

RM RESELLER AGREEMENT

Details Document

Ref: **[INSERT]**

Parties			
Reseller		Supplier	
Name	[INSERT]	Name	[INSERT]
Registered company number	[INSERT]	Registered company number	[INSERT]
Registered address	[INSERT]	Registered address	[INSERT]
Contact	[INSERT]	Contact	[INSERT]
Contact details	[INSERT]	Contact details	[INSERT] -RM Commercial Lead
Email address for operational communications	[INSERT]	Email address for operational communications	[INSERT] RM Operational Lead (not our account manager who would not be involved in this kind of contact)

Details of reseller relationship		
Scope	The Supplier agrees that the Reseller may promote, market and re-sell the Services and Third Party Services throughout the Term to either (a) schools, academies and colleges and/or (b) to multi-academy trusts and local authorities (“ MATS ”), who will then sub-distribute them to the ultimate end user schools, academies and colleges (the “ Customers ”).	
Services	[RM [INSERT]]	
Territory (if applicable)	[RM [INSERT]]	
Details of distribution exclusivity (if applicable)	[RM [INSERT]]	
Effective Date:	[RM [INSERT]]	
Automatic Renewal Period Date:	[RM [INSERT]]	
Relevant documents	RM Terms and Conditions of Purchase	Latest version downloadable at www.rm.com/about/terms
	Template Order	Appended to this Details Document
	Third Party Product Specific Terms	[INSERT LINKS TO THIRD PARTY TERMS]
Rate card	[INSERT HERE THE STANDARD RATES THAT THE SUPPLIER SHALL BE PERMITTED TO CHARGE TO RM IN EACH ORDER]	

Execution

This Agreement consists of this Details Document and the Terms and Conditions appended to it. Each Party confirms that it has read this Agreement and agrees to be bound by its terms. Unless the context otherwise requires, definitions used in the Terms and Conditions have the same meaning in this Details Document.

For and on behalf of RM Education Limited		For and on behalf of [INSERT NAME OF OTHER PARTY]	
Signed		Signed	
Name (Print)		Name (Print)	
Position		Position	
Date		Date	

APPENDIX – TEMPLATE ORDER

Order– Ref: **[INSERT]**

Reseller Purchase Order number: **[INSERT]**

Parties			
Reseller		Supplier	
Name	[INSERT]	Name	RM Education Limited
Registered company number	[INSERT]	Registered company number	01148594
Registered address	[INSERT]	Registered address	142b Park Drive, Milton Park, Abingdon, Oxon, England, OX14 4SE
Contact Name	[INSERT]	Contact Name	[INSERT]
Contact details	[INSERT] Email, Telephone, mobile]	Contact details	[INSERT] Email, Telephone, mobile]

1. The Parties entered into an agreement dated **[INSERT]** (the “**Agreement**”), allowing the Reseller to request Services from the Supplier for Resale.
2. In connection with the Agreement, the Reseller requests certain Services to be provided by the Supplier for Resale, and the Supplier agrees to provide such Services to the Reseller, in accordance with this Order.
3. Unless otherwise defined in this Order, terms used in this Order shall have the meaning given to them in the Agreement.
4. The terms of the Agreement are incorporated into and form part of this Order, as varied and amended by the other provisions of this Order.
5. This Order may be amended by the Parties under Clause 13 of the Agreement, or by the Parties entering into a new order to incorporate the existing and any new Services.

SERVICES

Customer	[INSERT]
Customer address	[INSERT]
Services	[INSERT]
Products	[INSERT, INCLUDING VOLUME]
Third Party Services	[INSERT]
Third Party Product Specific Terms	[INSERT LINK]
Price	[INSERT]
Invoicing and payment terms	[INSERT]
Delivery date(s)	[INSERT]
Delivery address	[INSERT]
Other requirements	[INSERT]
Data protection requirements	See Schedule 1 this Order.

EXECUTION

This Order shall be legally formed and the Parties shall be legally bound when both Parties have signed this Order.

For and on behalf of RM Education Limited		For and on behalf of the [INSERT NAME OF RESELLER]	
Signed		Signed	
Name (Print)		Name (Print)	

Position		Position	
Date		Date	

1. CONTRACT FORMATION AND APPLICABLE TERMS

1.1 Applicable Terms

RM Education Limited (“**RM**”) is the UK’s leading educational ISP for super-fast, robust connectivity and a leading ICT supplier of software, technology and services to UK schools, academies, colleges and trusts, delivering a unified technology environment that improves learning outcomes for pupils and teachers. The Agreement between the Supplier and Reseller is governed by the following documents which apply and are incorporated into this Agreement as follows (in descending order of priority and precedence):

- a) **The Details Document**
- b) **The Order** (applicable as between Supplier and Reseller);
- c) **These Terms and Conditions** (applicable as between Supplier and Reseller);

1.2 Definitions interpretation

In the Agreement:

- a) capitalised words and phrases have the meanings given to them in Clause 22;
- b) references to ‘writing’ also include electronic signature and emails;
- c) references to **Clauses** and **Schedules** are to clauses of, and schedules to, this Agreement;
- d) the headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement;
- e) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- f) a reference to a Party includes its personal representatives, successors or permitted assigns;
- g) words imparting the singular shall include the plural and vice versa;
- h) words imparting a gender shall include the other gender and the neutral;
- i) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted;
- j) a reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted; and
- k) any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative, shall not limit the sense of the words preceding or following those terms, and shall be deemed to be followed by the words without limitation unless the context requires otherwise.

