

Lexonik Products Terms and Conditions 29.5.24

1. INTERPRETATION

1.1. The definitions and rules of interpretation in this clause apply in this Contract.

The following definitions apply:-

"Booking Confirmation" that part of the Order Form providing details relevant to any training (including if relevant refresher training) to be provided to the School by Lexonik;

"Confidential Information" subject to clause 13.2 information (in whatever form) relating to or connected with the business, customers or financial or other affairs of Lexonik which is of a commercially confidential or sensitive nature and details of which are not in the public domain including, without limitation:-

- any such information concerning or relating to Intellectual Property of the Company any future projects, business development or planning, commercial relationships and negotiations;
- the marketing of the products or other services including Lexonik's proposals to further develop or introduce new products and services, and
- and any information in respect of which the Company is bound by an obligation of confidence to a third party;

"Data Protection Addendum" means the document bearing this title which where relevant is attached to these Terms and Conditions;

"Effective Date" the date upon which the Order Form is signed by Lexonik;

"Intellectual Property Rights" (or "Intellectual Property" patents, rights to inventions, copyright and related rights, trade marks (whether registered or unregistered), trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database right, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

"Lexonik" means Sound Training for Reading Limited Trading as Lexonik;

"Lexonik Licence" the licence(s) granted to a Customer as specified in the Order Form;

"Licence Upgrade" an upgraded licence as described in Clause 4.2 requested by the Customer and granted by Lexonik;

"Loan Materials" all documents, resources and materials provided by Lexonik to the Customer in whatever form, including but not limited to packs of cards, flashcards, manuals, online support materials and boxes which are used in the delivery of Lexonik Products to be provided by Lexonik in the quantities referred to in the Order Form;

"Nominated Staff" means members of staff of the Customer nominated by the Customer who are identified in the Order Form (or any update to that information advised to Lexonik) and that have signed the Intervention Teacher Contract, as participants in the relevant Product or who are to be participants in the provision of any Services provided by Lexonik

"Online Resources" all teaching material, resources and content, including on-screen and downloadable material, available at www.lexonik.co.uk;

"Order Form" the information sheet (incorporating any agreed Booking Confirmation) attached to these Terms and Conditions;

"Price Tariff" the pricing as published by Lexonik as applicable to the Product or Service to which an order relates;

"Lexonik Products" Such training, resources, services or combined packages of the aforementioned, as described in the Product Terms;

"Product Terms" means the supplemental terms and conditions attached to these Terms and Conditions relating to the Product or other Service provided to the Customer by Lexonik;

"School Site" the School's address as set out in the Booking Confirmation;

"Services" the services to be provided by Lexonik to the Customer as described in the Order Form;

"Support Services" as applicable the services identified as support services in the Order Form;

"Terms and Conditions" or **"Conditions"** means these terms and conditions

"Training Venue" as indicated in the Order Form this will be either at the school premises nominated by the Customer or one of the venues nominated by Lexonik at which training events are to be hosted including online platforms where referred to in the relevant product terms;

"User Access Rights" the rights (which are personal to identified individuals) to access and download any Online Resources; and

"VAT" value added tax chargeable under English law for the time being and any similar additional tax.

- 1.2. Any Contract entered into by Lexonik shall comprise:-
 - 1.2.1. the Order Form;
 - 1.2.2. any relevant Product Terms which are attached to the Order Form;
 - 1.2.3. these terms and conditions; and
 - 1.2.4. The Data Protection Addendum and
 - 1.2.5. The Intervention Teacher Contract
- 1.3. Clause and paragraph headings shall not affect the interpretation of this Contract.
- 1.4. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.5. Words in the singular shall include the plural and vice versa.
- 1.6. A reference to writing or written includes letters but not e-mail.
- 1.7. Where the words include(s), including or in particular are used in this Contract, they are deemed to have the words without limitation following them. Where the context permits, the words other and otherwise are illustrative and shall not limit the sense of the words preceding them.
- 1.8. Any obligation in this Contract on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.9. Where against any item in the Order Form is marked "N/A" or "not applicable" that item and the relevant terms within these Conditions identified are to be regarded as not applicable to the relevant Contract.
- 1.10. References to clauses are to the clauses of this Contract.

2. AGREEMENT

- 2.1. Acceptance by the Customer of an offer to provide a Product or deliver Services to the Customer shall be demonstrated either by the Customer signing and returning the Order Form or in any event and notwithstanding a request by Lexonik for return of the Order Form duly signed permitting Lexonik to commence to meet its obligations under the Contract.
- 2.2. Notwithstanding clause 2.1 Lexonik shall not be obliged to commence to perform the Contract until such time as it has received a purchase order from the Customer.

