



Vertas Group Ltd trading as Schools' Choice

Terms and Conditions

1. DEFINITIONS

The following definitions and rules of interpretation apply in these Conditions.

Annual Services	services provided on an annual basis as set out in the Specification;
Business Day	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;
Charges	the charges payable by the Customer for the supply of the Services in accordance with clause 5;
Code of Connection	where applicable has the meaning as set out in the Specification;
Conditions	these terms and conditions as amended from time to time in accordance with clause 15.6;
Contract	this contract between Vertas Group Ltd and the Customer for the supply of Services in accordance with these Conditions;
Customer	the organisation that purchases Services from Vertas Group Ltd;
Customer Default	has the meaning set out in clause 4.2;
Data Protection Legislation	means: (i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 2018;
Deliverables	the deliverables set out in the Specification produced by Vertas Group Ltd for the Customer;

EIRs	the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;
Extended Term	a period of twelve (12) months from the end of the Initial Term and the end of each Extended Term in accordance with clause 3.1;
FOIA	the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation;
Information	has the meaning given under section 84 of FOIA;
Initial Term	a period of fifteen (15) months from the Services Start Date;
Intellectual Property Rights	patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
One-Off Services	one off services as set out in the Specification;
Payroll	has the meaning given to it in the Specification;
Regulated Activity	in relation to children shall have the same meaning as set out in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 and in relation to vulnerable adults shall have the same meaning as set out in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006;
Regulated Activity Provider	shall have the same meaning as set out in section 6 of the Safeguarding Vulnerable Groups Act 2006;

Request For Information	a request for information or an apparent request under the FOIA and/or the EIRs;
Vertas Group Ltd	Vertas Group Limited registered in England and Wales with company number 07728211;
Services	the services, including the Deliverables, supplied by Vertas Group Ltd to the Customer as set out in specification of the Services;
Services Start Date	TBC
Specification	the description or specification of the Services;
Website	https://schoolschoice.co.uk/ ;
Website Order	an order placed on the Website by the Customer;
Website Purchase Confirmation	email acceptance, by Vertas Group Ltd, of the Website Order.

- 1.1 Clause, Schedule and paragraph headings shall not affect the interpretation of this Contract.
- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.3 The Schedules, if any, form part of this Contract and shall have effect as if set out in full in the body of this Contract and any reference to this Contract includes the Schedules.
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Words in the singular shall include the plural and vice versa.
- 1.6 A reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.8 A reference to **writing** or **written** includes e-mail.
- 1.9 Any obligation in this Contract on a person not to do something includes an obligation not to agree or allow that thing to be done.

- 1.10 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this Contract) at any time.
- 1.11 References to clauses and Schedules are to the clauses and Schedules of this Contract; references to paragraphs are to paragraphs of the relevant Schedule.

2. BASIS OF CONTRACT

- 2.1 This Contract shall come into existence when it has been signed by both parties or Vertas Group Ltd commences delivery of the Services.
- 2.2 Any descriptive matter or advertising issued by Vertas Group Ltd, and any descriptions contained in Vertas Group Ltd 's publications and the Website, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of this Contract nor have any contractual force.
- 2.3 These Conditions apply to this Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3. DURATION AND COMMENCEMENT

- 3.1 In respect of Annual Services, unless terminated earlier in accordance with clause 9 or this clause 3.1, this Contract shall commence on the Services Start Date and shall continue for the Initial Term and shall automatically extend for an Extended Term at the end of the Initial Term and at the end of each Extended Term. Either party may give written notice to the other party, not later than six (6) months before the end of the Initial Term or the relevant Extended Term, to terminate this Contract at the end of the Initial Term or the relevant Extended Term, as the case may be.
- 3.2 In respect of One-Off Services these will be provided from the Services Start Date.

3.3 SUPPLY OF SERVICES

- 3.4 Vertas Group Ltd shall supply the Services to the Customer in accordance with the Specification in all material respects.
- 3.5 Vertas Group Ltd shall use all reasonable endeavours to meet any performance dates specified in the Specification, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.6 Vertas Group Ltd reserves the right to amend the Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not

materially affect the nature or quality of the Services, and Vertas Group Ltd shall notify the Customer in any such event.

- 3.7 Vertas Group Ltd warrants to the Customer that the Services will be provided using reasonable care and skill.

