

## Centre for Literacy in Primary Education.

Terms and Conditions for the provision of training, support and consultancy.

### **THE PURCHASER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 8**

#### **1. Interpretation**

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

**Booking:** the Purchaser's booking for 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 Purchaser for the supply of the Services in accordance with clause 5.

**CLPE:** Centre for Literacy in Primary Education, a company limited by guarantee, registered in England and Wales with company number 04385537 having its registered office at Webber Street, London SE1 8QW (Registered Charity No. 1092698).

**CLPE Contract Form:** the form issued by CLPE entitled "CLPE Contract Form", setting out the terms of the Contract.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 15.2.

**Contract:** the contract between CLPE and the Purchaser for the supply of the Services in accordance with these Conditions.

**Course:** any training course to be provided by CLPE under the Contract;

**Course Summary:** the description of the Services provided in writing by CLPE to the Purchaser sent with and forming part of the Contract, subject to any amendments made in accordance with the Contract.

**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.

**Purchaser:** the person, school, organisation or firm who purchases Services from CLPE.

**Services:** the services to be supplied by CLPE to the Purchaser as set out in the Course Summary.

**Training Materials:** All materials provided by CLPE to the Purchaser or to course delegates in connection with the provision of the Services.

1.2 In these conditions, a reference to **writing** or **written** includes faxes and e-mails.

1.3 Clause headings shall not affect the interpretation of these Conditions.

#### **2. Basis of contract**

2.1 A legally binding contract shall only come into existence when the Purchaser returns to CLPE a signed CLPE Contract Form confirming details of the Booking. In the event that the Purchaser shall not have signed the CLPE Contract Form but has acquiesced in CLPE starting work in relation to the provision of the Services, a legally binding contract shall be deemed to have come into effect.

2.2 The Contract constitutes the entire agreement between the parties. The Purchaser acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of CLPE which is not set out in the Contract.

2.3 Any descriptive matter or advertising issued by CLPE, and any descriptions or illustrations contained in CLPE's brochures or on its website, are issued or published for the sole purpose of giving an approximate idea of the services described in them. They do not form part of the Contract and do not have any contractual force.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Purchaser seeks to impose or incorporate, or which are implied by custom, practice or course of dealing.

#### **3. Supply of Services**

3.1 CLPE shall supply the Services to the Purchaser in accordance with the Course Summary in all material respects.

3.2 CLPE shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services.

3.3 CLPE warrants to the Purchaser that the Services will be provided using reasonable care and skill. **4.**

#### **Purchaser's obligations**

4.1 The Purchaser shall:

4.1.1 ensure that the terms of the Course Summary correctly reflect its requirements;

4.1.2 co-operate with CLPE in all matters relating to the Services;

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- 4.1.3 provide CLPE, its employees, agents, consultants and subcontractors, with access to the Purchaser's premises as reasonably required by CLPE;
  - 4.1.4 provide CLPE with such information and materials as CLPE may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
  - 4.1.5 provide suitable facilities at the Purchaser's premises for the supply of the Services;
  - 4.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the provision by CLPE of the Services at the Purchaser's premises, before the date on which the Services are to start;
  - 4.1.7 keep and maintain all equipment, documents and other property of CLPE (**CLPE Property**) which is at any time on the Purchaser's premises in safe custody at its own risk and in good condition until returned to CLPE, and not dispose of or use CLPE Property other than in accordance with CLPE's written instructions or authorisation.
- 4.2 If CLPE's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Purchaser or failure by the Purchaser to perform any relevant obligation (**Purchaser Default**):
- 4.2.1 CLPE shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Purchaser remedies the Purchaser Default, and to rely on the Purchaser Default to relieve it from the performance of any of its obligations to the extent the Purchaser Default prevents or delays CLPE's performance of any of its obligations;
  - 4.2.2 CLPE shall not be liable for any costs or losses sustained or incurred by the Purchaser arising directly or indirectly from CLPE's failure or delay to perform any of its obligations by reason of a Purchaser Default; and
  - 4.2.3 the Purchaser shall reimburse CLPE on written demand for any costs or losses sustained or incurred by CLPE arising directly or indirectly from the Purchaser Default.

## 5. Charges and payment

- 5.1 The Charges for the Services shall be as set out in the Course Summary:
- 5.2 CLPE shall be entitled to charge the Purchaser for any expenses reasonably incurred by the individuals whom CLPE engages in connection with the Services including, but not limited to, travelling expenses, accommodation costs, subsistence and any associated expenses.
- 5.3 CLPE shall invoice the Purchaser at any time after the Contract has come into force.
- 5.4 The Purchaser shall pay each invoice submitted by CLPE:
- 5.4.1 within 30 days of date of invoice and
  - 5.4.2 in full and in cleared funds to CLPE's bank account, details of which will be set out on the invoice.
- 5.5 Time for payment shall be of the essence of the Contract.
- 5.6 All amounts payable by the Purchaser under the Contract are exclusive of value added tax chargeable for the time being (**VAT**) which shall be payable in addition, if applicable.
- 5.7 If the Purchaser fails to make any payment due to CLPE under the Contract by the due date for payment, then the Purchaser shall pay interest on the overdue amount at the rate of 8 per cent. per annum above Barclays Bank's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Purchaser shall pay the interest together with the overdue amount.
- 5.8 The Purchaser 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). CLPE may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Purchaser against any amount payable by CLPE to the Purchaser.