2. APPOINTMENT

- 2.1 The Supplier appoints the Reseller and the Reseller accepts the appointment to be an authorised non-exclusive distributor of the Supplier in accordance with the terms and conditions of this Agreement in the Territory for the Term. The Reseller agrees to market, promote and re-sell the technology and Cloud Services and/or technology hardware Products (jointly called the “**Services**”) and where applicable, Third Party Services, to Customers in accordance with the terms of the relevant Order.

3. AGREEMENT

- 3.1 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. These Terms and Conditions apply to all Reselling.
- 3.2 Each Party agrees that it 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 Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.
- 3.3 This Agreement shall be legally formed and the Parties shall be legally bound when each Party has signed the Details Document.

4. RESELLER OBLIGATIONS

- 4.1 Throughout the Initial Term and each Renewal Period, the Reseller undertakes and agrees with the Supplier that it shall:

- a) use reasonable endeavours to promote the distribution and Resale of the Services in the Territory (at its own cost) in accordance with the reasonable written instructions of the Supplier, and for such purposes only using the information and promotional materials provided by the Supplier (or its Third Party Providers) unless agreed otherwise in writing between the Parties.
- b) on written request, supply to the Supplier any information it reasonably requires in order to perform its obligations under this Agreement.
- c) comply with all obligations set out in the Details Document and each Order (including any documents appended or referred to in them, and any variations to any such document agreed in accordance with this Agreement).
- d) ensure that the Customers are issued with and have accepted the relevant Third Party Product Specific Terms.
- e) refrain from amending or varying any applicable Third Party Product Specific Terms.
- f) comply with applicable Legislation relating to the Services and their usage.
- g) comply with the provisions of the UK Bribery Act 2010, the UK Modern Slavery Act 2015, the UK Criminal Finances Act 2017 as well as the US Foreign Corrupt Practices Act, and ensure that its business is conducted in compliance with any sanctions administered by HM Treasury, US Dept of Treasury or European Union in the fight against terrorism and embargoes.
- h) carry out its duties using all professional due care and diligence.
- i) during the Term of this Agreement, and for two years thereafter, the Reseller shall maintain true and accurate records to enable the Supplier to ensure the Reseller's compliance with the terms of this Agreement. Subject to reasonable written prior notice being not less than one month, the Reseller shall permit the Supplier to have access to all of the Reseller's records relating directly to this Agreement for the purposes only of verification of the Reseller's compliance with this Agreement.
- j) use commercially reasonable efforts to meet any mutually agreed targets;
- k) ensure all the Reseller's personnel who visit schools, academies and colleges or have access to the personal data of children in the course of performing its obligations under this Agreement, have an enhanced and current Disclosure and Barring Service (“**DBS**”) certificate and provide proof of such DBS records if requested by the Supplier and/or the Customer; and
- l) the Reseller will not:- (i) represent itself as an agent of the Supplier for any purpose except as provided in this Agreement; (ii) pledge the Supplier's credit; (iii) give any condition or warranty on the Supplier's behalf; (iv) make any representation on the Supplier's behalf; (v) commit the Supplier to any contracts except as provided in this Agreement; (vi) otherwise incur any liability for or on behalf of the Supplier or degrade the Supplier's reputation; or (vii) without the Supplier's written consent, make any promises or guarantees about the Services beyond those contained in the promotional material supplied by the Supplier or Third Party Provider, as the case may be.

- 4.2 The Supplier acknowledges that the Reseller's only obligation in respect of the Third Party Services is to ensure that each Customer is aware of where the relevant Third Party Product Specific Terms can be found. The Supplier shall not be responsible, or have any liability (subject to Clause 11.1) for any breach by any Customer of any Third Party Product Specific Terms; in the event of any such breach, the Supplier (or the relevant Third Party Provider) shall enforce the Third Party Product Specific Terms directly against the relevant Customer.

