

**Creative Education Ltd**

## **Website Terms and Conditions**

**PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE USING THIS Portal.**

**IMPORTANT:**

**THESE TERMS AND CONDITIONS APPLY IN RELATION TO THE USE OF THE PORTAL (AS DEFINED BELOW)**

**THIS TERMS AND CONDITIONS SETS OUT THE TERMS ON WHICH WE WILL PROVIDE ACCES TO THE PORTAL TO YOU AND (WHERE APPLICABLE) YOUR AUTHORISED USERS.**

**THESE TERMS TELLS YOU WHO WE ARE, HOW WE WILL PROVIDE ACCESS TO THE PORTAL TO YOU, HOW YOU AND WE MAY CHANGE OR END YOUR SUBSCRIPTION, WHAT TO DO IF THERE IS A PROBLEM AND OTHER IMPORTANT INFORMATION.**

**PLEASE READ THESE TERMS CAREFULLY AS THEY CONTAIN LEGAL OBLIGATIONS AND IMPORTANT TERMS ON WHICH WE INTEND TO RELY - FOR EXAMPLE LIMITATIONS AND EXCLUSIONS ON OUR LIABILITY.**

**BY ACCESSING OUR PORTAL OR WHERE APPLICABLE, ALLOWING YOUR EMPLOYEES, WORKERS, VOLUNTEERS, AGENTS TO ACCESS THE PORTAL, YOU AGREE TO THESE TERMS AND THEY WILL BE BINDING ON YOU OR, FOR BUSINESSES, ON THE BUSINESS THAT YOU REPRESENT.**

**BY ACCESSING OUR PORTAL, YOU ARE EXPRESSLY PROVIDING YOUR CONSENT TO US IMMEDIATELY PROVIDING ACCESS TO THE PORTAL AS DESCRIBED BELOW. ONCE WE CONFIRM TO YOU IN WRITING (E.G. BY EMAIL) THAT YOUR USER SUBSCRIPTION/PORTAL SUBSCRIPTION HAS BEEN ACCEPTED, WE WILL IMMEDIATELY TAKE STEPS TO PROVIDE YOU WITH ACCESS TO THE PORTAL.**

**SOME OF THESE TERMS APPLY ONLY TO CONSUMERS. "CONSUMER" MEANS AN INDIVIDUAL ACTING FOR PURPOSES WHICH ARE WHOLLY OR MAINLY OUTSIDE OF THAT INDIVIDUAL'S TRADE, BUSINESS, CRAFT OR PROFESSION. FOR EXAMPLE, LIMITED COMPANIES ARE NOT 'CONSUMERS', IF YOU ARE SIGNING UP AS PART OF YOUR PROFESSION AS A TEACHER, YOU ARE NOT A CONSUMER.**

**WE USE SOME PHRASES IN THESE TERMS THAT HAVE SET MEANINGS. WHERE WE DO THIS, THE PHRASE WILL APPEAR IN BOLD THE FIRST TIME WE USE IT OR WE WILL TELL YOU WHERE THE MEANING OF THAT PHRASE CAN BE FOUND THE FIRST TIME IT IS USED IN THESE TERMS, AND THE FIRST LETTER OF THE PHRASE WILL BE CAPITALISED EVERY OTHER TIME IT IS USED. MOST PHRASES WITH SET MEANINGS CAN BE FOUND IN CLAUSE 1 (DEFINITIONS).**

IN THESE TERMS, IF WE USE THE WORDS INCLUDING, INCLUDE, IN PARTICULAR, FOR EXAMPLE OR ANY SIMILAR EXPRESSION, WE ARE GIVING EXAMPLES AND THOSE WORDS SHALL NOT LIMIT THE SENSE OF THE WORDS, DESCRIPTION, DEFINITION, PHRASE OR TERM THAT FOLLOWS THOSE WORDS.

WE MAY POST UPDATES TO CONTENT ON THE PORTAL FROM TIME TO TIME. IT IS YOUR RESPONSIBILITY TO ENSURE THAT YOU AND (WHERE APPLICABLE) YOUR AUTHORISED USERS HAVE VIEWED THE LATEST CONTENT ON THE PORTAL AND WE SHALL NOT BE LIABLE TO YOU (INCLUDING IN TORT AND NEGLIGENCE) IF YOU (OR WHERE APPLICABLE, YOUR AUTHORISED USERS) FAIL TO VIEW THE LATEST CONTENT OR IF YOU (OR WHERE APPLICABLE, YOUR AUTHORISED USERS) RELY ON ANY CONTENT WHICH HAS BEEN SUPERSEDED BY UPDATED CONTENT.

FOR INDIVIDUAL CUSTOMERS YOU CAN PURCHASE A USER SUBSCRIPTION (AS DEFINED BELOW) AND FOR BUSINESS CUSTOMERS YOU ARE REQUIRED TO PURCHASE A PORTAL SUBSCRIPTION (AS DEFINED BELOW) WHICH GRANTS RIGHTS TO CERTAIN OF YOUR USERS TO ACCESS THE PORTAL

IF YOU WOULD LIKE LEGAL ADVICE ON THESE TERMS OR THE RELEVANT SUBSCRIPTION SIGN UP FORM, PLEASE SPEAK TO YOUR LEGAL ADVISER OR LOCAL CITIZENS ADVICE BUREAU ([HTTPS://WWW.CITIZENSADVICE.ORG.UK/](https://www.citizensadvice.org.uk/)).

IT IS HEREBY AGREED

## 1. Definitions

Where any word or phrase is capitalised in these Terms, they will have the meaning set out below.