## 6. Intellectual property rights

- 6.1 All Intellectual Property Rights in or arising out of or in connection with the Services are and shall be owned by CLPE.
- 6.2 All Intellectual Property rights in or arising out of or in connection with the Training Materials are and shall be owned by CLPE. The Purchaser and delegates at any Courses are licensed to use them when attending any course, as well as to use them as a record of information, provided that only the delegates or other staff of the Purchaser may make use of them. All rights under this Contract to the Training Materials are licensed, not sold, to the Purchaser. The Purchaser may not alter the Training Materials and has no rights in them other than as provided in this Contract.
- 6.3 The Purchaser acknowledges that, in respect of any third party Intellectual Property Rights, the Purchaser's use of any such Intellectual Property Rights is conditional on CLPE obtaining a written licence from the relevant licensor on such terms as will entitle CLPE to license such rights to the Purchaser.

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6.4 All Training Materials are the exclusive property of CLPE. Except as expressly set out in these terms, the Purchaser undertakes (and undertakes to procure that its employees or any other delegate attending a Training Course on its behalf or on its account so undertakes):

6.4.1 not to copy any of the Training Materials except where such copying is incidental or necessary for the purposes of completing the relevant Course;

6.4.2 not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Training Materials;

6.4.3 not to alter, or modify, the whole or any part of the Training Materials, nor permit the Training Materials or any part of them to be combined with, or become incorporated into, any other materials;

6.4.4 to supervise and control use of the Training Materials and ensure that they are used by its employees and representatives only in accordance with the terms of this Contract;

6.4.5 to include the copyright notice of CLPE on all permitted entire and partial copies it may make of the Training Materials on any medium;

6.4.6 not to provide or otherwise make available the Training Materials in whole or in part, in any form to any person without prior written consent from CLPE.

## 7. Confidentiality

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. 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 clause 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. This clause 7 shall survive termination of the Contract.

## 8. Limitation of liability:

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8.1 Nothing in these Conditions shall limit or exclude CLPE's liability for:

8.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

8.1.2 fraud or fraudulent misrepresentation; or

8.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

8.2 CLPE shall not be liable under, or in connection with, this Contract or any collateral contract for:

8.2.1 loss of income;

8.2.2 loss of profits or contracts;

8.2.3 business interruption;

8.2.4 loss of the use of money or anticipated savings;

8.2.5 loss of information;

8.2.6 loss of opportunity or damage to goodwill or reputation;

8.2.7 loss of, damage to or corruption of data; or

8.2.8 any indirect or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise.

8.3 Subject to Clause 8.2 above, CLPE's maximum aggregate liability under or in connection with this agreement, or any collateral contract, whether in contract, tort (including negligence) or otherwise, shall be limited to a sum equal to £10,000.

8.4 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.

8.5 This clause 8 shall survive termination of the Contract.

## 9. Notice by Purchaser to cancel Course

9.1 The Purchaser may give notice in writing at any time that it does not wish to proceed with a Course.

9.2 The following refunds will be made in the event of notice being given under Clause 9.1:

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Calendar days' notice before start of the course	Refund applicable
90 calendar days notice or more before the course start date OR Within 14 days of booking, and more than 29 calendar days before the course start date	Full refund of charges
Between 89 and 30 calendar days before the course start date	50% refund of charges
Less than 29 calendar days before the course start date	No refund will be given

9.3 If cancellation of a course is notified prior to 29 days before the course start date, we are willing to consider the option of retaining the full credit toward a future course booking.

9.4 CLPE reserves the right to cancel any course if deemed necessary by the company. Under these circumstances a full refund will be offered.

9.5 We regret that any expenses incurred other than the course fee, cannot be reimbursed.

### 10. Termination

10.1 CLPE may terminate this Contract immediately by written notice to the Purchaser if:

10.1.1 the Purchaser commits a material or persistent breach of this agreement which it fails to remedy (if remediable) within 14 days after the service of written notice requiring it to do so; or

10.1.2 the Purchaser becomes insolvent or unable to pay its debts (within the meaning of the applicable provisions of the Insolvency Act 1986), makes any composition or arrangement with its creditors or takes or suffers any similar action in consequence of its inability to pay its debts, enters into administration or liquidation, whether voluntary or compulsory (other than for reasons of bona fide amalgamation or reconstruction), passes a resolution for its winding-up, has an administrative receiver appointed or a receiver, manager, trustee or similar person is appointed over the whole or any part of its assets or if there are proposals for it to close or cease to operate.

### 11. Consequences of termination

11.1 On termination of this agreement by CLPE for any reason:

11.1.1 The Purchaser shall immediately pay to CLPE all of CLPE's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, CLPE shall submit an invoice, which shall be payable by the Purchaser immediately on receipt;

11.1.2 The Purchaser shall return all CLPE Property. If the Purchaser fails to do so, then CLPE may enter the Purchaser's premises and take possession of it. Until it has been returned, the Purchaser shall be solely responsible for its safe keeping and will not use it for any purpose unconnected with the Contract;

11.1.3 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

11.1.4 clauses which expressly or by implication survive termination shall continue in full force and effect.

### 12. Force majeure

12.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of CLPE including but not limited to failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, fire, flood, storm or default of suppliers or subcontractors.

12.2 CLPE shall not be liable to the Purchaser as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

### 13. Assignment and other dealings

13.1 CLPE 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.

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13.2 The Purchaser shall not assign, transfer, mortgage, charge, subcontract, deal in any other manner with any or all of its rights or obligations under the Contract.

### **14. Notices**

14.1 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 clause, 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.

14.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 14.1; if sent by pre-paid first class post or other next working day delivery service, at 9am 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.

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

### **15. Waiver and Variation**

15.1 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.

15.2 Except as set out in these conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by CLPE.