5. SUPPLIER OBLIGATIONS

- 5.1 The Supplier agrees with the Reseller throughout the Term:

- a) to promptly provide the Reseller with updated information about the Services and reasonable assistance as is reasonably necessary to respond to Customers' queries and to Resell;
- b) to provide the Reseller with sales and marketing materials relating to the Services for the Reseller to use, reproduce and distribute solely for the purpose of the Reseller fulfilling its obligations under this Agreement; and
- c) to keep the Reseller informed at least six (6) months in advance of any Services which it intends to replace or discontinue and the likely time-scale for introduction, replacement of discontinuation of the same.
- d) warrants that any Services shall:
 - i) conform in all respects with any particulars or specification specified in the Details Document and/or any Order including any variations;

- ii) conform in all respects with the requirements of any statutes, orders, regulations or bye-laws from time to time in force;
- iii) be of satisfactory quality and free from defects in materials and workmanship; and
- iv) be fit and sufficient for the purpose for which the Services are ordinarily used and for any particular purpose made known to the Supplier by the Reseller and the Reseller relies on the skill and judgement of the Supplier in the supply of the Services.

5.2 The Supplier and the Reseller may by written agreement add additional items to the Services as they mutually agree under a Change Control Note, or by the Parties entering into a new order to incorporate the existing and any new Services.

6. ORDER PROCEDURE

6.1 The Reseller may buy the Services for itself or for resale to Customers by placing an Order with the Supplier on the Supplier's electronic fulfilment platform or as otherwise agreed. The rates applicable to the Services and/or Third Party Services, and on which the Price in each Order shall be calculated, will be as specified in the Details Document.

6.2 This Agreement governs the overall relationship of the Parties in relation to Reselling, and sets out:

- a) in this Clause 6, the procedure for the Reseller to request the provision of the Services for Resale by the Supplier, under separate Orders;
- b) appended to the Details Document, the template form of Order to be entered into by the Parties; and
- c) in the Details Document the applicable terms being these Terms and Conditions as well as, if applicable, the relevant Third Party Product Specific Terms, that are all deemed incorporated into each Order.

6.3 The Reseller shall be entitled from time to time to request in writing the ability to Resell any of the Services from the Supplier. On receipt of a Customer's order to the Reseller, the Reseller will inform the Supplier of the following:

- a) the Reseller's Order including the relevant Reseller purchase order number;
- b) the name and address of the Customer;
- c) the specific Services ordered including any Third Party Services and, if relevant, the number of licences or Products being ordered;
- d) the Price payable to the Supplier;
- e) the anticipated Customer delivery date;
- f) the Customer delivery address;
- g) and any other material commercial provision in relation to the Customer's Order.

6.4 Within 10 Business Days of receipt of a written request from the Reseller, the Supplier shall either:

- a) inform the Reseller that the Supplier is not able to provide the requested Services; or
- b) complete a draft Order containing the information referred to in the template Order appended to the Details Document, and shall submit the draft Order to the Reseller for its written approval.

6.5 An Order shall not enter into force, be legally binding or have any other effect unless:

- a) the Order contains the information required by the template Order appended to the Details Document;
- b) the Order has been signed by the authorised representatives of both Parties; and
- c) as at the date the Order is signed, this Agreement has not terminated.

6.6 Each Order:

- a) shall be entered into by the Parties;
- b) forms a separate contract between the Parties; and
- c) shall incorporate the Details Document and these Terms and Conditions, and each other Order then in force where applicable.

6.7 On termination (or expiry) of this Agreement, howsoever arising, each Order then in force at the date of such termination shall continue in full force and effect for the remainder of the term of that Order, unless terminated earlier in accordance with the terms of that Order.

6.8 The failure by the Supplier to deliver by the agreed delivery date shall enable the Reseller (at its option) to release itself from any obligation to accept and pay for the Products and/or Services and/or to cancel all or part of the

Products and/or Services under the Order, in either case without prejudice to its other rights and remedies.

7. PRICES AND PAYMENT

7.1 In consideration of the payment by the Reseller of the Price, the Supplier shall supply the Services to the Reseller for Resale, in accordance with each relevant Order. Payment shall not constitute acceptance by the Reseller of non-conforming Products and / or Services.

7.2 Unless expressly agreed otherwise between the Parties in the Order, the Prices are exclusive of value added tax (and any similar tax), which will be added to the Supplier's invoices, as well as transport and shipping costs.

7.3 Unless agreed otherwise in the Order, the Supplier shall render a separate invoice referencing the relevant purchase order number in respect of each consignment of Services delivered or made available under the Order. The Reseller undertakes to pay correctly submitted, valid invoices within 30 Business Days of receipt from the day of physical or electronic arrival at the nominated address of the Reseller. Invoices shall not be rendered by the Supplier until available or completion of delivery (as appropriate) of all the Products and/or Services which are the subject of the Order.

7.4 A valid invoice is one:

- a) that is for the correct Price;
- b) in respect of Products and/or Services supplied or delivered to the required quality;
- c) is received by Supplier within one (1) year from the date of the Reseller Purchase Order;
- d) which quotes the relevant Reseller Purchase Order number; and
- e) which has been delivered to the nominated address.

