

# Terms and Conditions

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**Between:**

Complete Education Solutions Limited registered in England and Wales under registration number 10631033 whose registered office is at C/O Hooton Nursery, Hooton Road, Hooton, Ellesmere Port, CH66 1QU and referred to as "CES", "We", "Us", "Our"

**And**

You the user of our software and services described below and hereinafter referred to as the "Community", "You", "Your".

## Definitions and Interpretation

1. In this privacy policy the following definitions are used:

<b>Acknowledgement</b>	The email confirmation that confirms your order
<b>Account holders</b>	Community users who register directly via the online systems
<b>Admintools</b>	Administration and reporting tools made available to the Community
<b>Attendees</b>	Staff members nominated by Customer to receive training
<b>Community Members</b>	Children (including but not limited to; Name, Date of Birth, Class and Year, ), Staff (including but not limited to Name and Email Address) and imported/registered parent details (including but not limited to Specifically, Name, Date of Birth, Mobile Number and Email Address)
<b>Community Information</b>	Data requested by CES and/or requested by Payment Scheme Facilitators (Visa/MasterCard/HMRC) to satisfy Know-Your-Client (KYC) requirements in force at the time
<b>Data Protection Laws</b>	Data Protection Act 1998 and any other applicable data protection or privacy laws or regulations, including laws governing use of personal data in connection with electronic communications and equivalent applicable laws in any jurisdiction, in each case as amended, replaced or updated from time to time
<b>Fee</b>	Charges set out in the relevant Schedule payable by You
<b>Intellectual Property Rights</b>	All vested contingent and future intellectual property rights including goodwill, reputation, rights in confidential information, copyright, trademarks, logos, service marks, devices, plans, models, diagrams, specifications, source and object code materials, data and processes, design rights, patents, know-how, trade secrets, inventions, set-up,

	database rights (whether registered or unregistered) and any applications or registrations for the protection of these rights and all renewals and extensions thereof existing in any part of the world whether now known or in the future created
<b>OST</b>	The delivery of iPEP end user training at the school premises on the services provided by CES
<b>Password</b>	Personal identification name(s) or number(s) as may be allocated to the Community initially by CES on commencement of the Services to allow access by the system and to the Admintoools
<b>Renewal Date</b>	The renewal date specified in the order confirmation email sent to the community upon first subscription
<b>Services</b>	The usage of our on site training and the digital platforms provided by CES including but not limited to: iPAL, iPEP, Edutapp by the Community, including, without limitation, communication services, online payment processing and related maintenance services
<b>Usernames</b>	means usernames for the use of the Services
<b>Websites</b>	Sites owned and operated by CES
<b>Subscription</b>	The monthly or annual payment for the 12 month software access Licence purchased.
<b>Licence</b>	Software purchased from CES is sold as a 12 month or longer Licence to access and use the software.

2. In this policy, unless the context requires a different interpretation:
  - The singular includes the plural and vice versa.
  - References to sub-clauses, schedules or appendices are to sub-clauses, clauses, schedules or appendices of this privacy policy.
  - A reference to a person includes firms, companies, government bodies, trusts and partnerships.
  - “including” also means “including without limitation”.
  - Reference to any statutory provision includes any modification or amendment of it.
  - The headings and sub-headings do not form part of this privacy policy.
3. CES agrees to provide login details, online platform services, data backup and support to the Community, in consideration the Community is willing to acquire and pay for those Services, subject to the provisions of this Agreement.
4. By ordering use of Services from CES you agree to abide by and accept these terms and conditions. We may update and amend the terms for use off our platforms and your continued use of the Services will constitute your acceptance of such updated or amended terms. In the event of any conflict between these terms and the terms on our websites the terms on our websites shall prevail. Accepting these terms and conditions shall form a binding contract between you and CES and your acceptance shall be deemed to have occurred upon you ordering or using any of the CES Services.