“**Authorised Users**” means those employees, agents and independent contractors of a Business Customer who are authorised by the Business Customer to use the Portal, as further described in Clause 11.

“**Business Customer**” means a school, charity or company (including any company, corporation or other body corporate, wherever and however incorporated or established) who has purchased Portal Subscriptions or undertaken a Free-Trial Period.

“**Consumer Customer**” means a customer purchasing User Subscriptions for domestic use and who is not a Business Customer.

“**Customer**” means a Business Customer or a Consumer Customer (as applicable).

“**Free-Trial Period**” means the number of days in which you can access our Portal free of charge.

“**Order Confirmation**” written acceptance issued by us (e.g. via email) of your request for a User Subscription or Portal Subscription or Free-Trial Period (as applicable).

“**Portal**” means the online portal contained on our Website which shall provide users with web based browser means with which to access the various educational resources (including webinars, courses etc).

**“Portal Subscription”** means, in respect of Business Customers only, a subscription to the Portal purchased by such Business Customers which grants access to the Business Customer’s Authorised Users.

**“Subscription Fees”** the subscription fees payable by You to Us for the User Subscriptions or Portal Subscription (as applicable), as set out on our Website.

**“Subscription Sign Up Form”** means the form to be completed by you in order to purchase a User Subscription or Portal Subscription (as applicable).

**“Subscription Start Date”** the date upon which your User Subscription or Portal Subscription (as applicable) starts as indicated in the Order Confirmation.

**“Subscription Term”** means the period set out in the Order Confirmation.

**“Terms”** means these terms and conditions for use of the Portal.

**“User Account”** has the meaning as set out in clause 19.

**“User Subscription”** means in respect of Consumer Customers the individual user subscription(s) purchased by You pursuant to Clause 22 which entitle you to access and use the Portal in accordance with these Terms.

**“Website”** [www.creativeeducation.co.uk](http://www.creativeeducation.co.uk)

**“Year”** means (i) the 12 month period commencing on the Subscription Start Date and expiring on the date immediately preceding the first anniversary of the Subscription Start Date, and (ii) each 12 month period thereafter in each case commencing on the relevant anniversary of the Subscription Start Date and expiring on the date immediately preceding the next anniversary of the Subscription Start Date.

**“You”, “Your”** means in each case the person or persons accessing the Portal.

## **2. What's in these Terms?**

These Terms tell you the rules for using the Portal contained on our Website.

### **3. Important information about Consumer rights:**

**3.1 Business Customers don't get the same cancellation rights in respect of their Portal Subscription as consumers do in respect of their User Subscriptions and consumers have different rights where there is a problem with the Portal.**

**3.2 We don't compensate the Business Customers in the same way for losses caused by us or our Portal.**

**3.3 Where a term applies just to Business Customers or just to Consumer Customers, this is clearly stated below.**

### **4. Who we are and how to contact us**

**4.1** The Portal is operated by Creative Education Limited ("**We**"). We are registered in England and Wales under company number 04662664 and have our registered office at 49 Station Road, Polegate, East Sussex, England, BN26 6EA. Our main trading

address is 49 Station Road, Polegate, East Sussex, England, BN26 6EA. Our VAT number is GB809753404.

4.2 To contact us, please email [happytohelp@creativeeducation.co.uk](mailto:happytohelp@creativeeducation.co.uk) or telephone our customer service line on +44 2086804077.

## **5. By using our Portal you accept these Terms**

5.1 By using our Portal, you confirm that you accept these Terms and that you agree to be bound and comply with them.

5.2 If you do not agree to these Terms, you must immediately cease all use of our Portal.

## **6. There are other terms that may apply to you**

6.1 These Terms refer to the following additional terms, which also apply to your use of our Portal:

6.1.1 Our Privacy Policy <https://www.creativeeducation.co.uk/privacy-policy/>.

## **7. We may make changes to these Terms**

7.1 We amend these Terms from time to time. Every time you wish to use our Portal, please check these Terms to ensure you understand the Terms that apply at that time.

## **8. We may make changes to our Portal**

8.1 We may update and change our Portal from time to time to reflect changes to our users' needs and our business priorities. We will try to give you reasonable notice of any major changes and if we suspend the Portal for more than 30 consecutive days, we will provide you with a pro rata refund for the remaining period of the Term.

8.2 We can remove content from the Portal at our absolute discretion and as we see fit.

8.3 We may post updates to content on the Portal from time to time. It is your responsibility to ensure that you and (where applicable) your Authorised Users have viewed the latest content on the Portal and we shall not be liable to you (including in tort and negligence) if you (or where applicable, your Authorised Users) fail to view the latest content or if you (or where applicable, your Authorised Users) rely on any content which has been superseded by updated content.

## **9. We may suspend or withdraw our Portal**

9.1 We may suspend or withdraw or restrict the availability of all or any part of our Portal for business and operational reasons. We will try to give you reasonable notice of any suspension or withdrawal.

9.2 You are also responsible for ensuring that all persons who access our Portal through your internet connection are aware of these Terms of use and other applicable terms and conditions, and that they comply with them.

## **10. Our obligations**

10.1 We shall provide the Portal to you with reasonable skill and care.

10.2 If you are a Business Customer, except as expressly stated in these Terms, all warranties and conditions, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.

