

TERMS AND CONDITIONS – BUSINESS TO BUSINESS (including schools and academies)

UNIFORM DIRECT

1 Interpretation

1.1 In these Conditions the following definitions apply:

Business Day	means a day other than Saturday, Sunday and public holidays;
Buyer	means the school, academy, local authority, company, business or firm who purchases Goods from the Seller identified and whose details are set out in the Order;
Buyer's Project Manager	means the Buyer's manager of the Contract appointed in accordance with clause 12.1.8.
Conditions	means the terms and conditions set out in this document;
Confidential Information	means any commercial, financial or technical information, information relating to products, plans, know-how or trade secrets which is obviously confidential or has been identified as such, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Contract;
Contract	means a contract between the Company and the Buyer for the sale and purchase of the Goods, incorporating these conditions, for the onward supply or sale of the Goods by the Buyer to third parties;
Delivery Location	means the address for delivery of the Goods as set out in clause 8.1;
Designs	means badges, logos, emblems, lettering, numbering, stripes, or any other application to the Goods;
Force Majeure	means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract including (but not limited to) an act of God, fire, flood, epidemic, lightning, earthquake or other natural disaster; war, protests, riot or civil unrest, strike, lockout or boycott or other industrial action; interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service; or material required by for performance of the Contract, except any party's failure to pay shall not be an event of Force Majeure in any event;
Goods	means the goods, related accessories and other deliverables set out in the Order and to be supplied by the Seller to the Buyer and for the avoidance of doubt the expression Goods shall be deemed to include both finished goods and raw materials;
Intellectual Property Rights	means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information,

rights to sue for passing off, chip topography rights, mask works, utility models, domain names and all similar rights and, in each case:

- (a) whether registered or not;
- (b) including any applications to protect or register such rights;
- (c) including all renewals and extensions of such rights or applications;
- (d) whether vested, contingent or future,;
- (e) to which the Seller is or may be entitled; and
- (f) in whichever part of the world existing;

Parent Order	includes the guardian or other person having custody or control of the child in question; means the Buyer's order for the Goods or Services from the Seller as set out in the Buyer's written acceptance of the Seller's quotation for the supply of Goods or Services or the Seller's written confirmation of a verbal order which has been acknowledged by the Buyer or the Buyer's request to supply or stock which is accepted or confirmed by the Seller;
Seller	means Rockford Trading Company Limited (Company Registration No. 03162572) whose registered office is Dixon House, Dixon Way, Lincoln, England, LN6 7XN;
Seller's Project Manager	means the Seller's manager for the Contract appointed in accordance with clause 11.1;
Services	means services set out in the Order to be supplied by the Seller to the Buyer;
Specification	means the description or specification of the Goods set out in the Order and provided by the Seller;
Value Added Tax or VAT	means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Goods;
written or in writing	includes faxes and email;
Year	means a consecutive period of 12 months.

1.2 Unless the context otherwise requires:

- 1.2.1 each gender includes the others;
- 1.2.2 the singular includes the plural and vice versa;
- 1.2.3 references to the Contract include these Conditions, the Order and its schedule (if any);
- 1.2.4 references to persons include individuals, unincorporated bodies, government entities, companies and corporations;

- 1.2.5 clause headings do not affect their interpretation;
- 1.2.6 general words are not limited by example; and
- 1.2.7 references to any legislation will be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

2 Application of these terms and conditions

- 2.1 These Conditions apply and form part of the Contract between the Seller and the Buyer. They supersede any previously issued terms and conditions of supply.
- 2.2 No terms or conditions endorsed on, delivered with, or contained in the Buyer's purchase order, confirmation of order, specification or other document will form part of the Contract.
- 2.3 No variation of these Conditions or to an Order, or to a quotation from the Seller will be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of the Seller.
- 2.4 Each Order by the Buyer to the Seller will be deemed to be an offer to purchase Goods or Services and subject to these Conditions.
- 2.5 The Seller reserves the right at all times to reject any Order, in whole or in part, at its sole discretion.
- 2.6 Any quotation by the Seller for the provision of Goods or Services will be deemed to be:
 - 2.6.1 an invitation to treat (and shall not be an offer) by the Seller to supply Goods or Services on and subject to these Conditions until the Seller sends an acknowledgment of the order to the Buyer; and
 - 2.6.2 will be valid for 28 days only from the date of issue provided that the Seller has not previously withdrawn it.
- 2.7 A Contract will be formed upon the earlier to occur of:
 - 2.7.1 written acceptance by the Seller of the Buyer's Order (for the avoidance of doubt, written acceptance can be done by the use of e-mail, such acceptance being sent as soon as reasonably practicable); or
 - 2.7.2 the execution of a specific written agreement by both the Seller and the Buyer.