## Usernames and Passwords

5. CES shall allocate such Username and Password to the initial user of our Service in order to allow access to and use of the Admintoools. The Community shall at all times comply with the conditions of use of Usernames and Passwords as specified here or notified to the Community from time to time.
6. CES may withdraw a Username and Password and allocate a new Username and Password to the Community where there is reason to believe such Username or Password has been discovered and/or used by a person without the knowledge, consent or permission of the Community and on such other occasion as CES shall deem necessary in its reasonable opinion.
7. CES shall change the Username and Password where the Community requests a change to the Username and Password and reserves the right to withdraw the Username and Password from the Community where in its opinion there are reasonable grounds for believing the Community has not complied or is not complying with this Agreement or if this Agreement or any part of this Agreement is terminated or suspended for any reason.
8. It is the Community's responsibility to keep any Username and Password allocated to the Community safeguarded and to treat the same confidential and personal to the Community. The Community undertakes to notify CES of any data breach on their system.
9. Upon CES becoming aware of any Username or Password have or may have become known to an unauthorised third party. The information will be changed and notified to the Community Member effected.
10. Access to the Admin tools by the Community may only be gained through the use of the Community's master Username and Password. The Community is responsible for all access and use of the Admin tools where such access and use is obtained through the use of the Community's Username and Password, irrespective of whether such access and use has been authorised by the Community.

## Your Protection/Privacy

11. Our privacy policy forms part of this Agreement and is hereby incorporated by reference. This is displayed on Our Website or You can request a copy from any CES employee.

## Your Responsibilities

12. To accept full responsibility for all information provided by You or Your Community Members and to have obtained all permissions to share this data.
13. To maintain the confidentiality of your Username and Password.
14. Not to allow your Username and Password to be used by any third party for the purposes of accessing and copying the Services, or for using it for the development of a competitive product or reverse engineering any part of the Services.
15. To use the Services strictly in accordance with this Agreement.
16. Not to use the Services outside of the agreed purposes at point of sale.

17. Not to publish any information found on the Services without the written permission of CES.
18. To ensure any and all images and text uploaded onto Our Software are free from any copyright claim or You have the express permission from the copyright owner to use such images or text.

## Our Rights

19. CES reserves the right to suspend and/or terminate Your use of and access to any or all of the Services for any breach or suspected of this Agreement at its sole discretion without liability to You
20. Information from Our software may only be reproduced with the prior written consent of a director of CES.
21. Our designs, software code, graphics, the trademarks, banners, logos and other marks appearing on the Website are and shall remain the property of CES and any rights not expressly granted to You in respect of such rights are hereby reserved.

## Operation of Services

22. CES reserves the right to withdraw or modify any and all elements of the Services where there are legal or technical reasons to do so.
23. CES also reserves the right to require You to change Your Username, Password or other information facilitating access to the platforms whether for security or any other reasons.

## Additional Services

24. CES, its partners and associates may from time to time add to the Services offered pursuant to this Agreement and via the Website from time to time.
25. Use of any additional Services may be subject to additional terms and conditions which you will be required to agree to before you are able to access such Services.
26. Such terms and conditions will be notified to you either by being made available on the Services or in such other manner as may at its sole discretion reasonably determine (email, postal mail, fax or other electronic delivery mechanism).
27. CES reserves the right to discontinue, delete and change the content for purposes of the Services from time to time.
28. CES may also from time to time offer new and separate Services. Use of such additional Services may be subject to separate Service descriptions and terms and conditions.

## Community Obligations, Payment Services

29. The Community shall comply with CES's third party payment service terms and conditions. For more information visit [stripe.com](https://stripe.com), [gocardless.com](https://gocardless.com) and [rapyd.net](https://rapyd.net)
30. You agree to pay any charges, fees or processing costs linked to using card payment services.

31. The Community will maintain true and accurate records to enable CES and/or the Payment Scheme Facilitator to ensure the Merchant's compliance with the terms of this Agreement.
32. The Merchant will permit CES and/or the Payment Scheme Facilitator to have access to all of the Merchant's records that may reasonably be required for the purpose of verifying the Merchant's compliance with the terms of this Agreement.
33. Card payments through stripe incur a 3%+20p per transaction charge deducted from the funds received by you. (i.e £10 charged, you will receive £9.50) *Stripe is being phased out on our platform, no new boarding on this processor is allowed.*
34. Card payments through Rapyd incur a 2.8%+15p per transaction charge deducted from the funds received by you.
35. Rapyd pay out once a week at a cost of 20p per settlement. (Bank transfer)
36. All card payment charge rates may decrease or increase on card payment processor and industry changes.