7.5 The Supplier will ensure to submit its invoices stating the relevant purchase order number applicable for the consignment. Where this is not done, the Reseller reserves the right to require the Supplier to re-submit its invoice so that it is a valid invoice. Where there is a mistake on the face of the invoice, such as, without limitation, incorrect Price, the undisputed part of the invoice amount shall be paid by the Reseller in accordance with Clause 7.3. After receipt of the corrected invoice, the Reseller shall pay the unpaid balance as soon as possible.

7.6 The Reseller specifically reserves the right to withhold or deduct by way of set-off or otherwise from any monies due or to become due to the Supplier, providing it can show reasonable grounds for a bona fide dispute and providing that all other undisputed amounts have been paid in the terms of the applicable Order and it is not in arrears. The Parties agree to resolve the issue as soon as possible (each acting reasonably).

7.7 No payment of or on account of the Prices shall constitute any admission by the Reseller as to proper performance by the Supplier of its obligations under the Agreement.

7.8 If the Reseller fails to make any payment due to the Supplier under this Agreement by the due date for payment and such amount remains outstanding for 14 days following notice from the Supplier to the Reseller in respect of such outstanding amount, then, without limiting the Supplier's rights and remedies whether under this Agreement or at law, the Supplier may charge interest on the overdue amount at the rate of 3% per annum above The Bank of England's base 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 Reseller shall pay the interest together with the overdue amount.

8. INTELLECTUAL PROPERTY

8.1 The Supplier (and/or its licensors) shall retain all rights, title and interest in any Intellectual Property Rights in the Services supplied to the Reseller and its Customer under the Agreement or created in the course of providing the Services. Other than the licences expressly granted under this Agreement, neither Party grants any licence of, right in or makes any assignment of any of its Intellectual Property Rights. In particular, except as expressly provided in this Agreement, the Reseller shall have no rights in respect of any trade names or trade marks used by the Supplier (or its licensors) in relation to the Services or their associated goodwill, and the Reseller hereby acknowledges that all such rights and goodwill shall inure for the benefit of and are (and shall remain) vested in, the Supplier (or its licensors).

8.2 The Supplier warrants that the receipt, use and onward supply of the Services by the Reseller and/or the Customer (and each member of the Customer chain) shall not infringe the rights, including any Intellectual Property Rights, of any third party.

8.3 The Reseller shall at the expense of the Supplier, take all such steps as the Supplier may reasonably request, to assist it in maintaining the validity and enforceability of the Intellectual Property Rights during the term of this Agreement.

8.4 The Reseller will not copy the Services or any part of them except to the extent and for the purposes expressly permitted by this Agreement. It will not modify, adapt, develop or create any derivative work, reverse engineer, decompile, disassemble or carry out any act otherwise restricted by copyright or other Intellectual Property Rights in the Services except and only to the extent that it is expressly permitted by applicable Legislation.

8.5 The Supplier grants to the Reseller a non-exclusive, revocable, sub-licensable (to Customers and any other party in the Customer chain) right during the Term, in the Territory, subject to the terms and conditions of this Agreement, and solely for the purposes of performing the Reseller's obligations under this Agreement, to use:

- a) the Services; and
- b) the Trade Marks in the promotion, advertisement and sale of the Services, the Products and any applicable Third Party Services;

subject to, and for the duration of, this Agreement. The Reseller acknowledges and agrees that all rights in the Trade Marks shall remain in the Supplier (and/or its licensors), and that the Reseller has and will acquire no right in them by virtue of the discharge of its obligations under this Agreement, except for the right to use the Trade Marks as expressly provided in this Agreement.

8.6 Limitations on Reseller's Use of Trade Marks.

- a) The Reseller shall not, without the prior written consent of the Supplier:
 - i) alter or make any addition to the labelling or packaging of the Products displaying the Trade Marks;
 - ii) make any addition or modifications to the Products or to any advertising and promotional materials supplied by the Supplier; or
 - iii) alter, deface or remove any reference to the Trade Marks, any reference to the Supplier or any other name attached or affixed to the Products or their packaging or labelling.

8.7 Assistance re Trade Marks.

- a) The Reseller shall promptly give notice to the Supplier in writing if it becomes aware of:
 - i) any infringement or suspected infringement of the Trade Marks or any other intellectual property rights relating to the Services or Products within the Territory; or
 - ii) any claim that any of the Services or Products or the manufacture, use, sale or other disposal of any of the Services or Products within the Territory, whether or not under the Trade Marks, infringes the rights of any third party.