3 Orders

- 3.1 Subject to any variation under clause 3.6 and clause 14, the Contract shall be on these conditions to the exclusion of all other terms and conditions.
- 3.2 These Conditions apply to all the Seller's sales, including all future orders, to a Buyer other than to a private individual (where alternative terms and conditions shall apply).
- 3.3 The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in the Contract or an Order.
- 3.4 The Buyer shall enter into the Contract for the purchase of the Goods from the Seller and/or for supply by the Buyer to Parents or other end users. The Goods may be delivered by the Seller either to the Buyer or direct to the Parent or end user, as agreed between the Buyer and the Seller.
- 3.5 The Buyer acknowledges that the Seller will purchase the Goods on its behalf once an acceptance of a quotation or offer has been given to the Seller. The Seller purchases the Goods in good faith with the expectation that it will be reimbursed by the Buyer during the period in which the Contract is in place.

- 3.6 The Buyer may order further quantities of the Goods anytime but the price may be subject to revision from that charged for the initial order.
- 3.7 Where a Buyer enters into a Contract with the Seller:
- 3.7.1 the Seller shall complete a stockholding forecast of the quantity of the Goods which the Seller will hold for the Buyer and forecast delivery dates, such forecasts are at the sole discretion of the Seller. The Seller may ask the Buyer to provide its own forecasts, but such forecasts do not have to be adhered to by the Seller;
 - 3.7.2 the forecasts in clause 3.7.1 are commitments of the Buyer to the Seller under the Contract. The Buyer agrees to the stock numbers and forecast dates proposed by the Seller, and that such numbers and dates are at the sole discretion of the Seller and can be subject to change after disclosure of forecast on the Seller giving reasonable notice;
 - 3.7.3 where Goods are to be supplied to the Buyer direct and not by the Seller, the Buyer shall draw down the Goods in batches between the forecast dates in question;
 - 3.7.4 the Seller shall invoice the Buyer under clause 6 for each batch of the Goods drawn down;
 - 3.7.5 the Buyer may make additional orders under clause 3.6, to increase the size of the stockholding of the Goods under clause 3.7.1; and
 - 3.7.6 the Buyer shall buy from the Seller, take delivery of and pay for, any stock of the Goods still on order, in transit or held by the Seller or subject to an order by the Seller from any third party at the end of the forecast dates in question at retail value.
- 3.8 Where the Seller agrees with the Buyer to supply an agreed quantity of Goods under clause 3, the Buyer agrees and undertakes not to change the Design of the Goods any sooner than the end of the forecast dates under clause 3.7.1 or the giving at least 12 months written notice to the Seller (whichever is the later).
- 3.9 Should the Buyer change the Design or Specification, the Buyer agrees to buy from the Seller at retail value, no later than the end of the forecast dates under clause 3.7, all unsold stock of the Goods still held by the Seller, or in transit or on order from the Seller's suppliers.
- 3.10 Where additional quantities of Goods are ordered by the Buyer from the Seller, the Seller will use reasonable endeavours to supply these within 3 weeks but a period of up to 12 weeks should be allowed by the Buyer for the supply of such Goods (dependant on product commissioned). Time shall not be of the essence;
- 3.11 *The cancellation or "cooling off", periods under regulations 10 – 12 of the Consumer Protection (Distance Selling) Regulations 2000, and Part 3 of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 as amended, do not apply to a Contract for the purchase of Goods or Services from the Seller.*
- 3.12 Should the Buyer have a Design applied to the Goods or alter the Goods in any way after the Goods have left the Seller's control, then the Seller shall refuse to permit the return by the Buyer to the Seller of such Goods.
- 3.13 Subject to the provisions of clause 18 of these conditions where the Seller encounters problems sourcing the Goods from its suppliers, it reserves the right to supply substitute Goods of an equivalent quality. The determination as to what is deemed as equivalent quality under this clause 3.13 shall be at the sole discretion of the Seller.
- 3.14 For the avoidance of doubt the Buyer has no right to cancel any Order.