## Community Obligations, On Site Training

37. CES will acknowledge orders for OST by email; this acknowledgement will detail training dates, times and venues and/or alternatives.
38. CES will use reasonable endeavours to ensure that the OST provided is delivered with reasonable skill and care and to a professional standard.
39. The time period scheduled for each OST Session is as detailed on the acknowledgement from CES and includes reasonable time for questions on the content as requested by the customer. In the event that the training is completed within the allocated time period resulting in an early finish; no adjustment will be made to the Fee.
40. CES reserves the right to cancel or re-arrange any allocated dates for OST at any time. If agreement on rescheduled dates cannot be reached with the Customer, CES shall provide the Customer with a full refund of the relevant Fee.
41. The Customer may reschedule the OST by providing a minimum of seven (7) FULL working day notice. Failure to provide such notice will result in the full Fee remaining due for the original training date. Alternative dates can be agreed subject to availability and the minimum notice as above.
42. Cancellation 'on the day' of training will result in the full amount being payable and loss of the training. In this event a further order for training will be required prior to any re-booking.
43. The customer shall ensure that all Attendees have adequate competence, knowledge and skill to interpret and benefit from the OST provided by CES.
44. The number of Attendees may not exceed a maximum number for the session agreed unless variation is authorised.
45. CES is not responsible for any travel arrangements, accommodation requirements and other costs incurred by Attendees relating to attendance.
46. CES shall have no responsibility for any costs arising due to cancellation howsoever arising.

## Intellectual Property

47. CES is the non-exclusive licensee of all Intellectual Property Rights in the Services (and any product of the Services).
48. Neither this Agreement nor any licence or sub-licence granted under this Agreement shall be construed to convey or transfer any ownership or proprietary interest in any Intellectual Property Rights in the Services (or any product of the Services) to the Community or any third party.
49. You accept sole responsibility for ensuring information, images and text uploaded at Your request or by You, is free from any intellectual property right and copyright infringements.
50. No part of Our systems may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission, except in the case of brief quotations embodied in critical reviews and certain other noncommercial uses permitted by copyright law.
51. Under fair usage, we will permit for downloading, printing and storing of our software during the lifetime of your subscription. This is revoked on the day your subscription ends. See Subscription Cancellation.

## The Community Agrees that:

52. It shall not decompile or reverse-engineer any software used to provide the Services, or assist or procure any person to decompile or reverse-engineer software used to provide the Services, or provide information to any person about de-compilation of the software for any purpose
53. Shall not embed any part of the software forming part of the Services into any other product or software, without CES's prior written consent.
54. It will not sell, license, lease, rent, loan, lend, transmit, network, or otherwise distribute or transfer the Services in any manner to third parties.
55. It will safeguard access to the Service through the appropriate use of systems not limited to software firewalls, virus control systems, wireless security and physical access control systems.
56. It will not misuse any Intellectual Property Rights in the Services (or in any product of the Services)
57. Not to cause or permit anything which may damage or endanger the Intellectual Property Rights in the Services (or in any product of the Services) or assist or allow others to do so; and
58. To indemnify CES for any liability incurred by CES to third parties for any use by the Community of the Intellectual Property Rights in the Services (or in any product of the Services) otherwise than in accordance with this Agreement.

## Warranty

59. CES does not warrant that the functions of the Services will meet any particular requirements or that their operation will be entirely error-free or that all defects are

capable of correction or improvement. Except as set out in this Agreement, all conditions, warranties and representations, expressed or implied by;

- i. statute
- ii. common law
- iii. otherwise, in relation to the Services are excluded.

In the absence of fraud, no oral or written information or advice given by CES or its agents or licensees shall create a warranty or give rise to any other liability other than as is given in this Agreement.

60. The Community acknowledges that the operation of the Services depends on services provided by telecom and internet connection operators and, by their nature, may from time to time be adversely affected by data traffic volumes, atmospheric conditions, causes of interference and may fail or require maintenance without notice. CES does not warrant third party services.

## **Data Protection**

61. Our data protection policy forms part of this Agreement and is hereby incorporated by reference. This is displayed on Our Website or You can request a copy from any CES employee.

## **Liability**

62. CES shall not be liable for any content or information created or transmitted by the Community.

63. Neither party is liable to the other party, whether for negligence, breach of contract, misrepresentation or otherwise, for:

- Loss or damage incurred by the other party as a result of third party claims.
- Loss of profit, goodwill, business opportunity or anticipated saving suffered by the other party.
- Indirect or consequential loss or damage suffered by the other party.

