Customer shall immediately pay Wey eademy all of the outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Wey eademy shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in

respect of any breach of the Contract which existed at or before the date of termination or expiry; and

- (c) Conditions which expressly or by implication survive termination shall continue in full force and effect.

10. GENERAL

10.1 Assignment and other dealings.

- (a) Wey ecademy may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of Wey ecademy, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

10.2 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this Condition, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Condition (a); 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- (c) The provisions of this Condition shall not apply to the service of any proceedings or other documents in any legal action.

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

10.4 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor

constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

- 10.5 **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 10.6 **Force Majeure Event.** For the purposes of this Contract, "Force Majeure Event" means an event beyond the reasonable control of Wey ecademy including but not limited to any technical barrier to the provision of the Services, strikes, lock-outs or other industrial disputes, failure of a utility service, communication or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors. Wey ecademy shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event. If the Force Majeure Event prevents Wey ecademy from providing any of the Services for more than 12 weeks, Wey ecademy shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.