4 Description

All samples, drawings, descriptive matter, specifications and advertising issued by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

5 Price

5.1 Unless otherwise agreed by the Seller in writing, the price for the Goods will be as set out in the Order or in default of such provision will be calculated in accordance with the Seller's standard scale of charges when Invoiced.

5.2 The price:

5.2.1 excludes packaging, delivery, insurance and storage costs, which will be charged at the Seller's rate as from time to time prevailing and

5.2.2 does not include Value Added Tax which will be charged in addition at the then applicable rate.

5.3 The Seller reserves the right to increase the price for any unsold or undelivered Goods:

5.3.1 by giving 45 days' written notice to the Buyer, such increase to take effect in respect of any relevant Goods delivered after the expiry of such notice; or

5.3.2 with immediate effect by written notice to the Buyer, where such increase arises as a consequence of any increase in the direct cost to the Seller of supplying the relevant Goods which is due to any factor beyond the control of the Seller.

6 Payment

6.1 The Seller shall issue its invoice for the Goods or Services within 30 days of date of an Order.

6.2 The Buyer will pay all invoices as set out in the Order, without deduction or set-off other than as required by law, in cleared funds within 14 days of date of each invoice, and

6.2.1 to the Seller's nominated bank account.

6.3 Time of payment is of the essence. Where sums due hereunder are not paid in full by the due date:

6.3.1 the Seller may, without limiting its other rights, charge interest on such sums at 8% a year above the base rate of the Bank of England from time to time in force, and

6.3.2 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.

6.4 VAT will be charged by the Seller and paid by the Buyer at the then applicable rate.

7 Credit limit

The Seller may set and vary credit limits from time to time and withhold all further supplies if the Buyer exceeds such credit limit.

8 Delivery

8.1 Unless otherwise agreed in writing by the Seller or specified in the Order, delivery of the Goods shall take place at the Seller's place of business.

8.2 The Buyer shall then take delivery of the Goods within 14 days of the Seller giving it notice that the goods are ready for delivery.

- 8.3 Any dates specified by the Seller for delivery of the goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 8.4 The Goods will be deemed delivered:
- 8.4.1 if delivered by or for the Seller on arrival of the Goods at the Delivery Location; or
 - 8.4.2 if collected by the Buyer, on completion of loading at the Seller's, or carrier's as the case may be, premises.
- 8.5 The Goods may be delivered by instalments. Any delay in delivery or defect in an instalment will not entitle the Buyer to cancel any other instalment.
- 8.6 Delivery of the Goods, or part thereof, will be accompanied by a delivery note stating:
- 8.6.1 the date of the Order;
 - 8.6.2 the relevant Buyer and Seller details;
 - 8.6.3 the type and quantity of Goods in the consignment;
 - 8.6.4 any special handling and other instructions; and
 - 8.6.5 whether any materials are to be returned (in which case the Buyer will, at the Seller's option, return them to the Seller or make them available for collection by the Seller at a time specified by the latter, and in either case at the Buyer's expense).
- 8.7 The Seller will not be liable for any delay in or failure of delivery caused by:
- 8.7.1 the Buyer's failure to: (i) make the Delivery Location available, (ii) prepare the Delivery Location or (iii) provide the Seller with adequate instructions, for delivery or otherwise relating to the Goods;
 - 8.7.2 the Buyer's failure to collect the Goods from the Seller's premises; or
 - 8.7.3 an event of Force Majeure.
- 8.8 Any liability of the Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.
- 8.9 If the Buyer fails to accept delivery of or collect the Goods as provided in this clause 8 on the date or within the period set out in the Order:
- 8.9.1 delivery of the Goods will be deemed to have occurred at 09:00 on the fifth Business Day following such date; and
 - 8.9.2 the Seller will store and insure the Goods pending delivery, and the Buyer will pay all costs and expenses incurred by the Seller in doing so.
- 8.10 If thirty Business Days following the due date for delivery or collection of the Goods, the Buyer has not taken delivery of or collected them, the Seller may resell or otherwise dispose of the Goods. The Seller will:
- 8.10.1 deduct reasonable storage charges and costs of resale; and
 - 8.10.2 account to the Buyer for any excess of the resale price over, or invoice the Buyer for any shortfall of the resale price below, the price paid by the Buyer for the Goods.
- 8.11 The quantity of any delivery of Goods as recorded by the Seller on dispatch from the Seller's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery, unless the Buyer can prove the contrary.