## **11. Authorised Users (this clause is for Business Customers only)**

11.1 In relation to the Authorised Users, you undertake that:

11.1.1 the maximum number of Authorised Users that we authorise to access and use the Portal shall not exceed the number set out in the Order Confirmation or such other amount as we agree in writing from time to time;

11.1.2 each Authorised User shall keep a secure password for their use of the Portal, that such password shall be changed no less frequently than monthly and that each Authorised User shall keep their password confidential;

11.1.3 you shall maintain a written, up to date list of current Authorised Users and provide such list to us within 5 Business Days of our written request at any time or times;

11.1.4 you shall permit us or our designated auditor to audit your Portal Subscription in order to establish the name and password of each Authorised User and your data processing facilities to audit compliance with these Terms. Each such audit may be conducted no more than once per quarter, at our expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with your normal conduct of business;

11.1.5 if any of the audits referred to in Clause 11.1.4 reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to our other rights, you shall promptly disable such passwords and we shall not issue any new passwords to any such individual; and

11.1.6 if any of the audits referred to in Clause 11.1.4 reveal that you have underpaid Subscription Fees to us, then without prejudice to our other rights, you shall pay to us an amount equal to such underpayment as calculated in accordance with the prices set out on our Website within 10 Business Days of the date of the relevant audit.

## **12. Additional User Subscriptions (this clause applies to Business Customers only)**

12.1 Subject to Clause 12.2 and Clause 12.3, you may, from time to time during any Subscription Term, purchase additional Portal Subscriptions in excess of the number set out in the Order Confirmation and we shall grant access to the Portal to such additional Authorised Users in accordance with the provisions of these Terms.

12.2 If you wish to purchase additional Portal Subscriptions, you shall notify us in writing. We shall evaluate such request for additional Portal Subscriptions and respond to you with approval or rejection of the request. Where we approve the request, we shall provide you with an Order Confirmation and we shall activate the additional Portal Subscriptions within 5 days of our Order Confirmation being issued.

12.3 If we provide you with the Order Confirmation of any additional Portal Subscriptions, you shall pay for such additional Portal Subscriptions in accordance with the provisions of clause 22.

### **13. Prohibited uses**

13.1 You may not use the Portal:

13.1.1 in any way that breaches any applicable local, national or international law or regulation;

13.1.2 in any way that is unlawful or fraudulent or has any unlawful or fraudulent purpose or effect;

13.1.3 for the purposes of harming or attempting to harm minors in any way;

13.1.4 to bully, insult, intimidate or humiliate any person;

13.1.5 to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam);

13.1.6 to knowingly transmit any data, send or upload any material that contains viruses, trojan horses, worms, time-bombs, keystroke loggers, spyware, adware, or any other harmful programs or similar computer codes designed to adversely affect the operation of any computer software or hardware; or

13.1.7 to upload terrorist content.

13.2 You also agree:

13.2.1 not to reproduce, duplicate, copy or re-sell any part of our Portal or Website (including, without limitation any content, ideas, webinars, podcasts and other materials posted on or accessed via the Portal or Website) in contravention of the provisions of our Terms of use;

13.2.2 not to access without authority, interfere with, damage or disrupt:

13.2.2.1 any part of the Portal or Website or any part thereof;

13.2.2.2 any equipment or network on which the Portal or Website is stored;

13.2.2.3 any software used in the provision of the Portal or Website; or

13.2.2.4 any equipment or network or software owned or used by any third party in relation to the provision or use of the Portal or Website;

13.2.3 not to install or allow to be installed on any system that you use or have access to any software that may copy, modify or record our data and You must immediately notify us if you become aware that any of our data has been so copied, recorded or modified; or

- 13.2.4 not to use the Portal or the Website or any information, content or materials on the Portal or the Website for any purpose other than as strictly related to your relationship with us. You must not sell, lease, transfer or commercially exploit the Portal or the Website or any part thereof or any information, content or materials on the Portal or the Website. .

#### **14. Blocking of users and changing access rights**

- 14.1 We may at any time, for whatever reason temporarily or permanently block access to the Portal either to individuals or all users or to an entire organisation.
- 14.2 If you have breached these Terms and/or applicable law, we may temporarily or permanently block access to the Portal to you as well as your organisation (if you are a business).
- 14.3 Should you, for whatever reason, be able to access further systems or applications contrary to the rights granted to you, you are required to inform us. This information may not be made accessible to third parties.

#### **15. Duration of Your User Subscription/Portal Subscription**

- 15.1 You can choose to subscribe to a Free-Trial Period by completing the relevant online form on our website or choose the User Subscription or Portal Subscription (as applicable) by completing the Subscription Sign Up Form on our Website.
- 15.2 If you have chosen a Free-Trial Period:
- 15.2.1 Your Free Trial Period will last for the duration of the period specified on our Website starting from the start date indicated in the Order Confirmation;
- 15.2.2 If you would like your Free Trial Period to continue following its expiry, you must complete the Subscription Sign Up Form on our Website. We will notify you at least 7 days prior to the expiration of the Free-Trial Period that your Free Trial Period is about to expire and ask you to complete the Subscription Sign Up Form on our Website.
- 15.3 If you have chosen a User Subscription or Portal Subscription (as applicable) by completing the Subscription Sign Up Form on our Website:
- 15.3.1 Save in respect of any rights of you or us to end your access to the Portal early as set out in these Terms including (where applicable) during the cooling off period if you are a consumer (see clause 16 for further information), the User Subscription or Portal Subscription (as applicable) will last for the Subscription Term.
- 15.4 By entering into these Terms you are agreeing that you will keep your personal details (including current email address) and any other details you have provided us, accurate and up to date.

#### **16. If you are a Consumer Customer:**

- 16.1 Please note that we only provide User Subscriptions for domestic and private use and you agree not to use our Portal for any commercial or business purposes

16.2 If defective digital content that we have supplied, damages a device or digital content belonging to you and this is caused by our failure to use reasonable care and skill, we will either repair the damage or pay you compensation. However, we will not be liable for damage that you could have avoided by following our advice to apply an update offered to you free of charge or for damage that was caused by you failing to correctly follow installation instructions or to have in place the minimum system requirements advised by us.