8.8 Conduct of claims.

- a) In respect of any matter that falls within Clause 8.7a)i):
 - i) the Supplier shall in its absolute discretion, decide what action to take in respect of the matter (if any);
 - ii) the Supplier shall conduct and have sole control over any consequent action that it deems necessary and the Reseller shall on being so requested by the Supplier and at the Supplier's cost assist in taking all steps to defend the rights of the Supplier including the institution at the Supplier's cost of any actions which it may deem necessary to commence for the protection of any of its rights; and
 - iii) the Supplier shall pay all costs in relation to that action and shall be entitled to all damages and other sums that may be paid or awarded as a result of that action.
- b) In respect of any matter that falls within Clause 8.7a)ii):
 - i) the Supplier and the Reseller shall agree what steps to take to prevent or terminate the infringement and the proportions in which they shall share the cost of those steps and any damages and other sums that may be awarded to or against them; and
 - ii) failing agreement between the Parties, either Party may take any action as it considers necessary or appropriate, at its own expense, to defend the claim and shall be entitled to and responsible for all damages and other sums that may be recovered or awarded against it as a result of that action.

8.9 **Effect of termination.** On termination of this Agreement, for any reason, the Reseller shall immediately stop using all or any part of the Trade Marks save to the extent required to deliver any Order agreed between the Parties prior to the effective date of such termination.

9. TERMINATION

9.1 Unless and until otherwise terminated earlier in accordance with this Agreement, this Agreement shall commence on the Effective Date and shall continue for an initial period of twelve (12) months "**Initial Term**") and thereafter it will renew on an automatic rolling annual basis (each a "**Renewal Period**"), unless one Party gives the other Party at least 3 months prior written notice to terminate expiring at the end of the Initial Term or Renewal Period, as the case may be.

9.2 Without affecting any other right or remedy available to it, each Party may terminate this Agreement and/or any Order, immediately by giving written notice to the other Party if:

- a) the other Party commits a material breach of any term of this Agreement, which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of fourteen (14) Business Days after being notified in writing to do so;
- b) the other Party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with the intention or ability to give effect to the terms of this Agreement;
- c) the other Party gives notice to any of its creditors that it has suspended or is about to suspend payment or if it shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or an order is made or a resolution is passed for the winding-up of the other Party or an administration order is made or an administrator is appointed to manage the affairs, business and property of the other Party or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the other Party's assets or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver and/or manager or administrative receiver or administrator or which entitle the court to make a winding-up or bankruptcy order or the other Party takes or suffers any similar or analogous action in consequence of debt in any jurisdiction;
- d) the other Party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.

9.3 Without affecting any other right or remedy available to it, the Reseller may terminate this Agreement and/or any Order, immediately on notice to the Supplier if the Supplier ceases to produce or distribute generally the Services and/or Products.

9.4 Without affecting any other right or remedy available to it, the Supplier may terminate this Agreement and/or any Order, immediately on notice to the Reseller if the Reseller fails to pay any amount due under this Agreement on the due date for payment and remains in default for not less than thirty (30) Business Days after being notified in writing to make such payment.

10. Consequences of termination

10.1 Termination of this Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.

10.2 On termination of this Agreement:

- a) The Reseller shall pay to the Supplier all of the Supplier's outstanding unpaid invoices in accordance with the payment terms under this Agreement.
- b) Save to the extent required for the Reseller to continue to deliver and perform any pre-existing Orders, all rights and licences granted to the Reseller under this Agreement shall terminate.
- c) The Reseller shall return to the Supplier or otherwise destroy all materials and media containing or otherwise relating to the Services.