4. CUSTOMER'S OBLIGATIONS

- 4.1 The Customer shall:

- 4.1.1 ensure that the information it provides to Vertas Group Ltd in respect of the Services is complete and accurate;
- 4.1.2 co-operate with Vertas Group Ltd in all matters relating to the Services;
- 4.1.3 provide Vertas Group Ltd, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Vertas Group Ltd;
- 4.1.4 provide Vertas Group Ltd with such information and materials as Vertas Group Ltd may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- 4.1.5 prepare the Customer's premises for the supply of the Services as reasonably required by the Vertas Group Ltd;
- 4.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- 4.1.7 comply with all applicable laws, including health and safety laws;
- 4.1.8 keep all materials, equipment, documents and other property of Vertas Group Ltd (**Vertas Group Ltd Materials**) at the Customer's premises in safe custody at its own risk, maintain Vertas Group Ltd Materials in good condition until returned to Vertas Group Ltd, and not dispose of or use Vertas Group Ltd Materials other than in accordance with Vertas Group Ltd's written instructions or authorisation; and
- 4.1.9 where the Customer is purchasing Payroll, comply and ensure that its staff, agents and contractors comply with the Code of Connection requirements set out in the section of the Specification relating to Payroll.

- 4.2 If Vertas Group Ltd's performance of any of its obligations under this Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- 4.2.1 without limiting or affecting any other right or remedy available to it, Vertas Group Ltd shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays Vertas Group Ltd's performance of any of its obligations;
- 4.2.2 Vertas Group Ltd shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Vertas Group Ltd's failure or delay to perform any of its obligations as set out in this clause 4.2; and
- 4.2.3 the Customer shall reimburse Vertas Group Ltd on written demand for any costs or losses sustained or incurred by Vertas Group Ltd arising directly or indirectly from the Customer Default.

5. **CHARGES AND PAYMENT**

- 5.1 The Charges for the Services shall be calculated in accordance with Vertas Group Ltd's standard Charges
- 5.2 The Customer shall pay each invoice submitted by Vertas Group Ltd:
 - 5.2.1 in full and cleared funds to a bank account nominated in writing by Vertas Group Ltd; and
 - 5.2.2 time for payment shall be of the essence of this Contract.
- 5.3 All amounts payable by the Customer under this Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under this Contract by Vertas Group Ltd to the Customer, the Customer shall, on receipt of a valid VAT invoice from Vertas Group Ltd, pay to Vertas Group Ltd such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.4 If the Customer fails to make any payment due to Vertas Group Ltd under this Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of four per cent (4%) per annum above Barclays Bank PLC lending rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 5.5 The Customer shall pay all amounts due under this Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Vertas Group Ltd may at any time, without limiting its other rights or

remedies, set off any amount owing to it by the Customer against any amount payable by Vertas Group Ltd to the Customer.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1 As between the Customer and Vertas Group Ltd, all Intellectual Property Rights shall be owned by Vertas Group Ltd. Subject to clause 10.1.2, Vertas Group Ltd licences all such rights to the Customer free of charge and on a non-exclusive, non-transferable basis to such extent as is necessary for the Customer to make reasonable use of the Services and any Deliverables.
- 6.2 The Customer acknowledges that, where Vertas Group Ltd does not own any of the Intellectual Property Rights, the Customer's use of rights in the Intellectual Property Rights is conditional on Vertas Group Ltd obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle Vertas Group Ltd to license such rights to the Customer.
- 6.3 All materials, equipment, documents and other property of Vertas Group Ltd are the exclusive property of Vertas Group Ltd.

7. DATA PROTECTION

- 7.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 7 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 7.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and Vertas Group Ltd is the data processor (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation).
- 7.3 Without prejudice to the generality of clause 7.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Vertas Group Ltd for the duration and purposes of this Contract.
- 7.4 Without prejudice to the generality of clause 7.1, Vertas Group Ltd shall, in relation to any Personal Data processed in connection with the performance by Vertas Group Ltd of its obligations under this Contract:
- 7.4.1 process that Personal Data only on the written instructions of the Customer unless Vertas Group Ltd is required by the laws of any member of the European Union or by the laws of the European Union applicable to Vertas Group Ltd to process Personal Data (**Applicable Laws**). Where Vertas Group Ltd is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, Vertas Group Ltd shall promptly notify the Customer of this before performing the

processing required by the Applicable Laws unless those Applicable Laws prohibit Vertas Group Ltd from so notifying the Customer;