## **17. Business Customers**

17.1 If you are a Business Customer, you must pay all amounts due to us under these Terms in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## **18. Limitation of liability.**

18.1 References to liability in this clause include every kind of liability arising under or in connection with this agreement including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

18.2 Nothing in this clause shall limit the your payment obligations under these terms.

18.3 Our liability to consumers: We're responsible for losses you suffer which are caused by us breaking this contract unless the loss is:

18.3.1 Unexpected - It was not obvious that it would happen and nothing you said to us before the Subscription Start Date meant we should have expected it (so, in the law, the loss was unforeseeable);

18.3.2 Caused by an Event Outside Our Control; or

18.3.3 It relates to your use of the Portal for the purposes of your trade, business, craft or profession.

18.4 Whether you are a Consumer Customer or a Business Customer:

18.4.1 We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors and for fraud or fraudulent misrepresentation.

18.5 Our liability to Business Customers

18.5.1 This clause and the limits and exclusions contained herein do not apply to Consumer Customers.

18.5.2 References to liability in this clause include every kind of liability arising under or in connection with these Terms including liability in contract, tort (including negligence), for breach of a statutory duty, misrepresentation, restitution or otherwise even if foreseeable, arising under or in connection with:

18.5.2.1 use our Portal;

18.5.2.2 use of or reliance on any content displayed on our Portal;



- 18.5.2.3 the transmission of information or data by you and you acknowledge that you are fully and solely responsible for ensuring that any information or data transmitted to us is done via secure and protected means.
- 18.5.3 Subject to clause 18.4 we shall not be liable to you, whether in contract, tort (including negligence), misrepresentation, restitution or otherwise for any:
  - 18.5.3.1 loss of profits;
  - 18.5.3.2 loss of sales or business;
  - 18.5.3.3 loss of contracts;
  - 18.5.3.4 loss of anticipated savings;
  - 18.5.3.5 loss of use or corruption of software, data or information;
  - 18.5.3.6 loss of or damage to goodwill; or
  - 18.5.3.7 indirect or consequential loss,suffered or incurred by you that arises under or in connection with these terms.
- 18.5.4 Subject to clause 18.5.2, clause 18.4 and clause 18.5.3 our total aggregate liability to you in each Year for claims or a series of connected claims which arise in that Year shall be limited to the total Subscription Fees for the Portal paid by you during the Year (where this Contract has been in effect for less than an entire Year) or in the prior Year (where this Agreement has been in effect for more than an entire Year).
- 18.5.5 For the purposes of clause 18.5.4:
  - 18.5.5.1 a claim or series of connected claims shall be deemed to arise on the date when the first event giving rise to the claim or series of connected claims occurred; and
  - 18.5.5.2 any claim or series of connected claims which arises after termination of this Contract shall be deemed to have arisen on the day immediately preceding the effective date of termination of this Contract.

## **19. User Account**

- 19.1 In order to get access to the Portal, you must create a User Account and must follow the sign-up process stipulated by us from time to time.
- 19.2 At all times the holder of a User Account must provide clear and accurate information in all regards in relation to the Portal, any information submitted thereon, and any information provided when signing up for the Portal. You warrant to us that all such information is true, accurate and not misleading.

- 19.3 You must use a current and valid e-mail address which may also be used for communication with us. Changes to the e-mail address must be communicated to us immediately.
- 19.4 You must confirm that the data used when creating your profile is accurate and complete. The use of pseudonyms is not permitted.
- 19.5 You have the option to request the deletion of your access. We will delete all data transmitted, provided that we will not undertake such deletion where (i) to do so would constitute a breach of any laws or regulations or rules which apply to us or (ii) deletion of the data would result in us breaching any contractual obligation we owe to you or any third party, or (iii) if we are required to retain the information for audit purposes. Unless you terminate this Contract in accordance with its terms, you remain liable for payment of the Subscription Fees in full.

## **20. You must keep your User Account details safe**

- 20.1 If you choose, or you are provided with, a user identification code, password or any other piece of information as part of our security procedures, you must treat such information as confidential. You must not disclose it to any third party.
- 20.2 You must ensure that any password you select is secure and suitably safe, for instance you are not permitted to use “1234” or “password” as your password to the Portal.
- 20.3 We have the right to disable any user identification code or password, whether chosen by you or allocated by us, at any time, if in our reasonable opinion you have failed to comply with any of the provisions of these Terms, or your credentials are not suitable, safe or secure.
- 20.4 If you know or suspect that anyone other than you know your user identification code or password, you must promptly notify us at [happytohelp@creativeeducation.co.uk](mailto:happytohelp@creativeeducation.co.uk).
- 20.5 If you suspect your User Account data has come to the knowledge of unauthorised persons, you must immediately block your access to your User Account. The blocking must be carried out immediately by you electronically or – if this should not be possible – via us ([happytohelp@creativeeducation.co.uk](mailto:happytohelp@creativeeducation.co.uk)) by e-mail. The blocking by us is only possible during our normal office hours.
- 20.6 You must immediately notify us via email ([happytohelp@creativeeducation.co.uk](mailto:happytohelp@creativeeducation.co.uk)) of any changes to the data provided in the request for a User Account.

## **21. Legally binding nature of declarations**

- 21.1 Each holder of a Portal Subscription shall be deemed to be authorised to bind themselves and the organisation for which they work (including making statements on its behalf) to these Terms and the holder of a Portal Subscription must procure that no person is granted access to the Portal who does not have such rights.