3. COMMENCEMENT AND DURATION

- 3.1. The Contract and any licences granted hereunder shall be treated as commencing on receipt of the Customer acceptance or acceptance being deemed to have been given as provided for under clause 2.1 but subject always to clause 2.2. The Contract shall continue (subject to any termination provided for under these Conditions) until the relevant Expiry Date or if no Expiry Date is provided for upon completion of delivery of any Services to be provided by Lexonik. Each Licence granted under the Contract shall terminate co-terminus with the Contract or in the case of any Nominated Staff member leaving the employment of the Customer or ceasing to spend time engaged in delivering under Lexonik Licence at a School that has the benefit of the Contract upon the date that person ceases to be employed by the Customer or ceases to spend time engaged in delivering under the relevant Lexonik Licence.
- 3.2. The Contract and any licences granted may be renewed in the manner provided for by Clause 4 of these Terms and Conditions.
- 3.3. Where this Contract provides for the delivery of training services (such as Initial Training and Certification) Lexonik shall subject in all cases to any postponement or cancellation that arises under the Contract deliver the Services to the Customer at such time or times as is provided for in the Booking Confirmation or as otherwise agreed in writing between the Parties.

4. RENEWAL

- 4.1. The Customer's participation in any Lexonik Licence is provided on an annual basis expiring on the date specified in the Order Form. All licences granted in conjunction with the relevant Product, the rights to hold and use Loan Materials and access to the Online Resources shall also expire unless the Customer has renewed its participation under an offer of such renewal made by Lexonik.
- 4.2. Where the Customer has purchased an Advance Licence Upgrade the commitment period entered into by the Customer shall be as specified in the relevant Order Form and the pricing committed to by Lexonik shall be as also specified in that Order Form. Subject to clause 16.3 no right of termination shall apply for the period specified in the Order Form and the contract shall auto renew at each anniversary date until expiry of the period provided for within the upgrade. Clauses 4.3, 4.4 and 4.5 shall not apply at the time of renewal.
- 4.3. Lexonik will advise the Customer by notice in writing no later than 28 days before the expiry date of any Lexonik Licence of any offer to renew the Customer's participation in any Lexonik Licence for a further period.
- 4.4. The notice provided by Lexonik shall (if not already provided for in the Order Form) specify the cost of renewal and may draw attention to any

revisions made to the Terms and Conditions under which Lexonik provides the product if any revisions have been implemented by Lexonik since the last renewal date and which shall form part of the Contract (to the exclusion of the previous Terms and Conditions) with effect from the renewal date.

4.5. Lexonik will no later than 7 days prior to the expiry date issue an updated Order Form providing information relevant to the renewal including if appropriate a new Booking Confirmation against which Lexonik will provide any further required training and which will confirm the details of the current Nominated Staff.

5. LEXONIK PRODUCTS AND SERVICES DELIVERY

5.1. From the Effective Date the Customer shall (subject to clause 2.2) be entitled to have access to the Products or Services requested as provided for in the Order Form. The rights available to the Customer may include all or some of the following and are as expressly set out in the relevant Product Terms.-

5.1.1. Access to training on-site at the Customer location confirmed in the Booking Confirmation;

5.1.2. An invitation to attend a training event organised at a location or, where relevant, online platform specified by Lexonik;

5.1.3. Provision of Loan Materials in the quantities specified in the Order Form, for use by Nominated Staff only, in accordance with the Intervention Teacher Contract

5.1.4. Subject to Clause 6, a licence for the number of teachers provided for in the Order Form to access, download and use Online Resources as provided for in Clause 6 of these Conditions;

5.1.5. Any further support or materials identified as available to the Customer as specified in the Product Terms.

6. LICENCE TO DOWNLOAD AND USE ONLINE RESOURCES

6.1. Where the Order Form so provides, the Customer is entitled to access during the continuation of its participation in the Lexonik Licence (but not thereafter), download and use the Online Resources always subject to the provisions of this Clause 6.

6.2. Participation in any Lexonik Licence is granted to the Customer but shall be personal to and only available to identified Nominated Staff of the School that participates in the Lexonik Licence.

6.3. Online Resources may be accessed on a school wide basis.

6.4. The Customer shall ensure that each Nominated Staff member retains as personal and confidential account authentication details necessary in order to access the Online Resources and shall not share these details. Customers that are Academy Trusts are required to limit access to and use of Licenced Products to the specific school or schools that have requested any Lexonik Licence provided.