64. Subject to clauses 59 and 61, the entire liability of CES in aggregate in any 12 month period under or in connection with this Agreement, whether for negligence, breach of contract, misrepresentation or otherwise, is limited to the total charges (excluding VAT) paid by the Community to CES in respect of the Services in the 12 month period preceding the date of the breach.

65. Neither party limits its liability with respect to any claim for death and/or personal injury caused by its negligence or for fraud or fraudulent misrepresentation or in any other circumstances where liability may not be limited under any applicable law.

66. Neither party shall be liable to the other in respect of any breach of this Agreement caused by revocation or alteration of any licence, permission or authorisation governing the operation of the Services, or Internet and telephone connections.

67. The invalidity, illegality or unenforceability of a provision of any clause of this Agreement does not affect or impair the continuation in force of the remainder of the clauses of this Agreement.

68. The Community shall indemnify and keep indemnified CES from and against all losses, costs (including legal and other professional costs and expenses), penalties, payments or liabilities whatsoever arising out of or in connection with:

- Any claim being made or defence raised against CES by any third party where such a claim or defence is a direct or indirect result of any act or omission on the part of the Community.
- The Community's negligence, default or breach of the terms of this Agreement.
- A breach by the Community of Data Protection Laws.
- Any fraud or attempted fraud by the Community or any of the Community's employees or agents.
- Any loss of goodwill, business, or reputation suffered by CES as a result of a Community's default or negligence.
- Any community's access or abuse of the Admintoools.

69. Except as specifically provided in this agreement, the platforms and its content are provided "as is" and CES disclaims, and You waive, any warranty, express or implied, as to the Community ability, fitness for a particular use or purpose, title, non-infringement or any other warranty, condition, guarantee or representation related to the Website and its content and those arising by statute or otherwise in law or from a course of dealing or usage of trade.

70. The functions, materials and content of the platforms are not warranted to be uninterrupted or without error, and CES its providers do not warrant the accuracy, currency or reliability of accuracy, currency or reliability of information on the platforms.

71. You assume the entire risk and cost of repairs or corrections to your hardware or software due to the use of the Website or Software.

72. Your use of the Website and Software is entirely at Your own risk.

73. CES and the directors, officers, employees, licensors, agents or affiliates of CES shall not be liable to You or to and third parties for any damage to Your computer from use of the Website or any viruses, or for any direct, indirect or consequential loss or damage (including without limitation lost profits), whether based in contract, tort, strict liability or otherwise, which you may incur in connection with the use or non-performance of the Website, including without limitation loss of profits, loss of revenues, business interruption or other pecuniary loss even if CES has been advised of the possibility of such damages or loss.

## Subscriptions, Payments, Trials and Refunds

74. Upon receipt of order an invoice will be issued to the Community for the subscription (annual or multi-year) plus any other charges due from the Community to CES.

75. Payment is required within 30 days of the date of the invoice.

76. Payment may be spread via monthly instalments.

77. All contracts are a minimum of 12 calendar months.

78. Upon default, the balance of any contract will be payable in full.

79. Any late payment fees, surcharges or interest is applicable to the full amount outstanding until the renewal date.

80. CES offers no refunds of subscriptions for unused or cancellations.

81. Should the Service not be used for whatever reason, CES shall not be responsible for this lack of use and no refund will be payable.
82. Subscription renewal invoices will be automatically sent to the Community on or around the renewal date.
83. Details of charges can be found on your invoice or contract.
84. We reserve the right to revise or introduce charges for any service provided at our discretion, but any intent to charge will be notified 30 days prior to any introduction or variation unless enforced by a 3rd party i.e. legal requirement.
85. From time to time, we may offer trials of our services for a specified period without payment (a "Trial"). CES reserves the right, in its absolute discretion, to determine customer eligibility for a Trial, and to withdraw or to modify a Trial at any time without prior notice and with no liability.
86. You may cancel the trial at any time by contacting us in writing before it concludes, at which point your account will be closed and no charges will be made. In the event that no cancellation is received your account will automatically upgrade to an annual subscription and an invoice will be issued for such on the first day following the end of the Trial.
87. End of subscription renewals may be subject to an annual price increase, You agree to pay any new renewal prices provided to you on renewal.
88. Renewal subscriptions will be automatically agreed to if not cancelled within 30 days of a quote being sent.
89. All automatically renewed contracts for software will be for 12 months.
90. The Software is licensed, not sold. Under this Agreement, We give You the right to use the Software during the term of your contract Subscription. Updating or upgrading from nongenuine software does not make your original version or the updated/upgraded version genuine, and in that situation you do not have a license to use the software.

