TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

BACKGROUND

(A) The Mayor and Burgesses of the London Borough of Croydon (the "**Council**"), trading as Croydon Education Partnership, provides a range of support and training services, including (not exhaustive) educational psychology services, school improvement services, human resources for schools, IT for schools and school governor services.

(B) The Customer wishes to purchase the Services from the Council through SLA Online and is the party stated on the Order (the "**Customer**").

(C) Accordingly, the Customer and the Council agree that the Council will provide the Services in the Order and the Customer will pay for the Services in accordance with these Conditions.

In consideration of such intentions the parties hereby agree with each other as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. The following definitions and rules of interpretation shall apply in these Conditions unless the context requires otherwise.

Charges: the charges as advertised on SLA Online at the time of the Order in respect of the Services, which shall become due and payable by the Customer to the Council in accordance with these Conditions.

Commencement Date: the date on which the Customer makes an Order through SLA Online.

Data Protection Laws: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended; any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications) and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

Intellectual Property: any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites.

Order: the Customer's instructions to the Council, which the Customer may issue from time to time through SLA Online or other agreed method, requesting the Council to supply the Services by making a purchase.

Services: the services to be delivered by or on behalf of the Council under the Order and in accordance with these Conditions, as more particularly described in the brochure advertised on SLA Online, as may be varied from time to time in accordance with Clauses 7 and 16.1.

SLA Online: the online system used by the Customer to make Orders and payments through the Portal Login located at www.croydoneducationpartnership.org

Term: the period from the Commencement Date until the date upon which the Services for the relevant Order have been provided by the Council, or the Order is terminated in accordance with these Conditions.

Termination Payment Default: the Customer's failure to pay any undisputed Charges due to the Council within 60 days of the relevant invoice becoming due and payable.

Unforeseen Event: any cause affecting the performance by a party of its obligations under these Conditions arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Council, the Council's personnel or any other failure in the Council's supply chain.

VAT: value added tax or any other similar "sales" tax.

Working Day: Monday to Friday, excluding any public holidays in England and Wales.

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

1.3 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

2. COMMENCEMENT, DURATION AND TERM

2.1 These Conditions shall take effect on the Commencement Date and shall (subject to the provisions for earlier termination set out in these Conditions) continue for the Term.

3. SERVICES

3.1. The Council endeavours to provide the Services to the Customer with effect from the Commencement Date and for the duration of the Term in accordance with the Order and these Conditions.

3.2. The Council shall provide the Services, or procure that they are provided:

a) with reasonable skill and care and in accordance with good industry practice from time to time; and

b) in accordance with all the laws or regulations, regulatory policies, guidelines or industry codes which apply to the provision of the Services.

c) ensure that all Customers and employees engaged in Regulated Activity are subject to a valid enhanced disclosure check for regulated activity undertaken through the Disclosure and Barring Service (DBS); and

d) not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to service users.

3.3. The Council shall use reasonable endeavours to meet any performance dates agreed between the parties, but any such dates shall be estimates only and time for performance by the Council shall not be of the essence.

3.4. The Customer undertakes during the Term to:

a) co-operate with the Council in all matters relating to the Services and to supply the Council with such information as the Council may reasonably require to enable the Council to fulfil its obligations under these Conditions;

b) provide reasonable access to such premises, facilities and persons as the Council may reasonably require to provide the Services;

c) provide, in a timely manner, such information as the Council may reasonably require, and ensure that it is accurate in all material respects; and

3.5 If the Council's performance of its obligations under these Conditions is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Council shall:

a) not be liable for any costs, charges or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay.

b) be entitled to payment of the Charges despite any such prevention or delay; and

c) be entitled to recover any additional costs, charges or losses the Council sustains or incurs that arise directly or indirectly from such prevention or delay.

4. CHARGES AND PAYMENT

4.1. In consideration of the provision of the Services by the Council in accordance with these Conditions and the Order, the Customer shall pay the Charges to the Council.

4.2. The Council shall be entitled to invoice the Customer for payment of the Charges (plus VAT if applicable) in advance immediately once the Order is placed or within a reasonable time of the Order being placed.

4.3. The Customer shall pay each invoice due and submitted to it by the Council within 30 days of the date of the invoice.