8.12 The Seller will not be liable for any reasonable excesses and/or deficiencies in the quantity of the Goods delivered up to a variation of 10% between the Goods ordered and the Goods delivered. Where such excess or deficiency is less than or equal to 10%, the Buyer is not entitled to reject such Goods on the grounds that they are not precisely as specified in the Order. Accordingly, the Buyer shall pay for such Goods on a pro rata basis in accordance with these terms and conditions.

9 Title and risk

9.1 Risk in the Goods will pass to the Buyer on delivery under clause 8.1.

9.2 Title to the Goods will pass to the Buyer once the Seller has received payment in full for the Goods.

9.3 Until title to the Goods has passed to the Buyer, the Buyer will:

9.3.1 hold the Goods as bailee for the Seller;

9.3.2 store the Goods separately from all other material in the Buyer's possession;

9.3.3 take all reasonable care of the Goods and keep them in reasonable condition;

9.3.4 insure the Goods: (i) with a reputable insurer (ii) from the date of delivery (iii) against all risks (iv) for an amount at least equal to the price (v) noting the Seller's interest on the policy. On request the Buyer shall produce the policy of insurance to the Seller;

9.3.5 ensure that the Goods are clearly identifiable as belonging to the Seller;

9.3.6 not remove or alter any mark on or packaging of the Goods;

9.3.7 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

9.3.8 inform the Seller as soon as possible if it becomes subject to any of the events set out in clause 19.1; and

9.3.9 provide the Seller such information concerning the Goods as the Seller may request from time to time.

9.4 Notwithstanding clause 9.3, the Buyer may use or resell the Goods in the ordinary course of its business until such time as it becomes aware or ought reasonably to have become aware that an event specified in clause 19.1 is or is likely to occur and provided that:

9.4.1 any sale or supply shall be effected in the ordinary course of the Buyer's business at full market retail value; and

9.4.2 any sale or supply shall be a sale of the Seller's property on the Buyer's own behalf and the Buyer shall deal as principal when making such sale or supply..

9.5 If, at any time before title to the Goods has passed to the Buyer, the Buyer informs the Seller, or the Seller reasonably believes, that the Buyer has or is likely to become subject to any of the events specified in clause 19.1, the Seller may:

9.5.1 require the Buyer at the Buyer's expense to re-deliver the Goods to the Seller; and

9.5.2 if the Buyer fails to do so promptly, enter any premises where the Goods are stored and repossess them.

9.6 The Seller shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods have not passed from the Seller. Payment for the Goods will be at retail value. Any special rates or discounts previously given to the Buyer are not applicable.

- 9.7 Where the Buyer's right to possession has been terminated the Buyer grants the Seller, its agents and employees an irrevocable licence at any time to enter the premises where the Goods are or may be stored in order to inspect them and recover them.
- 9.8 Where the Seller is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Seller to the Buyer in the order in which they were invoiced to the Buyer.
- 9.9 On termination of the Contract, howsoever caused, the Seller's (but not the Buyer's) rights contained in this clause 9 shall remain in effect.

10 Warranty

- 10.1 Subject to these Conditions the Seller warrants that, for a period of 1 month from delivery, the Goods will:
- 10.1.1 conform in all material respects to their description and the Specification;
 - 10.1.2 be free from material defects in design, material and workmanship;
 - 10.1.3 be of satisfactory quality within the meaning of the Sale of Goods Act 1979, as amended.
 - 10.1.4 be reasonably fit for any purpose.
- 10.2 The Seller will, at its sole discretion, repair, replace or refund the price of defective Goods, provided that and subject to clause 10:
- 10.2.1 the Buyer informs the Seller in writing promptly on discovery that some or all of the Goods do not comply with clause 10.1, and, if the defect is as a result of damage in transit to the carrier, within 5 days of the time when the Buyer discovers or ought to have discovered the defect; and
 - 10.2.2 the Buyer gives the Seller a reasonable opportunity to examine the defective Goods;
 - 10.2.3 the Buyer returns the defective Goods to the Seller at the Buyer's expense.
- 10.3 These Conditions will apply to any Goods repaired or replaced under clause 10.2.
- 10.4 The Seller will not be liable for any failure of the Goods to comply with clause 10.1:
- 10.4.1 where such failure arises by reason of fair wear and tear, accident or mishandling, wilful damage, negligence of the Buyer or any third party, abnormal working conditions, or could be expected to arise in the normal course of use of the Goods;
 - 10.4.2 where Goods are shop soiled or have discoloured due to lengthy periods in store or use;
 - 10.4.3 to the extent caused by the Buyer's failure to comply with the Seller's oral or written instructions in relation to the Goods, including any instructions on installation, operation, storage and maintenance or (if there are none) good trade practice;
 - 10.4.4 to the extent caused by the Seller following any specification or requirement of the Buyer in relation to the Goods;
 - 10.4.5 where the Buyer modifies or repairs any Goods without the Seller's prior written agreement or, having received such agreement, not in accordance with the Seller's instructions; or
 - 10.4.6 where the Buyer uses any of the Goods after notifying the Seller that it does not comply with clause 10.1.