6.5. Lexonik may require each Nominated Staff member to confirm directly to Lexonik the undertaking referred to at paragraph 6.4 in such terms as Lexonik shall reasonably require.

6.6. Where Loan Materials are made available in downloadable form these are provided strictly subject to their use being restricted to Nominated Staff.

6.7. Lexonik shall be entitled to suspend the Customer's rights under this Clause 6 if it has any reason to believe that the terms of this Clause are not being complied with by the Customer.

7. LEXONIK'S OBLIGATIONS

7.1. Lexonik shall provide Loan Materials as stated in the Order Form

7.1.1. Only Nominated Staff may use the Loan Materials, and the same must have signed an Intervention Teacher Contract.

7.2. Lexonik shall where relevant to the Customer ensure that the Online Resources (and any Loan Materials that are available on an online basis) are available for access by the Customer subject to any periods of planned or unplanned maintenance relating to the website location of the Online Resources. Lexonik shall use reasonable endeavours to notify the Customer whenever it becomes aware of any planned maintenance is necessary but carries no responsibility for and no duty to notify any periods of unplanned maintenance not at any time of any issues that may affect the Customers ability to access the Online Resources which are circumstances outside of the control of Lexonik.

7.3. Where the Product purchased by the Customers includes training for teaching staff who are to be engaged in delivering the Product, the Order Form indicates whether the training is to be delivered at a venue provided by the Customer or will be delivered through the attendance of appropriate staff at the Company's regional or online training events.

7.4. Lexonik shall deliver the Product to the Customer (where so stated in the Booking Form) at the Customer Site or where so specified provide the

Customer with reasonable notice of the date, time and location of any regional training session that is to be provided.

7.5. Where the training is to be delivered at the Customer's premises:-

7.5.1. Lexonik shall deliver the Product to the Customer from the date set out in the Booking Confirmation.

7.5.2. Lexonik shall use reasonable endeavours to ensure that its personnel who are delivering the Product observe all health and safety rules and regulations and any other reasonable security requirements that apply at the School Site and that have been communicated to it under clause 8.2.5, provided that it shall not be liable under this Contract if, as a result of such observation, it is in breach of any of its obligations under this Contract.

7.5.3. All trainers engaged by Lexonik to deliver the Product will hold a current and clear DBS Certificate. Lexonik will provide confirmatory evidence of the status of staff upon reasonable request.

7.6. In the event that, for whatever reason, the trainer provided by Lexonik is unable to deliver the Product on any one particular session, then Lexonik will arrange, with the agreement of the Customer, an alternative date on which the session which was missed can be delivered. Where the training is provided on a regional or online basis Lexonik may in exceptional circumstances postpone the holding of the training event. Lexonik shall give as much notice of such postponement as it is able to and shall arrange to provide the training that was postponed on the earliest available date that proves practicable for Lexonik.

7.7. Lexonik shall comply with any further obligations described as Lexonik commitments in the relevant Product Terms.

8. CUSTOMER'S OBLIGATIONS

8.1. The Customer shall advise Lexonik of any individual member of staff who is to be a Nominated Staff member to deliver Lexonik Products or participate in Lexonik Training where that individual's details were not available at the time of the Booking Confirmation. Any inability of the Customer or delay in the Customer nominating individuals to be a Nominated Staff member shall not be a reason for Lexonik not proceeding with the delivery of the Lexonik Training.

8.2. The Customer shall:-

8.2.1. Promptly provide a Purchase Order covering the total costs of Lexonik Products and/or any Services that form part of the Contract and shall update the Purchase Order at the time of any renewal of the Lexonik Product Licence where specified in the relevant Product Terms;

8.2.2. co-operate with Lexonik in all matters relating to the delivery of Lexonik Products or Services;

8.2.3. where the Product referred to is a Lexonik Intervention advise Lexonik of the names and email addresses and reasons for the selection of any individuals who are nominated at any time whether in substitution for any departing member of staff or to complete the quota of staff entitled to participate in the Lexonik Intervention or to benefit from any Services. These Nominated Staff must sign the Intervention Teacher Contract to enable use of Lexonik licensed resources, or these resources must be returned to Lexonik immediately.