4.4. If the Customer fails to make any payment due to the Council under these Conditions by the due date for payment, then, without limiting the Council's remedies under Clause 14 (Termination for Breach):

a) The Customer shall pay interest on any overdue Charges properly invoiced under these Conditions in accordance with the Late Payment of Commercial Debts (Interest) Act 1998;

b) the Council may suspend all Services until payment has been made in full.

4.5. All amounts due under these Conditions from the Customer to the Council shall be paid by the Customer in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

4.6. The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Customer following delivery of a valid VAT invoice.

5. CONSULTANCY SERVICES CANCELLATIONS

5.1. Should the Customer wish to cancel or reschedule any consultancy appointment related to their Order of the Services they are required to notify the Council in writing by emailing educationenquiries@croydon.gov.uk at least 2 weeks in advance. Cancellation will only take effect after notice in writing is received.

5.2. If cancellation takes place within 2 weeks of the agreed appointment date, then the following fees shall apply:

a) More than 2 weeks' notice: Full refund
b) 1 to 2 weeks' notice: 50% refund
c) Less than 1 weeks' notice: No refund

6. COURSE CANCELLATIONS

6.1. Should the Customer wish to cancel a course booking related to their Order of the Services they are required to notify the Council in writing by emailing educationenquiries@croydon.gov.uk Cancellation will only take effect after such notice is received.

6.2. Cancellation fee schedule for course bookings:

a) More than 2 weeks' notice: Full refund
b) 1 to 2 weeks' notice: 50% refund
c) Less than 1 weeks' notice: No refund
d) Failure to attend: No refund

6.3 Cancellation fee schedule for on-site training:

a) More than 3 months' notice: Full refund
b) 1 to 3 months' notice: 50% refund

c) Less than 3 weeks' notice: No refund

6.4 Substitution of another delegate from the same school/organisation will be accepted where the original delegate is no longer able to attend, provided that notice is given in writing.

6.5 Minimum delegate numbers are required for some courses to run, and this is assessed 2 weeks before the course date. A full refund will be made to those delegates that have booked on a course which is subsequently cancelled by the Council. Therefore, it is imperative that the Customer ensures their full booking process, including authorisation, is completed at least 2 weeks prior to the course date.

6.6 If a course has to be postponed or rescheduled due to sudden unforeseen circumstances, the Council will make every effort to contact the delegate concerned or the school/organisation. Therefore, Customers should ensure their details are kept up-to-date on SLA Online.

6.7 Where courses are cancelled by the Council, the Council will seek to reschedule in the first instance and bookings will be transferred accordingly. If an alternative date cannot be accommodated or is unsuitable to the delegate, full refunds will be issued.

6.8 The Council reserves the right to ask any delegate to leave a course as a result of disruptive or inappropriate behaviour, such a decision being at the sole discretion of the course leader. In such circumstance the Council will not offer any alternative dates or refunds.

7. CHANGES

7.1 In exceptional circumstances the Council may need to vary the Services and will advise the Customer of:

7.1.1 the likely timescale to implement the change;

7.1.2 any necessary variations to the Charges arising from the change; and

7.1.3 any other impact of the change on these Conditions.

7.2 Unless both parties consent to a proposed change, there shall be no change to these Conditions.

7.3 If both parties consent to a proposed change, the change shall be made, only after agreement of the necessary variations to the Charges, the Services and any other relevant terms of these Conditions to take account of the change that has been reached and those changes have been recorded in writing.

7.4 If the Council requests a change to the scope or execution of the Services, in order to comply with any applicable safety or statutory requirements, and such changes do not materially affect the nature, scope of, or charges for the Services, the Customer shall not unreasonably withhold or delay consent to it.

8 COUNCIL PERSONNEL

8.1 It is not intended that this agreement or any consequential arrangements between the Council and the Customer will create or necessitate any employment by the Customer.

8.2 The Customer will not offer employment to any person on any terms without the express consent in writing of the Council.

8.3 At all times, the Council shall ensure that each of the Council's personnel is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged.

9 DISPUTE RESOLUTION

9.1 Concerns relating to the Services should be raised in writing in the first instance with the relevant Service Manager in the Council or by contacting educationenquiries@croydon.gov.uk.