- 10.5 Except as set out in this clause 10:
- 10.5.1 the Seller gives no warranty in relation to the Goods; and
 - 10.5.2 will be under no liability for their failure to comply with the warranty in clause 10.1.
- In particular, the conditions implied by ss 13–15 of the Sale of Goods Act 1979 and ss 9-11 and 13 of the Consumer Rights Act 2015 are expressly excluded to the fullest extent permitted by law.

10.6 The Buyer warrants that it has disclosed to the Seller full details of all relevant pre-existing suppliers to the Seller.

11 Obligations of the Seller

- 11.1 The Seller shall appoint the Seller's Project Manager who shall have authority to contractually bind the Seller on all matters relating to the Contract. The Seller shall use reasonable endeavours to ensure that the same person acts as Seller's Project Manager throughout the Contract, but may replace him from time to time where reasonably necessary in the interests of the Seller's business.
- 11.2 The Seller on written request from the Buyer shall provide the Buyer with the stockholding forecasts of the quantity of the Goods that it intends to order and hold on behalf of the Buyer throughout the Contract. The Seller will provide the figures within a reasonable time following receipt of the request. All figures provided by the Seller to the Buyer under this clause 11.2 are subject to reasonable change.

12 Obligations of the Buyer

- 12.1 The Buyer will:
- 12.1.1 act in good faith at all times;
 - 12.1.2 at its cost to comply with all instructions and regulations from time to time issued by the Seller (including adherence to all notice provisions stated by the Seller in the Contract);
 - 12.1.3 to comply with all laws and regulations from time to time issued by the Department of Education and all other Government and Quasi Government organisations;
 - 12.1.4 provide in a timely manner such information as the Seller may request, including product forecasts, and ensure that such information is accurate in all material respects;
 - 12.1.5 place all Orders on these Conditions and ensure that the contents of any Order are complete and accurate;
 - 12.1.6 ensure that the Specification and Design which it provides is complete and accurate and contains all information the Seller may require;
 - 12.1.7 co-operate fully with the Seller in relation to delivery or collection of the Goods;
 - 12.1.8 appoint the Buyer's Project Manager, who shall have authority to contractually bind the Buyer on matters relating to the Contract;
 - 12.1.9 obtain all necessary approvals, licences and consents for the performance of the Contract
 - 12.1.10 inform the Seller of any event hosted by the Buyer in the upcoming calendar Year, including such events which involves the gathering of Parents and allow the Seller to
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- (a) attend the events and set up a stall at the events and promote its business through leaflet advertisements and sell Goods to Parents at the events
 - (b) and/or; send marketing materials for the Buyer to display and to distribute to Parents;
- 12.1.11 on the request of the Seller or on termination of the Contract return any marketing materials and all other equipment provided by the Seller at its cost to the Seller within 30 days in its original condition;
- 12.1.12 notify the Seller if it intends to enter into a supplier agreement with a competing business of the Seller and provide details to the Seller of any forecast figures agreed with that business;
- 12.1.13 place a link to the Seller's website on its website and to encourage the purchase of Goods to be done through such link;
- 12.1.14 not dispose of or use any of the Seller's materials without the Seller's prior written agreement; and
- 12.1.15 adhere to all notice provisions contained within the Contract and any Order.
- 12.2 The Buyer will indemnify and keep indemnified the Seller against all costs, claims, demands, loss and expense and otherwise arising whether directly or indirectly from any act or omission on the part of the Buyer, its servants, agents, employees or otherwise.
- 12.3 If the Seller's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Buyer or the Buyer's agents, sub-contractors or employees, the Buyer shall in all circumstances be liable to pay to the Seller on demand all reasonable costs, charges, losses sustained or incurred by it (including, without limitation, any direct or indirect consequential losses, loss of profit and loss of reputation, loss or damage to property, injury to death of any person and loss of opportunity to deploy resources elsewhere), subject to the Seller confirming such costs, charges and losses to the Buyer in writing.