10.3 Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

11. LIMITATION OF LIABILITY

11.1 Nothing in this Agreement shall limit or exclude the liability of either Party for:

- a) Death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - b) Fraud or fraudulent misrepresentation;
 - c) Any matter in respect of which it would be unlawful to exclude or restrict liability.
- 11.2 Subject to Clause 11.1, neither Party shall in any circumstances be liable whether in tort (including for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for:
- a) loss of profits; or
 - b) loss of business; or
 - c) depletion of goodwill or similar losses; or
 - d) loss of anticipated savings; or
 - e) loss of goods; or
 - f) loss of use; or
 - g) wasted expenditure; or
 - h) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 11.3 Subject to Clause 11.1, each Party's total aggregate liability in contract, tort (including negligence or breach of statutory duty howsoever arising), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement or otherwise, shall in all circumstances be limited to:
- a) in respect of any claim made under or in connection with Clause 12, £500,000; and
 - b) in respect of any other claim, 125% of the Price paid by the Reseller to the Supplier under this Agreement in the twelve (12) months preceding the date on which the claim arose.
- 11.4 Each Party shall:
- a) maintain in force such insurance policies with reputable insurance companies as it considers reasonably necessary to cover its relevant potential and insurable liabilities in connection with this Agreement; and
 - b) during the term of this Agreement, and for a period of one year thereafter, do nothing to invalidate any insurance policy or to prejudice the other Party's entitlement under any insurance policy.
- ## 12. DATA PROTECTION
- 12.1 The following terms shall have the meaning set out below in this Clause 12:
- "Data Protection Legislation"** means all applicable data protection and privacy legislation in force from time to time including: a) in the UK (including, but not limited to, the UK GDPR, the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426)); and/or b) to the extent that the General Data Protection Regulation EU 2016/679 ("**EU GDPR**") applies, the law of the European Union or of the relevant member state of the European Union, which relates to the protection of personal data;
- "UK GDPR"** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018; and
- The terms **Controller**, **Processor**, **Data Subject**, **Personal Data**, **Special Categories of Personal Data**, **Processing**, **Data Subject Access Request**, **Data Protection Impact Assessment** and **Personal Data Breach** shall be as defined in the Data Protection Legislation and "**Data**" shall mean the Personal Data and Special Categories of Personal Data provided by Reseller (or the Customer) to the Supplier in connection with this Agreement.
- 12.2 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Reseller is the primary Processor to the Customer (acting as Controller) and the Supplier is the Reseller's sub-Processor.
- 12.3 Both Parties will comply with all applicable requirements of the Data Protection Legislation. This Clause 12 is in addition to, and does not relieve, remove or replace, a Party's obligations under the Data Protection Legislation.
- 12.4 The Supplier shall:
- a) ensure that its employees, sub-contractors and sub-processors shall, Process the Data only on the Reseller's written instructions;
 - b) provide appropriate technical and organisational measures to ensure the protection of the rights of the Data Subjects, such measures to be described in the Order;
 - c) ensure that it has in place appropriate technical and organisational measures which shall be described in the Order, to protect the Data against accidental or unlawful destruction, loss, alteration, damage, unauthorised disclosure of, or access to, Data transmitted, stored or otherwise Processed;
 - d) complete a security questionnaire as provided by the Reseller before commencement of the Services;
 - e) re-submit a security questionnaire if there are changes to the Supplier's system which would trigger a Data Protection Impact Assessment under the Data Protection Legislation;
 - f) ensure that all personnel it authorises to Process the Data (including its employees, agency workers, or the employees of any sub-contractors or sub-processors) are obliged to keep the Data confidential and ensure that the Supplier can enforce these confidentiality obligations;
 - g) at the written direction of the Reseller, delete or return the Data to the Reseller after the end of the provision of the Services relating to Processing, except that the Supplier may keep any Data, if required by any applicable laws to store the Personal Data;
 - h) maintain complete and accurate records and information to demonstrate its compliance with this Clause 12 and provide access to the same for the purpose of audits conducted by the Reseller or its appointed auditor; and
 - i) not Process or transfer outside of the UK and the European Economic Area (or any country deemed adequate by the European Commission and/or the Information Commissioner's Office pursuant to the Data Protection Legislation) without the Reseller's prior written consent.
- 12.5 Subject to Clause 12.6, the Supplier shall notify the Reseller immediately if it:
- a) considers that any of the Reseller's instructions infringe the Data Protection Legislation;
 - b) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - c) receives a request to rectify, block or erase any Personal Data;
 - d) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - e) receives any communication from the Information Commissioner's Office or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - f) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; and/or
 - g) becomes aware of a Personal Data Breach.
- 12.6 The Supplier's obligation to notify under Clause 12.5 shall include the provision of further information to the Reseller in phases, as details become available.
- 12.7 Taking into account the nature of the Processing, the Supplier shall provide the Reseller with full assistance free of charge in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 12.5 (and insofar as possible within the timescales reasonably required by the Reseller) including by promptly providing:
- a) the Reseller with full details and copies of the complaint, communication or request;
 - b) such assistance as is reasonably requested by the Reseller to enable the Reseller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - c) the Reseller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - d) assistance as requested by the Reseller following any Personal Data Breach;
 - e) assistance to the Reseller as requested in respect of any Data Protection Impact Assessment; and
 - f) assistance as requested by the Reseller with respect to any request from the Information Commissioner's Office, or any consultation by the Reseller with the Information Commissioner's Office, supervisory authorities or regulators.
- 12.8 The Parties acknowledge that the Supplier's provision of the Services under this Agreement may involve the appointment of sub-contractors by the Supplier. The Supplier shall not appoint any third party, including consultant, sub-contractor, agent or professional adviser or other third party which may receive and/or have access to the Data unless:
- a) the Reseller provides, at its own discretion, prior written consent; and