9.2 If the Customer's concern is not resolved within 10 working days, it shall be escalated to Head of Education Services at the Council for resolution.

10 LIABILITY AND INSURANCE

10.1 Subject to Clause 10.5, neither party shall be liable to the other party (as far as permitted by law) for indirect special or consequential loss or damage in connection with these Conditions which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect.

10.2 Subject to Clause 10.5, the Council shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with these Conditions for loss of profits; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; loss of or damage to goodwill; and/or loss of use or corruption of software, data or information.

10.3 Subject to Clause 10.5, the Council's total liability to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with these Conditions shall be limited to one hundred per cent (100%) of the average annual Charges (calculated by reference to the Charges in successive 12 month periods from the date of the Order) paid by the Customer under these Conditions.

10.4 Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to these Conditions.

10.5 Notwithstanding any other provision of these Conditions neither party limits or excludes its liability for fraud or fraudulent misrepresentation; death or personal injury caused by its negligence; breach of any obligation as to title implied by statute; or any other act or omission, liability for which may not be limited under any applicable law.

10.6 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 this Contract

10.7 The Council shall maintain insurance coverage during the Term with a reputable insurer at levels which the Council considers appropriate for the Services and commensurate with a business of the Council's size and risk profile.

11 DATA AND CONFIDENTIALITY

11.1 Both parties acknowledge that the other is (or may be) subject to the requirements of the Freedom of Information Act 2000, the Environmental Information Regulations 2004 (SI 2004/3391) and processes of personal data to minimise risk (DPIA) which is a key requirement under GDPR and shall assist and co-operate with the Council to enable the Council to comply with these information disclosure requirements.

11.2 Where the Council, pursuant to these Conditions and the Order, processes **Personal Data** (which shall have the meaning given in the Data Protection Laws) on behalf of the Customer, both parties acknowledge that the Customer is the **Data Controller** (which shall have the meaning given in the Data Protection Laws) and the owner of such Personal Data, and that the Council is the **Data Processor** (which shall have the meaning given in the Data Protection Laws).

11.3 Both parties warrant that they have complied, and shall continue to comply, with the requirements of the applicable Data Protection Laws relevant to the exercise of their rights or the performance of their obligations under these Conditions.

11.4 In respect of any Personal Data to be processed by the Data Processor pursuant to these Conditions and the Order for which the Customer is Data Controller, the Data Processor shall process that Personal Data on behalf of the Customer in accordance with the Customer's instructions for the purpose of performing its obligations under these Conditions and in accordance with relevant privacy notices and for no other purpose save to the limited extent required by law.

11.5 The parties shall keep confidential all information relating to the Services, Order and these Conditions unless otherwise agreed in writing with the exception of confidential information required to be disclosed by law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of this disclosure as possible.

11.6 Each party shall not: (a) make any press announcements or publicise the Order and these Conditions or their contents in any way; or (b) use the other party's name or brand in any promotion or marketing or announcement of orders, without that party's prior written consent.

12 INTELLECTUAL PROPERTY

12.1 Subject to Clauses 12.2 and 12.3, all Intellectual Property rights in any material supplied by either party to the other will remain the property of the supplying party.

12.2 On the Customer's written request to the Council, the Council shall grant the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free,

licence to copy its Intellectual Property for the purpose of receiving and using the Services in the Customer's business during the Term.

12.3 The Customer grants the Council a fully paid-up, worldwide, non-exclusive, royalty-free, non-transferable licence to copy its Intellectual Property for the Term for the purpose of providing the Services to the Customer in accordance with these Conditions.

13 NON-SOLICITATION

13.1 In order to protect the legitimate business interests of the Council, the Customer shall not, for the Term and for a period of 6 months thereafter, (except with the prior written consent of the Council) directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of the Council any employee, worker, consultant, associate or other person involved in the delivery of any of the Services under these Conditions.

13.2 The Customer shall not solicit similar Services, as it has in the past received from the Council, from an employee of the Council via a private arrangement with that employee.

13.3 If the Customer breaches clauses 13.1 or 13.2 above, it shall, without prejudice to any other rights or remedies of the Council, on demand, pay to the Council a sum equal to either three months' basic salary payable by the Council to that employee, or three months' Charges for the Services in the case of a consultant or associate, plus in addition, the recruitment costs incurred by the Council in replacing such person.