13 Liability

- 13.1 The Seller does not exclude its liability:
 - 13.1.1 for death or personal injury caused by its negligence; or
 - 13.1.2 for breach of the terms implied by the Consumer Rights Act 2015, s 12 of the Sale of Goods Act 1979 and by s 2 of the Supply of Goods and Services Act 1982; or
 - 13.1.3 for defective products under the Consumer Protection Act 1987; or
 - 13.1.4 for fraud or fraudulent misrepresentation.
- 13.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 13.3 The Seller will not be liable for:
 - 13.3.1 loss of data or use;
 - 13.3.2 any form of indirect, consequential or special loss; or
 - 13.3.3 any loss of or failure to realise expected profit, revenue or savings or any other form of pure economic loss, whether any such loss is direct or indirect;and, in each case, however arising.

13.4 Other than as set out above, the Seller limits its liability (however arising) in respect of or in connection with the Goods in any instalment, and otherwise in connection with the Contract, to the total price of Goods in that instalment.

14 Co-operation and Collaboration

14.1 If required by either party the Seller's Project Manager and the Buyer's Project Manager shall meet at least once every 12 months to discuss matters relating to the Contract. The meetings will take place at the times and places specified by the Seller. The Seller will provide an agenda for the meeting 14 days in advance of the meeting. If either party wishes to change the scope of the Contract or an Order, it shall submit details of the requested change to the other in writing for consideration.

14.2 In any event the Buyer shall keep the Seller advised of its ongoing requirement for Goods and revise such projections and estimates whenever appropriate.

14.3 If the Buyer requests a change to the scope or execution of the Contract or an Order, the Seller shall, within a reasonable time, provide a written statement to the Buyer of:

14.3.1 whether the change can be agreed

14.3.2 the likely time required to implement the change;

14.3.3 any variations to the Seller's charges arising from the change; and

14.3.4 the likely effect of the change on the Contract.

14.4 If the Seller requests a change to the scope of the Contract, the Buyer shall not unreasonably withhold or delay consent to it.

14.5 If the Buyer wishes the Seller to proceed with a change to the Contract or an Order, the Seller has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to its charges and any other relevant terms of the Contract to take account of the charge. Should the Parties be unable agree to the Seller's charges 30 days after the Buyer notifies the Seller of the proposed changes to the Contract or an Order, at the Seller's sole discretion can choose to terminate the Contract in line with the provisions in clause 19 of these Conditions.

15 Intellectual Property Rights

15.1 All Designs and Intellectual Property Rights furnished to or made available to the Seller by the Buyer or obtained by the Seller in connection with the Order shall remain vested solely in the Buyer.

15.2 All Designs and Intellectual Property Rights developed, furnished to or made available to the Buyer by the Seller shall remain vested solely in the Seller. The Buyer is prohibited to copy, replicate or pass any of the Seller's Designs or Intellectual Property Rights unless they have the written consent of the Seller.

15.3 The Buyer warrants to the Seller that:

15.3.1 the Buyer is the sole registered proprietor of the Intellectual Property Rights and Designs and has the power to enter into a licence;

15.3.2 so far as the Buyer is aware the use of the Designs or the Intellectual Property Rights does not infringe the rights of any third party; and

15.3.3 the Buyer will maintain any relevant registrations for the Designs and Intellectual Property Rights.

15.4 The Intellectual Property Rights in anything arising out of the Order shall vest in the Buyer.

- 15.5 The Buyer shall grant the Seller with a non-exclusive royalty-free licence to use and copy any of the Buyer's Designs relating to the supply of Goods or Services. The Seller has no title to or right in the Designs or Intellectual Property Rights except as granted under these terms and conditions. All use of the Designs and Intellectual Property Rights will be for the benefit of the Buyer, and the goodwill generated by the Seller's operations under this licence (but no other goodwill) will be held in trust by the Seller for the Buyer.
- 15.6 The Buyer shall indemnify the Seller against all loss, damages and costs incurred by the Seller arising from breach by the Buyer of clause 15.3, including any damages or other amounts paid in compromise or settlement of any action, claim or proceeding brought against the Seller as a consequence of any such breach.
- 15.7 The provisions of this clause 15 shall apply both during the Contract and after its completion or its termination.
- 15.8 For the avoidance of doubt the Seller is entitled to sell any Goods containing any Designs or Intellectual Property Rights belonging to the Buyer after the Contract is terminated to any third party should the Buyer refuse to purchase said Goods from the Seller.