- 7.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 7.4.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 7.4.4 not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - 7.4.4.1 the Customer or Vertas Group Ltd has provided appropriate safeguards in relation to the transfer;
 - 7.4.4.2 the data subject has enforceable rights and effective legal remedies;
 - 7.4.4.3 Vertas Group Ltd complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - 7.4.4.4 Vertas Group Ltd complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- 7.4.5 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

- 7.4.6 notify the Customer without undue delay on becoming aware of a Personal Data breach;
- 7.4.7 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Contract unless required by Applicable Law to store the Personal Data; and
- 7.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 7 and allow for audits by the Customer or the Customer's designated auditor.
- 7.4.9 notify the customer immediately if any of their instructions would lead to a breach of the GDPR or local data protection laws.
- 7.5 Unless agreed prior, the Customer does not consent to Vertas Group Ltd appointing any third-party processor of Personal Data under this Contract. As between the Customer and Vertas Group Ltd, Vertas Group Ltd shall remain fully liable for all acts or omissions of any third-party processor appointed by it.
- 7.6 Vertas Group Ltd, at any time on not less than thirty (30) days' notice, revise this clause 7 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Contract).

8. **LIMITATION OF LIABILITY**

- 8.1 Nothing in this Contract shall limit or exclude Vertas Group Ltd liability for:
 - 8.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - 8.1.2 fraud or fraudulent misrepresentation; or
 - 8.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.
- 8.2 Subject to clause 8.1, Vertas Group Ltd shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Contract for:
 - 8.2.1 loss of profits;
 - 8.2.2 loss of sales or business;
 - 8.2.3 loss of agreements or contracts;
 - 8.2.4 loss of anticipated savings;

- 8.2.5 loss of use or corruption of software, data or information;
 - 8.2.6 loss of or damage to goodwill; and/or
 - 8.2.7 any indirect or consequential loss.
- 8.3 Subject to clause 8.1, Vertas Group Ltd's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Contract shall:
- 8.3.1 in respect of education services, be limited 200 per cent (200%) of the charges payable for such services under this Contract;
 - 8.3.2 in respect of children's services, be limited 200 per cent (200%) of the charges payable for such services under this Contract;
 - 8.3.3 in respect of governor services, be limited 200 per cent (200%) of the charges payable for such services under this Contract;
 - 8.3.4 in respect of human resources services, be limited 200 per cent (200%) of the charges payable for such services under this Contract;
 - 8.3.5 in respect of finance services, be limited 200 per cent (200%) of the charges payable for such services under this Contract;
 - 8.3.6 in respect of ICT services, be limited 200 per cent (200%) of the charges payable for such services under this Contract; and
 - 8.3.7 in respect of business services, be limited 200 per cent (200%) of the charges payable for such services under this Contract.
- 8.4 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Contract.
- 8.5 Notwithstanding clause 8.2, the losses for which the Vertas Group Ltd assumes responsibility and which shall, (subject to clause 8.3) be recoverable by the Customer include:
- 8.5.1 sums paid by the Customer to the Vertas Group Ltd pursuant to this Contract, in respect of any Services not provided in accordance with the terms of this Contract;
 - 8.5.2 wasted expenditure;
 - 8.5.3 additional costs or procuring and implementing replacements for, or alternatives to, the Services including consultancy costs, additional costs of management time and other personnel costs and costs of equipment and materials; and/or

- 8.5.4 losses incurred by the Customer arising out of or in connection with any claim, demand, fine, penalty, action, investigation or proceeding any third party (including any subcontractor, Customer's personnel, regulator or customer of the Customer) against the Customer caused by the act or omission of the Customer.
- 8.6 Nothing in this Contract shall restrict or limit the Customer's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this Contract.
- 8.7 This clause 7 shall survive termination of this Contract.
9. **TERMINATION**
- 9.1 It is acknowledged and agreed that, neither party shall have the ability to terminate this Contract for convenience.
- 9.2 Without affecting any other right or remedy available to it, either party may terminate this Contract with immediate effect by giving written notice to the other party if:
- 9.2.1 the other party commits a material breach of any term of this Contract and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of that party being notified in writing to do so;
- 9.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), 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 its assets or ceasing to carry on business;
- 9.2.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business or activities; or
- 9.2.4 the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under this Contract has been placed in jeopardy.
- 9.3 Without affecting any other right or remedy available to it, Vertas Group Ltd may terminate this Contract with immediate effect by giving written notice to the Customer if:
- 9.3.1 the Customer fails to pay any amount due under this Contract on the due date for payment; or
- 9.3.2 there is a change of control of the Customer.