## **22. Subscription Fees**

- 22.1 You shall pay the Subscription Fees to Us for the User Subscriptions or Portal Subscription (as applicable) in accordance with this clause 22.

- 22.1.1 You must pay for the User Subscription or Portal Subscription (as applicable) using a debit card or credit card and you hereby authorise us to directly collect payment of the Subscription Fees in accordance with clause 22.1.2 from such credit or debit card. You must not remove any authorisation in place to collect Subscription Fees.
  - 22.1.2 you shall pay the Subscription Fees on the specific payment date(s) indicated in the Order Confirmation.
  - 22.1.3 We will send you an electronic invoice within seven days of the beginning of the month following payment date(s) indicated in the Order Confirmation.
- 22.2 Without prejudice to any other right or remedy that we may have, if you fail to pay us any sum due under this agreement on the due date:
- 22.2.1 you shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause 22.2.1 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%; and
  - 22.2.2 we may, without liability to you, disable your password, account and access to all or part of the Portal and we shall be under no obligation to provide access to the Portal while the invoice(s) concerned remain unpaid.
- 22.3 We take reasonable care to ensure that the Subscription Fees stated on our Website are correct at the time when the relevant information was entered into the system. However, please see clause 22.6 for what happens if we discover an error in the price of the User Subscription or Portal Subscription (as applicable) you ordered.
- 22.4 We reserve the right to increase the Subscription Fees as we see fit on each yearly anniversary of the Subscription Start Date. However, we will notify you at least 1 month in advance of any increase in the Subscription Fees and you can contact our customer service line to end your User Subscription or Portal Subscription (as applicable) and we'll refund any sums you've paid in advance for access to the Portal which you won't receive.
- 22.5 The Subscription Fees are, unless stated otherwise, exclusive of VAT. Where VAT is payable in respect of some or all of the Portal you must pay us such additional amounts in respect of VAT, at the applicable rate, at the same time as you pay the Charges.
- 22.6 It is always possible that, despite our reasonable efforts, some of the prices listed on our Portal may be incorrect. Where the correct price for the User Subscription or Portal Subscription (as applicable) is less than the price stated on our Portal, we will charge the lower amount or if the correct price for the User Subscription or Portal Subscription (as applicable) is higher than the price stated on our Portal, we will contact you as soon as possible to inform you of this error and we will give you the option of continuing to make payments at the correct price or cancelling your User Subscription or Portal Subscription (as applicable). We will not process your order until we have your instructions. If we are unable to contact you using the contact details you provided during the subscription process on our website, we will treat the User Subscription or Portal Subscription (as applicable) as cancelled and notify you

in writing. However, if we mistakenly accept and process your payment where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may cancel access to the Portal and refund you any sums you have paid.

- 22.7 If you do not pay the Subscription Fees (including, where we are unable to collect the relevant instalment you have done or due to lack of funds) you will still be responsible for paying for the User Subscription or Portal Subscription (as applicable) in full each month by an alternative payment method agreed with us.
- 22.8 We reserve the right to refuse to process any transaction we deem fraudulent or suspicious.

### **23. Intellectual property rights**

- 23.1 We are the owner or the licensee of all intellectual property rights in and on the Portal, and in the material published on it. Those works are protected by copyright laws and treaties around the world. All such rights are reserved. You are prohibited from duplicating, distributing and/or publishing content that we, other users or third parties have posted on the Portal or in the applications on the Portal unless otherwise authorised in these Terms.
- 23.2 You may print off copies, and may download extracts, of any page(s) from the Portal for your own purposes and you may draw the attention of others within your organisation to content posted on the Portal.
- 23.3 You must not modify or edit the paper or digital copies of any materials you have printed off or downloaded in any way, and you must not use any illustrations, photographs, video or audio sequences or any graphics separately from any accompanying text.
- 23.4 You must follow our instructions at all times in respect of any use of or access to the materials and information on the Portal.
- 23.5 You do not have the right to either (i) grant to any third party any rights to any information or materials contained on the Portal or (ii) commercially exploit any such information or materials.
- 23.6 Our status (and that of any identified contributors) as the authors of content on our Portal must always be acknowledged (except where the content is user-generated).
- 23.7 If you print off, copy, download, share or repost any part of the Portal in breach of these Terms, your right to use the Portal will cease immediately and we may terminate access to the Portal for you. You must, at our option, return or destroy any copies of the materials you have made.
- 23.8 We may, at any time, without providing reasons, wholly or partially revoke the right of use granted to you in which case, unless we agree otherwise in writing, you must immediately cease use of and must immediately delete all such materials and information.

### **24. Uploading content to our Portal**

- 24.1 Whenever you make use of a feature that allows you to upload content to our Portal, or to make contact with other users of our Portal (a “**Contribution**”), you must ensure that the Contribution:
- 24.1.1 Is accurate (where it states facts).
  - 24.1.2 Be genuinely held (where it states opinions).
  - 24.1.3 Comply with the law applicable in England and Wales and in any country from which it is posted.
- 24.2 A Contribution must not:
- 24.2.1 Be defamatory of any person.
  - 24.2.2 Be obscene, offensive, hateful or inflammatory.
  - 24.2.3 Bully, insult, intimidate or humiliate.
  - 24.2.4 Promote sexually explicit material.
  - 24.2.5 Include child sexual abuse material.
  - 24.2.6 Promote violence.
  - 24.2.7 Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age.
  - 24.2.8 Infringe any copyright, database right or trade mark of any other person.
  - 24.2.9 Be likely to deceive any person.
  - 24.2.10 Breach any legal duty owed to a third party, such as a contractual duty or a duty of confidence.
  - 24.2.11 Promote any illegal content or activity.
  - 24.2.12 Be in contempt of court.
  - 24.2.13 Be threatening, abuse or invade another's privacy, or cause annoyance, inconvenience or needless anxiety.
  - 24.2.14 Be likely to harass, upset, embarrass, alarm or annoy any other person.
  - 24.2.15 Impersonate any person or misrepresent your identity or affiliation with any person.
  - 24.2.16 Give the impression that the Contribution emanates from Creative Education Limited, if this is not the case.
  - 24.2.17 Advocate, promote, incite any party to commit, or assist any unlawful or criminal act such as (by way of example only) copyright infringement or computer misuse.
  - 24.2.18 Contain a statement which you know or believe, or have reasonable grounds for believing, that members of the public to whom the statement