16 Third party Intellectual Property Rights infringement

- 16.1 The Seller will, at its option, defend or settle any action brought against the Seller or the Buyer arising from any claim that the use of the Goods by the Buyer in accordance with the Contract infringes any third party Intellectual Property Right.
- 16.2 The Seller's obligations under clause 16.1 will not apply to Goods modified or used by the Buyer other than in accordance with these Conditions. The Buyer will indemnify the Seller against all reasonable costs and expenses incurred by the Seller in connection with any claim arising from such modification or use.
- 16.3 The Seller's obligations under clause 16.1 are conditional on the Buyer:
- 16.3.1 promptly advising the Seller in writing of any claim or action;
 - 16.3.2 making no admission as to, or settlement or compromise of any claim or action without the Seller's prior written consent;
 - 16.3.3 giving the Seller sole conduct of any defence and any settlement negotiations; and
 - 16.3.4 co-operating fully with the Seller and providing the Seller with all reasonable assistance in the defence or settlement of such claim or action.
- 16.4 If the Seller in its absolute discretion decides, the Buyer permits the Seller to take action against any third party which infringes the Buyer's Intellectual Property Rights.
- 16.5 The Seller's obligations under clause 16.4 are conditional on the Buyer:
- 16.5.1 promptly advising the Seller in writing of any known infringements by third parties;
 - 16.5.2 making no contact, compromise, claim or action without the Seller's prior written consent;
 - 16.5.3 giving the Seller sole conduct of any claim and any settlement negotiations; and
 - 16.5.4 co-operating fully with the Seller and providing the Seller with all reasonable assistance in such claim or action.
- 16.6 The Buyer's reasonable costs of compliance with clauses 16.3.3 and 16.3.4 and/or 16.5.3 and 16.5.4 will be paid by the Seller.
- 16.7 The provisions of this clause 16 set out the Seller's entire liability and the Buyer's sole right in respect of third party Intellectual Property Rights infringement claims or actions.

17 Confidentiality

- 17.1 Each party shall keep confidential all Confidential Information of the other party and will only use the other's Confidential Information as required to perform the Contract. The provisions of this clause will not apply to:
- 17.1.1 any information which was in the public domain at the date of the Contract;
 - 17.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
 - 17.1.3 any information which is independently developed by the other party without using information supplied by the first party; or
 - 17.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.
- 17.2 This clause 17 will remain in force for a period of two years after termination of the Contract.

18 Force Majeure

- 18.1 The Seller reserves the right to defer the date of delivery of an Order or to cancel an Order or the Contract, or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to an event of Force Majeure.
- 18.2 The Seller will not be liable if delayed in or prevented from performing its obligations due to and event of Force Majeure, provided that it:
- 18.2.1 promptly notifies the Buyer of the event of Force Majeure and its expected duration; and
 - 18.2.2 uses reasonable endeavours to minimise the effects of that event.
- 18.3 If, due to an event of Force Majeure, the Seller:
- 18.3.1 is or will be unable to perform a material obligation; or
 - 18.3.2 is delayed in or prevented from performing its obligations for a continuous period exceeding 30 days then the parties will, within 30 days, renegotiate the Contract to achieve, as nearly as possible, the original commercial intent.

19 Termination

- 19.1 The Contract may be terminated forthwith at any time by the Seller on written notice to the Buyer if:
- 19.1.1 the Buyer commits a material breach, or series of breaches resulting in a material breach, of the Contract and such breach is not remediable or if capable of remedy is not remedied within 15 days of written notice to do so;
 - 19.1.2 the Buyer suspends or threatens to suspend payment of its debts, or is unable to pay its debts as they fall due;
 - 19.1.3 the Buyer (a) negotiates with its creditors for rescheduling of its debts, (b) makes a proposal to or compounds with its creditors in respect of its debts or (c) makes an application to court for protection from its creditors generally;
 - 19.1.4 the Buyer passes a resolution for winding-up or for the appointment of an administrator, or a liquidator or administrator is appointed in relation to the other, or a winding-up order is made in relation to the other ;