- 9.4 Without affecting any other right or remedy available to it, Vertas Group Ltd may suspend the supply of Services under this Contract or any other contract between the Customer and Vertas Group Ltd if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 9.2.2 to clause 9.2.4, or Vertas Group Ltd reasonably believes that the Customer is about to become subject to any of them.
- 9.5 For the purposes of clause 9.2.1, **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from a substantial portion of this Contract over the term of this Contract. In deciding whether any breach is material, due regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

10. CONSEQUENCES OF TERMINATION

- 10.1 On termination of this Contract:
- 10.1.1 the Customer shall immediately pay to Vertas Group Ltd all of Vertas Group Ltd's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Vertas Group Ltd shall submit an invoice, which shall be payable by the Customer immediately on receipt; and
 - 10.1.2 the Customer shall cease to use any of the Vertas Group Ltd templates in respect of period from termination of this Contract; and
 - 10.1.3 the Customer shall return all Vertas Group Ltd Materials. If the Customer fails to do so, then Vertas Group Ltd may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 10.2 Termination or expiry of this Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Contract which existed at or before the date of termination or expiry.
- 10.3 Any provision of this Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Contract shall remain in full force and effect.
- 10.4 Transitional assistance services will be provided to the customer upon termination or expiry of this Contract. Vertas shall, provide to the Customer any reasonable assistance requested by the Customer to allow the Services to continue without interruption and to facilitate the orderly transfer of the Services back to the Customer

or to any replacement supplier. Vertas shall use reasonable endeavours to provide these transitional services, including the transfer of knowledge reasonably required for the provision of the service, records and document.

11. **FORCE MAJEURE**

11.1 A **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:

- 11.1.1 acts of God, flood, drought, earthquake or other natural disaster;
- 11.1.2 epidemic or pandemic;
- 11.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- 11.1.4 nuclear, chemical or biological contamination or sonic boom;
- 11.1.5 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- 11.1.6 collapse of buildings, fire, explosion or accident;
- 11.1.7 any labour or trade dispute, strikes, industrial action or lockouts;
- 11.1.8 non-performance by supplier's or contractors;
- 11.1.9 interruption or failure of utility service; and/or
- 11.1.10 bad weather preventing or substantially hindering Vertas Group Ltd's employees, agents, consultants or subcontractors from attending the Customers premises.

11.2 If Vertas Group Ltd is prevented, hindered or delayed in or from performing any of its obligations under this Contract by a Force Majeure Event, Vertas Group Ltd shall not be in breach of this Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

11.3 Vertas Group Ltd shall:

- 11.3.1 as soon as reasonably practicable after the start of the Force Majeure Event, notify the Customer in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under this Contract; and

11.3.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

11.4 If the Force Majeure Event prevents, hinders or delays Vertas Group Ltd's performance of its obligations for a continuous period of more than four (4) weeks, Vertas Group Ltd shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

12. **CONFIDENTIALITY**

12.1 Subject to clause 12.2, the parties shall keep confidential all matters relating to this Contract and shall use all reasonable endeavours to prevent their employees, agents, consultants or subcontractors from making any disclosure to any person of any matters relating hereto.

12.2 Clause 12.1 shall not apply to any disclosure of information:

12.2.1 required by any applicable law, provided that clause 13.2 shall apply to any disclosures required under the FOIA or the EIRs;

12.2.2 that is reasonably required by persons engaged by a party in the performance of such party's obligations under this Contract;

12.2.3 where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 12.1;

12.2.4 by the authority of any document to which it is a party and which the parties to this Contract have agreed contains no commercially sensitive information;

12.2.5 to enable a determination to be made under clause 18;

12.2.6 which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party; and

12.2.7 by the Customer relating to this Contract and in respect of which Vertas Group Ltd has given its prior written consent to disclosure.