- b) the Supplier provides the Reseller with such information regarding the sub-processor as the Reseller may require.
- 12.9 If the Reseller consents to the appointment of any sub-processor under Clause 12.8, the Supplier shall put in place in writing with any sub-processor contractual obligations which are at least equivalent to the obligations imposed on the Supplier pursuant to this Clause 12 including obligations which provide sufficient guarantees from the sub-processor that the processing meets the requirements of the Data Protection Legislation.
- 12.10 The Supplier will inform the Reseller sufficiently in advance of, and allow a reasonable period for objection to, any intended changes concerning the addition or replacement of sub-processors.
- 12.11 During the provision of the Services under this Agreement, the Supplier shall not transfer any Data to any Supplier sub-processors (“**Recipients**”) outside the United Kingdom and/or European Economic Area in countries which have not been approved by the European Commission and/or the Information Commissioner’s Office pursuant to the Data Protection Legislation as having adequate protections in place for the purpose of the transfer of personal data pursuant to the Data Protection Legislation unless:
- 1.8.1 the Reseller, in its sole discretion, provides its prior written consent to such transfer;
 - 1.8.2 the Supplier provides the Reseller with such information regarding the sub-processor as the Reseller may require; and
 - 1.8.3 the Supplier provides appropriate safeguards in accordance with the Data Protection Legislation (such as standard contractual clauses) and;
 - 1.8.4 the Supplier complies with the provisions of Clause 12.9 above.
- 12.12 The Supplier shall remain fully liable to the Reseller for the performance of any sub-processor appointed by it.
- 12.13 The Supplier shall indemnify and hold harmless the Reseller against all costs, claims, losses, damages and expenses (including legal expenses) arising out of, or in connection with, any breach of this Clause 12 by the Supplier and/or its employees, agents and/or sub-contractors or sub-processors.
- 12.14 The Order sets out the following information regarding the Data: subject-matter; duration of the Processing; nature and purpose of the Processing; type of Data; categories of Data Subjects; and the obligations and rights of the Reseller.

13. CHANGE CONTROL

- 13.1 In the event that either Party needs to change this Agreement, the Reseller may request, and the Supplier may at any time recommend, such Change only in accordance with this Clause 13.
- 13.2 Until such time as a Change is made in accordance with this Clause 13, the Parties shall, unless otherwise agreed in writing, continue to perform this Agreement in compliance with its terms prior to such Change.
- 13.3 A “**Change Control Note**” means the written record of a Change agreed or to be agreed by the Parties, and shall contain:
- a) the title of the Change;
 - b) the originator and date of the request or recommendation for the Change;
 - c) the reason for the Change;
 - d) full details of the Change, including any specifications;
 - e) the impact on the Price, if any, of the Change;
 - f) a timetable for implementation, together with any proposals for acceptance of the Change;
 - g) a schedule of payments if appropriate;
 - h) details of the likely impact, if any, of the Change on other aspects of this Agreement including:
 - i) the timetable for the provision of the Change;
 - ii) the personnel to be provided;
 - iii) the Price; and
 - iv) other contractual issues; and
 - i) provision for signature by the Parties.
- 13.4 A Change Control Note signed by the Parties shall constitute an amendment to this Agreement.

14. Confidentiality

- 14.1 Unless agreed otherwise in writing, for the term of this Agreement and for three years after termination of this Agreement for any reason, each Party agrees to maintain in confidence and shall not use, disclose or copy any Confidential Information of the other Party other than for the purpose of fulfilling its obligations under this Agreement or seeking advice from

professional advisors on a confidential basis. If either Party has to disclose any such Confidential Information to its employees, contractors and service providers it shall only do so on a need-to-know basis subject to ensuring that such employees, contractors and service providers are bound by the same obligations set out in this Clause and for a reasonable period after any disclosure. The obligations of confidence in this Clause shall not apply to the extent that (i) any information is or comes into the public domain other than as a result of a breach of this Clause and/or (ii) any information is required to be disclosed by law or by order of a Court or other regulatory authority.

- 14.2 On termination of this Agreement, each Party shall: (i) return to the Disclosing Party any information disclosed in any tangible form, and all copies thereof (on whatever physical, electronic or other media such information may be stored) containing any of the Confidential Information, if such Confidential Information is stored in electronic form, it is to be promptly deleted; and (ii) provide a confirmation, in writing, executed by an appropriate officer of the Receiving Party, that it has retained no copies of the Confidential Information on any media and that it has retained no notes or other embodiments of the information contained in the Confidential Information.

15. FORCE MAJEURE

Neither Party shall be liable to the other for any delay or non-performance of its obligations under the Services Agreement in the event of and to the extent that such delay or non-performance is due to an event of Force Majeure. Events of Force Majeure are events beyond the control of the Party, which were not reasonably foreseeable at the time of signing of the Services Agreement and whose effects are not capable of being overcome without unreasonable expense by a company in a similar business and in a similar position. Events of Force Majeure shall include war, terrorism, pandemics, civil unrest, strikes, lock-outs and other general labour disputes, acts of government, natural disasters, exceptional weather conditions, breakdown or general unavailability of transport facilities, accidents, fire, explosions, and general shortages of energy.