13.4 To help the Council safeguard its Intellectual Property, Customers should inform the Council immediately, should they be approached by former Council employees to provide Services which the Council provides.

14 TERMINATION

14.1 Either party may terminate these Conditions in whole or in part with immediate effect by the service of written notice on the other party if the other party is in breach of any material obligation under these Conditions provided that, if the breach is capable of remedy, the party not in breach may only terminate these Conditions under this Clause 14.1 if the breaching party has failed to remedy such breach within 30 days of receipt of notice from non-breaching party to do so.

14.2 The Council may terminate these Conditions in whole or in part with immediate effect by the service of written notice on the Customer in the following circumstances:

a) in the event that the Customer commits a Termination Payment Default by giving 30 days' written notice to the Customer. If the Customer remedies the Termination Payment Default in the 30 day notice period, the Council's notice to terminate this Contract shall be deemed to have been withdrawn;

b) if a resolution is passed or an order is made for the winding up of the Customer (otherwise than for the purpose of solvent amalgamation or reconstruction) or the Customer becomes subject to an administration order or a receiver or administrative receiver is appointed over or an encumbrancer takes possession of any of the Customers' property or equipment;

c) if the Customer ceases or threatens to cease to carry on business in the United Kingdom; and/or

d) if there is a change of control (within the meaning of section 1124 of the Corporation Tax Act 2010) of the Customer.

14.3 Where the Term is expected to be less than 12 months, either party may terminate these Conditions at any time by giving a minimum of one month's written notice to the other party.

14.4 Where the Term is expected to be 12 months or more, either party may terminate these Conditions at any time by giving three months' written notice to the other party.

14.5 Neither party shall be liable to the other for any delay or failure in performing its obligations under these Conditions to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable, provided that the parties shall use all reasonable endeavours to cure any such events or circumstances and resume performance under these Conditions. If any events or circumstances prevent the Council from carrying out its obligations under these Conditions for a continuous period of more than 40 Working Days, either party may terminate this Contract immediately by giving written notice to the other.

15 CONSEQUENCES OF TERMINATION

15.1 On termination of these Conditions, each party shall procure that all data and other material belonging to the other party (and all media of any nature containing information and data belonging to the other party), shall be delivered to the other party.

15.2 On termination of these Conditions for any reason, the Customer shall immediately pay to the Council all of the Council's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Council may submit an invoice, which shall be payable immediately on receipt.

15.3 The provisions of Clause 1.1 (Definitions), Clause 10 (Liability), Clause 11 (Data and Confidentiality), Clause 14 (Termination) and this Clause 15 (Consequences of Termination) shall survive termination or expiry of these Conditions.

16 GENERAL

16.1 Subject to the Clause 7 (Changes), no variation of this Contract shall be effective unless it is in writing and signed by the parties.

16.2 No forbearance or delay by either party in enforcing its respective rights will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

16.3 Subject to the specific limitations set out in these Conditions, no remedy conferred by any provision of these Conditions is intended to be exclusive of any other remedy except as expressly provided for

in these Conditions and each and every remedy shall be cumulative and shall be in addition to every other remedy given under these Conditions or existing at law or in equity by statute or otherwise.

16.4 If any of the provisions of these Conditions is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced.

16.5 Nothing in these Conditions shall be construed as constituting a partnership between the parties or as constituting either party as the agent of the other for any purpose whatsoever except as specified by the terms of these Conditions.

16.6 Neither party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Contract without the prior written consent of the other party, not to be unreasonably withheld or delayed.

16.7 No term of these Conditions is intended to confer a benefit on, or to be enforceable by, any person who is not a party to these Conditions (other than a successor to or a permitted assignee of a party to these Conditions).

16.8 Notices shall be in writing and shall be sent to the other party marked for the attention of the person at the address set out for such party in these Conditions. Notices may be sent by first-class mail. Correctly addressed notices sent by first-class mail shall be deemed to have been delivered 72 hours after posting.

16.9 These Conditions, the Order and the documents referred to in it contain the whole agreement between the parties relating to the subject matter of these Conditions and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

16.10 These Conditions may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of these Conditions, but all the counterparts shall together constitute the same agreement.

16.11 These Conditions and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England. The parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Conditions or its subject matter.

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