is, or is to be, published are likely to understand as a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism.

- 24.2.19 Contain any advertising or promote any services or web links to other sites.
- 24.3 For the avoidance of doubt, for any Contribution in the form of video content:
- 24.3.1 You must tell us immediately, if you upload a video containing any of the following: criminal material (relating to terrorism, sexual exploitation of children, child pornography, racism and xenophobia), unclassified or unclassifiable videos, videos rated R18 or suitable for R18 rating and other material that might impair the physical, mental or moral development of persons under the age of 18 (restricted material).
  - 24.3.2 You must not upload a video containing harmful material.
  - 24.3.3 You must not upload a video containing advertising for any of the following:
    - 24.3.3.1 cigarettes and other tobacco products, electronic cigarettes or electronic cigarette refill containers, and prescription-only medicine; or
    - 24.3.3.2 for alcoholic drinks that are not aimed specifically at under 18s and do not encourage immoderate consumption of alcohol.
  - 24.3.4 Any advertising included in a video you upload must not:
    - 24.3.4.1 prejudice respect for human dignity;
    - 24.3.4.2 include or promote discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
    - 24.3.4.3 encourage behaviour prejudicial to health or safety;
    - 24.3.4.4 encourage behaviour grossly prejudicial to the protection of the environment;
    - 24.3.4.5 cause physical, mental or moral detriment to persons under the age of 18;
    - 24.3.4.6 directly exhort such persons to purchase or rent goods or services in a manner which exploits their inexperience or credulity;
    - 24.3.4.7 directly encourage such persons to persuade their parents or others to purchase or rent goods or services;
    - 24.3.4.8 exploit the trust of such persons in parents, teachers or others; or
    - 24.3.4.9 unreasonably show such persons in dangerous situations.

- 24.3.5 You must use the functionality provided on our site to declare whether, as far as you know or can reasonably be expected to know, any video contains advertising.
- 24.4 You warrant that any such contribution does comply with those standards, and, if you are a Business Customer, you will be liable to us and indemnify us for any breach of that warranty. This means you will be responsible for any loss or damage we suffer as a result of your breach of warranty.
- 24.5 Any content you upload to our Portal will be considered non-confidential and non-proprietary. You retain all of your ownership rights in your content, but you are required to grant us and other users of our Portal a limited licence to use, store and copy that content and to distribute and make it available to third parties.
- 24.6 We also have the right to disclose your identity to any third party who is claiming that any content posted or uploaded by you to our Portal constitutes a violation of their intellectual property rights or of their right to privacy.
- 24.7 We have the right to remove any posting you make on our Portal if, in our opinion, your post does not comply with the content standards set out in this clause 24.
- 24.8 If you wish to contact us in relation to content you have uploaded to our Portal and that we have taken down, please contact [happytohelp@creativeeducation.co.uk](mailto:happytohelp@creativeeducation.co.uk).
- 24.9 You are solely responsible for securing and backing up your content.
- 24.10 You must not upload any material that could incite a terrorist offence, solicit any person to participate in terrorist activities, provide instruction on any method or technique for committing a terrorist offence or threaten to commit a terrorist offence.

## **25. Rights you are giving us to use material you upload**

- 25.1 When you upload or post content to our Portal, you grant us the following rights to use that content:
- 25.1.1 a worldwide, non-exclusive, royalty-free, transferable licence to use, reproduce, distribute, prepare derivative works of, display, and perform that user-generated content in connection with the Service provided by the Portal and across different media including to promote the Portal or the Service forever.
- 25.1.2 a worldwide, non-exclusive, royalty-free, transferable licence for other User Accounts, partners or advertisers to use the content for their purposes forever.

## **26. Data protection**

- 26.1 In this section, the following definitions apply:

**Personal data, process** shall have the meaning ascribed to it in the Data Protection Legislation.

**Data Protection Legislation:**

a) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.

b) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the party is subject, which relates to the protection of personal data.

**EU GDPR:** the General Data Protection Regulation ((EU) 2016/679).

**UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

26.2 We will only use your personal information as set out in our Privacy Policy at <https://www.creativeeducation.co.uk/privacy-policy/>. You must at all times comply with our Privacy Policy.

26.3 You must at all times comply with the Data Protection Legislation in respect of and in connection with the use of the Portal.

26.4 You consent and allow us to collect, process and use of your personal data in accordance with our Privacy Policy.

26.5 If you provide us any personal data for or relating to any individual other than yourself, you must ensure that you have all necessary consents, authorisations and approvals to provide such personal data and for us to use such personal data in accordance with our Privacy Policy.

26.6 We strive to continuously improve the use and functions of the Portal. If necessary, we will inform you of any optimisations in this regard. You expressly agree to receive messages and information about these optimisations.