## Late Payment Surcharge

91. Unless otherwise agreed in writing CES operates a strict 30 days payment term. Where payment of invoices is made later than 30 days we reserve the right to levy additional charges according to the following schedule;
  - Invoices paid between 31 days and 60 days from invoice date will incur a surcharge of 5% of the invoice total.
  - Invoices paid between 61 days and 90 days from invoice date will incur a surcharge of 10% of the invoice total.
  - Invoices paid between 91 days and 120 days from invoice date will incur a surcharge of 15% of the invoice total.
  - Invoices paid more than 121 days after invoice date will incur a surcharge of 25% of the invoice total.

## Subscription Cancellation

92. Notice of cancellation must be made in writing on school letterhead paper and sent Recorded Delivery giving notice as follows:

- For annual subscription no less than 30 days written notice in advance of the Renewal Date.
- For monthly direct debit subscription no less than 90 days written notice in advance of the annual Renewal Date and thereafter 90 day written notice. Or via email to [lianne@completeeducationsolutions.uk](mailto:lianne@completeeducationsolutions.uk) email must be sent from an authorised senior member of the Community to include:
- For annual subscription no less than 30 days written notice in advance of the Renewal Date.
- For monthly direct debit subscription no less than 90 days written notice in advance of the annual Renewal Date and thereafter 90 day written notice.

93. Failure to provide the required notice will mean that the subscription for the following year(s) will be payable in full.
94. Cancellation during a term of a subscription will result in the cost of the subscription being due in full upon the next invoice date. Failure to pay the invoice in full will result in surcharges as per section 79.
95. We may terminate this Agreement at any time if you are in breach or we reasonably suspect that you are in breach of any of the terms of this Agreement.
96. Upon the end of your Subscription, you will delete, destroy and return any and all IP and documents from our system. This includes lesson plans created on the iPEP system.
97. Failure to comply with point 96. will result in an unlimited fine.

## Warranties

98. You warrant and represent that:
  - You shall abide by the terms of this Agreement;
  - You are entitled to register for and use the Service;
  - You will not take any action which would derogate CES rights in and to their Intellectual Property Rights or content;
  - You will not infringe the Intellectual Property Rights of third parties when using the Services;
  - You will not violate any laws in your use of information on the Websites;
  - You will not interfere in the business of CES by posting information that violates the rules outlined above or by attempting to divert traffic from the website.
99. You shall indemnify and hold harmless and, at CES request, defend CES, its directors, officers, shareholders, employees, agents, affiliates and owners (each an "Indemnified Party") from and against all claims, proceedings, damages, injuries, liabilities, losses, costs and expenses (including reasonable legal costs) arising out of any claim by any third party resulting from any breach of Your obligations, representations, warranties or covenants set forth in this agreement. You shall reimburse each Indemnified Party on demand for any reasonable costs, expenses and liabilities incurred by such Indemnified Party to which this indemnity relates.

## General

100. The learning platform may contain links to other websites. CES does not endorse any other website or software and is not liable for any loss or damages related to the content, products or services available through those websites. If You have any problems or concerns regarding other websites, please contact their learning platform administrator or platform master directly.
101. This Agreement shall for all purposes be governed by and construed in accordance with the laws of England and Wales and you hereby submit to the exclusive jurisdiction of the courts of England.
102. These terms and conditions are severable. In the event that any provision of these terms and conditions is determined to be unenforceable or invalid, such determination shall not affect the validity and enforceability of any other remaining provisions.
103. The Licence to use our software granted in these terms and conditions shall terminate automatically without notice if you fail to comply with any of the provisions.
104. Save as expressly provided in this Agreement the Contract (Rights of Third Parties) Act 1999 shall not apply.
105. This Agreement is the entire understanding between us regarding your access to, license and use of the learning platform and their content and supersedes any prior agreements, statements or representations with respect to the same. Nothing in this clause shall be construed as excluding liability for fraudulent misrepresentation.