12.3 On or before the termination or expiry of this Contract Vertas Group Ltd shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of the Customer's employees or service users, are delivered up to the Customer or securely destroyed (as far as reasonably practicable).

13. **FREEDOM OF INFORMATION**

13.1 Each party acknowledges that the other is subject to the requirements of the FOIA and the EIRs and shall provide all necessary assistance and cooperation as

reasonably requested by the other party to enable the other party to comply with its obligations under the FOIA and EIRs.

13.2 Each party acknowledge that the other may be required under the FOIA and EIRs to disclose Information (including commercially sensitive information) without consulting or obtaining consent from the party not subject to the disclosure. Each party shall take reasonable steps to notify the other of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so. Subject to clause 13.3 but notwithstanding any other provision in this Contract, the disclosing party shall be responsible for determining in its absolute discretion whether any commercially sensitive information and/or any other information (including, where relevant, any total tender price) is exempt from disclosure in accordance with the FOIA and/or the EIRs.

13.3 The Customer acknowledges that Vertas Group Ltd's detailed pricing breakdown shall be exempt from disclosure for such period for such period as Vertas Group Ltd, acting reasonably, considers it to be commercially sensitive.

14. **SAFEGUARDING CHILDREN AND VULNERABLE ADULTS**

14.1 The parties acknowledge that Vertas Group Ltd is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated Activity provided under this Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006.

14.2 Vertas Group Ltd shall:

14.2.1 ensure that all individuals engaged in Regulated Activity are subject to a valid enhanced disclosure check for Regulated Activity undertaken through the Disclosure and Barring Service (**DBS**); and

14.2.2 monitor the level and validity of the checks under this clause 14.2 for each member of staff;

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

14.3 Vertas Group Ltd warrants that at all times for the purposes of this Contract it has no reason to believe that any person who is or will be employed or engaged by Vertas Group Ltd in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.

14.4 Vertas Group Ltd shall immediately notify the Customer of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 14 have been met.

14.5 Vertas Group Ltd shall refer information about any person carrying out the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to the service users.

15. **GENERAL**

15.1 Vertas Group Ltd may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Contract.

15.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this Contract without the prior written consent of Vertas Group Ltd.

15.3 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous contracts, agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

15.4 Each party acknowledges that in entering into this Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract.

15.5 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

15.6 Except as set out in these Conditions, no variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

15.7 A waiver of any right or remedy under this Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under this Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

15.8 If any provision or part-provision of this Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of

a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Contract.

- 15.9 Unless it expressly states otherwise, this Contract does not give rise to any rights under this Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract.

16. **NOTICES**

- 16.1 Any notice or other communication given to a party under or in connection with this Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address specified between the parties from time to time.
- 16.2 Any notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first class post or other next Business Day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; or, if sent by email, at 9.00 am on the next Business Day after transmission.
- 16.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.
- 16.4 The rights of the parties to rescind or vary this Contract are not subject to the consent of any other person.

17. **DISPUTE RESOLUTION**

- 17.1 If a dispute arises out of or in connection with this Contract or the performance, validity or enforceability of it (**Dispute**) then the parties shall follow the procedure set out in this clause:
- 17.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the Customer's Representative and Vertas Group Ltd's Representative (together the Authorised Representatives) shall attempt in good faith to resolve the Dispute;
- 17.1.2 if the Authorised Representatives are for any reason unable to resolve the Dispute within thirty (30) days of service of the Dispute Notice, the Dispute shall be referred to the Customer's Head Teacher and Vertas Group Ltd's Finance Director who shall attempt in good faith to resolve it; and

- 17.1.3 if the Customer's Head Teacher and Vertas Group Ltd's Finance Director are for any reason unable to resolve the Dispute within thirty (30) days of it being referred to them, 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 shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (**ADR notice**) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than fourteen (14) days after the date of the ADR notice.
- 17.2 The commencement of mediation shall not prevent the parties commencing or continuing court or arbitration proceedings in relation to the Dispute.
18. **GOVERNING LAW AND JURISDICTION**
- 18.1 This Contract, and 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.
- 18.2 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 Contract or its subject matter or formation.