26.7 Unless otherwise expressly stated otherwise in these Terms, you must treat all information and knowledge obtained within the scope of the Permitted User relationship (including from the use and access of the Portal) confidentially and to secure it against access by unauthorised persons.

## **27. Confidentiality**

27.1 We each undertake that we will not at any time disclose to any person any confidential information concerning one another's business, affairs, customers, clients or suppliers, except as permitted by clause 27.2.

27.2 We each may disclose the other's confidential information:

27.2.1 to such of our respective employees, officers, representatives, subcontractors, advisers who need to know such information for the purposes of exercising our respective rights or carrying out our respective obligations under the Contract. We will each ensure that such employees, officers, representatives, subcontractors, advisers or receiver of educational services comply with this clause 27; and

27.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.



27.3 You acknowledge that the internet and emails are not secure. We shall not be responsible for any loss or damage resulting from internet security breach in the course of sending us information including your email address or any other personal data.

## **28. Termination, consequences of termination and survival**

28.1 You may terminate your User Subscription or Portal Subscription (as applicable) at any time by giving not less than 30 days written notice to us but if you terminate during the Term, you will remain liable for payment of the Subscription Fees for the remainder of the Term in accordance with clause 22.

28.2 If you are a Consumer Customer:

28.2.1 You typically have 14 days to change your mind regarding your purchase of the User Subscription;

28.2.2 If you change your mind about your purchase of the User Subscription, you must let us know no later than 14 days after the Subscription Start Date.

28.2.3 To let us know you want to change your mind, contact our Customer Service Team using the details in clause 4.2 or alternatively fill in the model cancellation form set out in Schedule 1 below.

28.2.4 You have to pay for your use of the Portal before you change your mind. We don't refund you for the time you were using the Portal before you told us you'd changed your mind.

28.2.5 We will refund you as soon as possible and within 14 days of you telling us you've changed your mind. We refund you by the method you used for payment. We don't charge a fee for the refund.

28.2.6 By accessing our Portal, you are expressly providing your consent to us immediately providing access to the Portal. Therefore, you will be required to pay for the Subscription Fees during the 14 day cooling off period described above, even where you do cancel during such period.

28.3 If you are a Business Customer:

28.3.1 Without limiting any of our other rights, we may suspend the access to the Portal, or terminate your Portal Subscription with immediate effect by giving written notice to you if:

28.3.1.1 you commit a material breach of any term of the Contract and (if such a breach is remediable) fail to remedy that breach within 7 days of you being notified in writing to do so;

28.3.1.2 you fail to pay any amount due under these Terms on the due date for payment;

28.3.1.3 you take any step or action in connection with you entering administration, provisional liquidation or any composition or arrangement with your creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a

moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of your assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

28.3.1.4 you suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of your business; or

28.3.1.5 your financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil your obligations under these Terms has been placed in jeopardy.

28.3.2 If you are a Business Customer:

28.3.2.1 Without limiting any other rights available to you, you may terminate your Portal Subscription with immediate effect if we commit a material breach of any term of the Contract and (if such breach is remediable) we fail to remedy that breach within 14 days of being notified in writing to do so and we will provide you with a pro rata refund from the effective date of termination to the end of the current Term for any Subscription Fees which you have paid for in advance to access the Portal during this period.

## 28.4 Consequences of termination

28.4.1 On termination of your User Subscription or Portal Subscription (as applicable), you must return all of our materials and any deliverables provided to you which have not been fully paid for. Until they have been returned, you will be solely responsible for their safe keeping and must not use them for any other purpose.

28.4.2 Termination of the User Subscription or Portal Subscription (as applicable) will not affect your or our rights and remedies that have accrued as at termination.

28.5 **Survival.** Any provision of these Terms that expressly or by implication is intended to come into or continue in force on or after termination will remain in full force and effect.

## 29. Events outside our control

29.1 If you are a Consumer Customer:

29.2 If your access to the Portal is delayed by an event outside our control, such as epidemic or pandemic or interruption or failure of utility service, we will contact you as soon as possible to let you know and do what we can to reduce the delay.

29.3 As long as we do this, we won't be in breach of these Terms and we will not have to compensate you for the delay, but if the delay is likely to be substantial you can contact our Customer Service Team using the details in clause to end the contract

and receive a refund for any Portal access you have paid for in advance but not received less reasonable costs we have already incurred.

- 29.4 If you are Business Customer:
- 29.5 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these Terms that is caused by any act or event beyond our reasonable control (**Event Outside Our Control**).
- 29.6 If an Event Outside Our Control takes place that affects your access to the Portal:
  - 29.6.1 we will contact you as soon as reasonably possible to notify you; and
  - 29.6.2 our obligations under these Terms will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control..
- 29.7 You may cancel Your User Subscription or Portal Subscription (as applicable) where it has been affected by an Event Outside Our Control which has continued for more than 60 days. To cancel please contact us.

### **30. Communications between us**

- 30.1 When we refer to "in writing" in these Terms, this includes email.
- 30.2 Any notice or other communication given by one of us to the other under or in connection with these Terms must be in writing and be delivered personally, sent by pre-paid first class post or other next working day delivery service, or email.
- 30.3 A notice or other communication is deemed to have been received:
  - 30.3.1 if delivered personally, on signature of a delivery receipt or at the time the notice is left at the proper address;
  - 30.3.2 if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the third working day after posting; or
  - 30.3.3 if sent by email, at 9.00 am the next working day after transmission.
- 30.4 The provisions of this clause will not apply to the service of any proceedings or other documents in any legal action.