- 19.1.5 a receiver or administrative receiver may be or is appointed in relation to the Buyer or any of its assets;
- 19.1.6 any creditor of the Buyer attaches, takes possession of, or any distress, execution or similar process is levied or enforced against, all or any part of the Buyer's assets, and such attachment or process is not discharged within 14 days;
- 19.1.7 the Buyer takes or suffers any action similar to any of the above in any jurisdiction;
- 19.1.8 there is a material change in the management, ownership or control of the Buyer (for the avoidance of doubt a material change includes the appointment of a new head teacher or Buyer Project Manager);
- 19.1.9 the Buyer suspends trading, ceases to carry on business, or threatens to do either;
- 19.1.10 the Buyer encumbers, or in any way charges, any of the Goods;
- 19.1.11 the Buyer is in the process of changing its status to an academy or be part of any merger or acquisition (either voluntarily or involuntarily);
- 19.1.12 the Buyer is put under Special Measures as defined in s62 of the Education and Inspection Act 2006 by the Department of Education or any other governmental body;
- 19.1.13 the Buyer, (being an individual) dies or ceases to be capable of managing his own affairs; or
- 19.1.14 the Buyer is subject to an event of Force Majeure under clause 18.
- 19.2 In addition to its rights under clause 19.1 the Seller may terminate the Contract at any time by giving 15 days' written notice to the Buyer if the Buyer has failed to pay any amount due under the Contract on the due date.
- 19.3 On termination of the Contract for any reason:
 - 19.3.1 the Buyer will immediately pay all invoices of the Seller then outstanding and not disputed in good faith;
 - 19.3.2 the Seller will, within 14 Business Days, invoice the Buyer for all Goods subject to an order by the Seller from any third party, in transit, delivered or provided but not yet invoiced and the Buyer will pay such invoice within a further 14 Business Days;
 - 19.3.3 Buyer will forthwith return any materials of the Seller then in its possession or control; if it fails to do so, the Seller may enter onto any premises owned by or under the control of the and take possession of them;
 - 19.3.4 the accrued rights and liabilities of the parties will not be affected; and
 - 19.3.5 any clause which expressly or by implication are to survive termination will do so.
- 19.4 Notwithstanding notice being given pursuant to the provisions of this clause 19 nevertheless the Buyer shall pay the price of all finished goods and raw materials held by the Seller or on the Seller's behalf or for which the Seller shall have placed orders from third parties or in transit. To the extent that the provisions of this clause 19.4 shall apply the price (including any packaging, delivery, insurance and storage costs), shall be fixed by the Seller in its absolute discretion but nevertheless acting reasonably and shall be payable by the Buyer to the Seller immediately on presentation of the relevant invoice. Time of payment shall be of the essence.

20 General

20.1 Assignment

20.1.1 The Seller may assign the Contract or any part of it to any person, firm or company and enter into franchise agreements relating to the Goods.

20.1.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.

20.2 Time

Unless stated otherwise, time is not of the essence of any date or period specified in these Conditions, the Order or otherwise in the Contract.

20.3 No set-off

All payments by the Buyer will be made without set-off or counterclaim, free and clear of and without deduction for any tax, levy, duty, charge, or withholdings of any kind now or in the future, imposed in any jurisdiction unless a party is compelled by law to deduct or withhold any such amounts, in which case it will pay to the other such additional amount as will ensure that the other is paid the full amount it would have received but for such deduction or withholding.

20.4 Relationship

The parties are independent businesses and not principal and agent, partners, or employer and employee.

20.5 Severability

If any part of the Contract is found by a court, tribunal or other administrative body of competent jurisdiction to be unenforceable or invalid for any reason, that provision is to be severed from the Contract and the remaining provisions of the Contract will otherwise remain in full force.

20.6 Notices

Notices under the Contract will be in writing and sent to the persons and addresses set out in the Order. They may be given, and will be deemed received:

20.6.1 by first-class post: two Business Days after posting;

20.6.2 by airmail: seven Business Day after posting;

20.6.3 by hand: on delivery;

20.6.4 by e-mail: on receipt of a delivery or read receipt mail from the correct address.

20.7 Waiver

No delay, act or omission by either party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy.

20.8 Rights of Third Parties

The Contract is not enforceable by any third party under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

20.9 Priority

In the event of conflict, the terms of these Conditions prevail over those of the Order, including its schedule (if any).

20.10 Entire Agreement

The Contract constitutes the entire agreement between the parties in relation to its subject matter. No other terms apply.

20.11 Succession

The Contract will bind and benefit each party's successors and personal representatives.

20.12 Governing Law & Jurisdiction

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

20.12.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).