8.2.4. Provide to Lexonik and its personnel in a timely manner access to the Customer Site, classrooms and other facilities as reasonably required by Lexonik;

8.2.5. inform Lexonik of all health and safety rules and regulations and any other reasonable security requirements that apply at the Customer Site;

8.2.6. give Lexonik not less than 48 hours notice of any need to postpone a session of the initial training, for whatever reason, to enable it to be re-scheduled, if less than 48 hours notice is given, the Customer acknowledges that it is liable to pay the proportion of the charges that relates to that session and that it will, in addition, in such circumstances, pay the charges applicable to the re-scheduled session;

8.2.7. ensure that the Online Resources provided by Lexonik pursuant to this Contract are only accessed and used for the benefit of the Customer.

8.3. If Lexonik's performance of its obligations under this Contract is prevented or delayed by any act or omission of the Customer, or its employees, Lexonik shall:

8.3.1. be entitled to reduce the number of weeks over which the Lexonik Licence is delivered or a reasonable appropriate timescale for other Lexonik Products covered under this Contract;

8.3.2. be paid the full amount of the charges referred to in the Order Form; and 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.

8.4. Following expiry of or any termination of the Contract (or if earlier upon completion of any Licence for which the Loan Materials are dedicated) to return to Lexonik at the expense of the Customer the Loan Materials.

8.5. The Customer shall be liable to pay to Lexonik, on demand, all reasonable costs, charges or losses sustained or incurred by Lexonik (including any

direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this Contract or the breach of any licence granted under the Contract whether the breach is the responsibility of or was caused by the Customer or any member of staff of the Customer, subject to Lexonik confirming such costs, charges and losses to the Customer in writing.

8.6. The Customer shall comply with any further obligations described as Customer commitments in the relevant Product Terms.

9. LOAN MATERIALS

9.1. Where the Order Form specifies that Loan Materials are to be made available, they will be made available in the quantity described in the Order Form. Lexonik shall (following receipt of the payment due from the Customer to Lexonik) deliver to the Customer the Loan Materials.

9.2. Loan Materials are provided subject to their use being limited to Nominated Staff.

9.2.1 Nominated Staff must sign the Intervention Teacher Contract agreeing the terms of use of the Loan Materials. If this Intervention Teacher Contract is not signed by each Nominated Staff member, the Loan Materials assigned to that Staff member must be returned to Lexonik immediately and must not be used.

9.3. The Customer shall remain responsible for Loan Materials for so long as the Customer is entitled to retain the same ensuring that all reasonable care is taken of the Loan Materials.

10. CHARGES AND PAYMENT

10.1. In consideration of the delivery of the Product and/or any Services by Lexonik, the Customer shall pay the charges as set out or provided for in the Order Form.

10.2. The charges exclude VAT, which Lexonik shall add to its invoices at the appropriate rate.

10.3. The Customer shall pay each invoice submitted to it by Lexonik, in full and in cleared funds, within 30 days of receipt to a bank account nominated in writing by Lexonik.

10.4. Without prejudice to any other right or remedy that it may have, if the Customer fails to pay Lexonik on the due date, Lexonik may:

10.4.1. charge interest on such sum from the due date for payment at the annual rate of 4% above the base rate from time to time being of Barclays Bank Plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment the Customer shall pay the interest immediately on demand; and

10.4.2. suspend the delivery of the Product and any web access that the Customer is entitled to have until payment has been made in full.

10.5. All sums payable to Lexonik under this Contract shall become due immediately on termination of the Contract despite any other provision. This clause 10.5 is without prejudice to any right to claim for interest under the law, or any such right under this Contract.

11. INTELLECTUAL PROPERTY RIGHTS

11.1 **The Customer acknowledges that all Intellectual Property Rights in the Loan Materials, the Online Resources and any other resources or materials made available by Lexonik or provided by Lexonik to the Customer, in whatever form are the property of Lexonik and the Customer shall have no rights in or to the same other than the right to use them in accordance with these terms and conditions.**

11.2 Without prejudice to any other rights or remedies that Lexonik may have, the Customer acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this agreement and any infringement of its Intellectual Property Rights by the customer. Accordingly, Lexonik shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of these Terms and Conditions and/or any infringement of Lexonik's Intellectual Property Rights.