### **31. Moving these Terms to someone else (assignment & transfer)**

- 31.1 We can transfer these Terms, so that a different organisation is responsible for providing access to the Portal
- 31.2 We'll tell you in writing if this happens and if you are a consumer we'll ensure that the transfer won't affect your rights under these Terms.
- 31.3 If you're a consumer and you're unhappy with the transfer you can contact our Customer Service Team on the details set out in paragraph 4.2 to terminate your User Subscription within 14 days of us telling you about it and we will refund you for any Portal access you have paid for in advance but not received.

31.4 You agree to do such things as we reasonably request to facilitate a transfer under this clause.

## **32. No text or data mining, or web scraping**

32.1 You shall not conduct, facilitate, authorise or permit any text or data mining or web scraping in relation to our Portal or any services provided via, or in relation to, our Portal. This includes using (or permitting, authorising or attempting the use of):

32.1.1 Any "robot", "bot", "spider", "scraper" or other automated device, program, tool, algorithm, code, process or methodology to access, obtain, copy, monitor or republish any portion of the Portal or any data, content, information or services accessed via the same.

32.1.2 Any automated analytical technique aimed at analysing text and data in digital form to generate information which includes but is not limited to patterns, trends and correlations.

32.2 The provisions in this clause should be treated as an express reservation of our rights in this regard, including for the purposes of Article 4(3) of Digital Copyright Directive ((EU) 2019/790).

32.3 This clause shall not apply insofar as (but only to the extent that) we are unable to exclude or limit text or data mining or web scraping activity by contract under the laws which are applicable to us.

## **33. We are not responsible for websites we link to**

33.1 Where our Portal contains links to other sites and resources provided by third parties, these links are provided for your information only. Such links should not be interpreted as approval by us of those linked websites or information you may obtain from them.

33.2 We have no control over the contents of those sites or resources.

## **34. User-generated content is not approved by us**

34.1 This Portal may include information and materials uploaded by other users of the Portal, including to social media pages, video-sharing sites, bulletin boards and chat rooms. This information and these materials have not been verified or approved by us. The views expressed by other users on our Portal do not represent our views or values.

## **35. How to complain about or report content**

35.1 If you become aware of any material that could comprise or be connected to child sexual abuse or exploitation or that could comprise terrorist content or be connected to terrorism, please contact us immediately on [happytohelp@creativeeducation.co.uk](mailto:happytohelp@creativeeducation.co.uk).

35.2 If you wish to complain about any other content, please contact us on [happytohelp@creativeeducation.co.uk](mailto:happytohelp@creativeeducation.co.uk).

## **36. We are not responsible for viruses and you must not introduce them**

36.1 We do not guarantee that our Portal will be secure or free from bugs or viruses.

36.2 You are responsible for configuring your information technology, computer programmes and platform to access our Portal. You should use your own virus protection software.

36.3 You must not misuse our Portal by knowingly introducing viruses, trojans, worms, logic bombs or other material that is malicious or technologically harmful. You must not attempt to gain unauthorised access to our Portal, the server on which our Portal is stored or any server, computer or database connected to our Portal. You must not attack our Portal via a denial-of-service attack or a distributed denial-of service attack. By breaching this provision, you would commit a criminal offence under the Computer Misuse Act 1990. We will report any such breach to the relevant law enforcement authorities and we will co-operate with those authorities by disclosing your identity to them. In the event of such a breach, your right to use our Portal will cease immediately.

### **37. Rules about linking to our Portal**

37.1 You may link to any page on our Website, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it.

37.2 You must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part where none exists.

37.3 You must not establish a link to our Portal in any website that is not owned by you.

37.4 We reserve the right to withdraw linking permission without notice.

37.5 The website in which you are linking must comply in all respects with the content standards set out in these Terms.

37.6 If you wish to link to or make any use of content on our Portal other than that set out above, please contact [happytohelp@creativeeducation.co.uk](mailto:happytohelp@creativeeducation.co.uk).

### **38. Entire Agreement:**

38.1 If you are a Business Customer, these Terms constitutes the entire agreement between us and extinguishes all previous statements, agreements, promises, assurances, warranties, representations and understandings given by us or on our behalf, whether written or oral, relating to its subject matter.

38.2 If you are a Business Customer, you agree that You shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) given by us or on our behalf that is not set out in this T&Cs and agree that You shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this T&Cs.

**39. Severance.** Each paragraph of these Terms operates separately. If any court or relevant authority decides that any of them is unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

**40. Third party rights.** These Terms are between you and us. No other person has any rights to enforce any of its Terms.

**41. Conflict.** If there is an inconsistency between any of the provisions of these Terms and the provisions of the Order Confirmation, the provisions of Order Confirmation shall prevail.

**42. Which country's laws apply to any disputes?**

42.1.1 For Business Customers, these Terms any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

42.1.2 For Consumer Customers, these Terms governed by English law and wherever You live You can bring claims against Us in the English courts. If You live in Wales, Scotland or Northern Ireland, You can also bring claims against Us in the courts of the country You live in. We can claim against You in the courts of the country You live in.

**43. Jurisdiction**

43.1.1 For business customers, each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

43.1.2 For Consumer Customers, clause 42.1.2 shall apply.

## Model Cancellation Form

### **Model Cancellation Form**

*(Complete and return this form only if you wish to withdraw from the contract)*

To: Creative Education Limited

Address: 49 Station Road, Polegate, East Sussex, England, BN26 6EA

Telephone: +44 2086804077

I hereby give notice that I cancel my contract of for the supply of the Portal.

Subscription Start Date: [insert Subscription Start Date]

Name of consumer: [insert name]

Address of consumer: [insert address]

Signature of consumer (only if this form is notified on paper), .....

Date: [insert Date]