12. CUSTOMER USER RESTRICTIONS

12.1 **The Customer shall limit access to the Loan Materials to Nominated Staff, and ensure that each Nominated Staff member has signed the Intervention Teacher Contract.**

12.2 **The Customer and each Nominated Staff member shall ensure that the Loan Materials are stored securely.**

12.3 **The Customer and each Nominated Staff Member shall:**

12.3.1 **not copy, reproduce, modify, extract, reutilise, distribute or disseminate the Loan Materials and/or Online Resources, or any part or the spirit of them; and**

12.3.2 **take all steps necessary to prevent unauthorised access, copying, modification, reproduction, display or distribution of the Loan Materials and Online Resources and immediately notify Lexonik in writing giving full particulars of any actual, suspected or threatened unauthorised disclosure, copying, misappropriation or misuse of the Loan Materials and/or Online Resources that comes to its attention.**

13. CONFIDENTIALITY AND LEXONIK'S PROPERTY

13.1. The Customer shall keep in strict confidence all Confidential Information that have been disclosed to the Customer by Lexonik, its employees, agents, consultants or subcontractors and any other Confidential Information which the Customer may obtain.

13.2. The Customer may disclose such information:

13.2.1. to its staff who need to know such information for the purposes of carrying out the Customer's obligations under this Contract and to undertake activities associated with the Product; and

13.2.2. as may be required by law, court order or any governmental or regulatory authority.

13.3. The Customer shall ensure that its staff to whom it discloses such information comply with this clause 13.

13.4. The Customer shall not use any such information for any purpose other than for purposes that arise in the course of the performance of the Contract.

13.5. Information shall not be regarded as confidential or shall subsequently cease to be confidential in the event that the information:-

13.5.1. where the Confidential Information enters the public domain otherwise than as a result of a breach of this clause 13.

13.5.2. disclosure of the Confidential Information to any person in compliance with any requirement of law provided that any such information shall be disclosed only to the extent required by law and only after consultation with the other Party;

13.5.3. disclosure of the Confidential Information to the professional advisors of the relevant Party provided that the same is subject to an enforceable duty of confidentiality owed by that advisor to the relevant Party.

LIMITATION OF LIABILITY

13.6. This clause 13 sets out the entire financial liability of Lexonik (including any liability for the acts or omissions of its employees, agents, consultants and subcontractors) to the Customer in respect of:

13.7. any breach of this Contract however arising;

13.8. any use made by the Customer of the Product; and

13.9. any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Contract.

13.10. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Contract.

13.11. Nothing in this Contract limits or excludes the liability of Lexonik:

13.11.1. for death or personal injury resulting from negligence; or

13.11.2. for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by Lexonik.

13.12. Subject to clause 13.11 Lexonik shall not under any circumstances whatever be liable for any special, indirect or consequential losses suffered or incurred by the Customer.

13.13. Lexonik's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this Contract shall be limited to the price paid for the Product and/or any Services that Lexonik was obliged to provide.

14. CANCELLATION RIGHTS

14.1. Where the Customer is to have the benefit of any entitlement to cancel the Contract or any part of the Product and/or Services to be provided by Lexonik this is expressly provided for in the Product Terms. The right to a rebate or refund (if any) of any payments due to or made to Lexonik shall be as expressly provided for in the relevant Product Terms with no other rights of rebate or refund being available.

15. TERMINATION

15.1. This Contract shall terminate automatically on completion of the delivery of the Product.

15.2. Without prejudice to any other rights or remedies which the parties may have, either party may terminate this Contract without liability to the other immediately on giving notice to the other if:

- 15.2.1. the other party fails to pay any amount due under this Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment; or
- 15.2.2. the other party commits a material breach of any of the material terms of this Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- 15.2.3. the other party repeatedly breaches any of the terms of this Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Contract.
- 15.3. On termination of this Contract for any reason:
- 15.4. the Customer shall immediately pay to Lexonik all of Lexonik's outstanding unpaid invoices and interest and, in respect of any Product which has either been delivered in full or in part but for which no invoice has been submitted, Lexonik may submit an invoice, which shall be payable immediately on receipt this being also the due date for payment for the purposes of clause 10.4.1;
- 15.5. the accrued rights, remedies, obligations and liabilities of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 16. CONSEQUENCES OF TERMINATION AND POST TERMINATION DUTIES**
- 16.1. On termination of the Contract by either party for whatever reason all rights and licences granted pursuant to the Contract shall cease;
- 16.2. The Customer shall immediately cease and take all steps necessary to ensure all nominated Staff Members cease, all use of the Loan Materials and Online resources and **the Customer shall immediately return to Lexonik at its own expense all Loan Materials in its possession, custody or control.** If the loan materials are not received by Lexonik within five Business Days of the date of termination Lexonik shall be deemed to have a licence to enter any premises of the Customer at which Lexonik reasonably believes the Loan Materials or any of them may be situated and be entitled to recover the same.
- 16.3. With effect from the date of termination any access available to Online Resources shall cease.
- 16.4. Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.
- 17. DATA PROTECTION**
- The provisions of the Data Protection Addendum shall apply and form part of this Contract.
- 18. VARIATION**
- 18.1. No variation of this Contract shall be valid unless it is in writing and signed by or on behalf of each of the parties.
- 18.2. The Customer shall (subject to compliance with all relevant requirements of these Conditions) be entitled to nominate an alternative appropriate member of staff in substitution for a Nominated Staff member for the Lexonik Intervention in the event that for any reason the Nominated Staff member ceases to benefit from the Lexonik Intervention Licence and the Customer shall in any event nominate an appropriate substitute member of staff in the event that the Nominated Staff member cannot deliver the programme.
- 19. ENTIRE AGREEMENT**
- 19.1. This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, arrangements, understandings or agreements between them, whether written or oral, relating to the subject matter of this Contract.
- 19.2. Each party acknowledges that, in entering into this Contract, it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that its only liability in respect of those representations and warranties that are set out in this Contract (whether made innocently or negligently) shall be for breach of contract.
- 19.3. Nothing in this clause shall limit or exclude any liability for fraud.
- 20. ASSIGNMENT**
- 20.1. The Customer shall not, without the prior written consent of Lexonik, assign, transfer, subcontract or deal in any other manner with all or any of its rights or obligations under this Contract.
- 20.2. Lexonik may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights or obligations under this Contract.
- 20.3. Each party that has rights under this Contract is acting on its own behalf and not for the benefit of another person.
- 21. NO PARTNERSHIP OR AGENCY**
- Nothing in this Contract is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 22. RIGHTS OF THIRD PARTIES**
- A person who is not a party to this Contract shall not have any rights under or in connection with it.
- 23. ACADEMISATION AND SCHOOL REBROKERING**
- 23.1. In the event that the School becomes subject to either of the following:-
- 23.2. If not already a School with Academy status becoming an Academy whether as a Single Academy Trust or within a Multi-Academy Trust; or
- 23.3. Becomes subject to the process referred to as Rebrokering under which proprietorship of the School transfers from one Academy Trust to another Academy Trust; then
- 23.4. the benefit and the obligations within this Contract shall transfer on the same date and at the same time as the School's proprietorship changes provided that Lexonik is released on such terms as Lexonik acting reasonably propose from any future liability to the predecessor proprietor and the new proprietor confirms adoption of the Contract this being confirmed by the issue of a Purchase Order in the name of the new proprietor expressly referring to the Contract that is to transfer to that party.
- 23.5. If the new proprietor shall fail to comply with the requirements of clause 23.1 then Lexonik shall be entitled without prejudice to other rights available to Lexonik under the Contract to suspend performance of the Contract until such time as there has been due compliance by the new proprietor.
- 24. NOTICES**
- 24.1. A notice given to a party under this Contract shall be in writing, shall be signed by or on behalf of the party giving it, and shall be sent for the attention of the person, at the address number specified in this clause (or to such other address or person as that party may notify to the other, in accordance with the provisions of this clause) and shall be delivered personally, sent by commercial courier, or sent by pre-paid first-class post or recorded delivery.
- 24.2. The addresses for service of a notice are as set out in the Order Form,
- 24.3. If a notice has been properly sent or delivered in accordance with this clause, it will be deemed to have been received as follows:
- 24.4. if delivered personally, at the time of delivery; or
- 24.5. if delivered by commercial courier, at the time of signature of the courier's receipt; or
- 24.6. if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second day after posting.
- 24.7. A notice required to be given under this Contract shall not be validly served if sent by e-mail.
- 25. DISPUTE RESOLUTION**
- 25.1. If any dispute arises in connection with this Contract, a suitably qualified representative of Lexonik and a suitably qualified representative of the School shall, within 7 days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.
- 25.2. If the dispute is not resolved at that meeting, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. To initiate the mediation, a party must give notice in writing (ADR notice) to the other party requesting a mediation. A copy of the request should be sent to CEDR Solve. The mediation will start not later than 14 days after the date of the ADR notice.
- 25.3. The commencement of a mediation will not prevent the parties commencing or continuing court proceedings.
- 26. GOVERNING LAW AND JURISDICTION**



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- 26.1. This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.
- 26.2. The parties irrevocably agree that the courts of England and Wales shall have jurisdiction to settle any dispute or claim that arises out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

AMENDED 29.5.24