16. ASSIGNMENT AND TRANSFER

With the exception of corporate re-structuring, neither Party shall be entitled to assign or transfer all or any of its rights, benefits and obligations under the Services Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld.

17. GOVERNING LAW AND JURISDICTION

- 17.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England.
- 17.2 The Parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation.

18. NOTICES

- 18.1 Formal contractual notices shall be delivered both by email, and by courier or first class registered post to the parties’ representatives below at the following addresses:
- a) The Supplier: your registered address, and the email address of either a senior company representative or an account manager as set out in the Agreement or as otherwise provided from time to time;
 - b) The Reseller: The Reseller’s registered address at 142b Park Drive, Milton Park, Abingdon, Oxfordshire OX14 4SE, England, marked for the attention of the Company Secretary, RM Education Ltd, and the email of the Reseller’s Company Secretary at CompanySecretary@rm.com, with in copy Notifications@rm.com and your account manager.

- 18.2 Operational correspondence should be sent to a party’s usual operational contact(s).

- 18.3 All formal contractual notices delivered by first class registered post or courier will be deemed to have been delivered on the second Business Day after posting. Emails will be deemed to have been delivered instantaneously provided that no notice of failure to deliver the email is received at the time of transmission. Where an email is received outside of business hours (9.00am to 5.00pm on a Business Day), it will be deemed delivered on the next Business Day.

19. THIRD PARTY RIGHTS

A person who is not a Party shall not have any rights under or in connection with this Agreement.

20. WAIVER

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

20.2 Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

21. SEVERANCE

21.1 If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

21.2 If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

22. DEFINITIONS

Agreement	These Terms and Conditions together with applicable Schedules, each Order, and any document referred to in the Details Document.
Business Day	the hours 9am to 5pm, Monday to Friday, excluding public/bank holidays in England and the Reseller's shutdown period between Christmas and New Year in the UK.
Change	any change to this Agreement including to any of the Services;
Change Control Note	has the meaning given to it in Clause 13.3;
Confidential Information	any information in any form or medium obtained by or on behalf of either Party from or on behalf of the other Party in relation to this Agreement which is expressly marked as confidential or which a reasonable person would consider to be confidential, whether disclosed or obtained before, on or after the Effective Date, together with any reproductions of such information or any part of it;
Customer (s)	means the ultimate end customer to whom the Reseller or MATS resells the Services to.
Details Document	the written document agreed together with these Terms containing specific information relating to the reseller relationship between the Parties.
Effective Date	means the date of the last signature of this Agreement by both Parties.
Initial Term	has the meaning given to it in Clause 9.1.
Intellectual Property Rights	means all vested contingent and future intellectual property rights including but not limited to goodwill, reputation, rights in confidential information, copyright, trade marks, logos, service marks, devices, plans, models, diagrams, specifications, source and object code materials, data and processes, design rights, patents, know-how, trade secrets, inventions, get-up, database rights (whether registered or unregistered) and any applications or registrations for the protection of these rights and all renewals and extensions thereof existing in any part of the world whether now known or in the future created.
Legislation	Any statute, statutory provision or subordinate legislation or any mandatory rules or guidance issued by any regulatory body having jurisdiction over the applicable Party, as may be amended, re-enacted or replaced from time to time.

Price (s)	means the amounts payable by the Reseller to the Supplier, for the Services provided under this Agreement, on the basis of the rates set out in the Details Document.
MATs	means multi-academy trusts and local authorities who sub-distribute Products and Services provided to them by Reseller to end user schools, academies and colleges in their region.
Order	means the purchase order (including a quote or statement of work) in relation to Services including Products and /or Third Party Services.
Party	the Supplier or the Reseller, and Parties refers to both the Supplier and the Reseller.
Product(s)	means any products, such as hardware and software products provided by the Supplier to the Reseller for Resale.
Renewal Period	has the meaning given to it in Clause 9.1.
Reselling	means the reselling services provided by the Reseller to the Supplier under this Agreement; Resale and Resell shall be construed accordingly.
Services	means the services including Products that the Reseller is permitted to resell as provided for in this Agreement and as more specifically defined in the Details Document. Examples of such services, without limitation, can be managed services, cloud hosted services, support services, installation services, consultancy services, delivery and installation services, training services.
Term	The term of the Agreement, including any renewals, if applicable.
Territory	UK or as provided in the Details Document.
Third Party Provider	Any third party who provides Third Party Services to the Supplier for resale from time to time.
Third Party Services	Any products and/or services such as, without limitation, PC laptops, peripherals, SaaS cloud services, software licences, technology support services, consulting services or other services provided by a Third Party Provider to a Customer under this Agreement. Such Third Party Services may be subject to their own Third Party Product Specific Terms.
Third Party Product Specific Terms	Those terms and conditions, as amended or revised from time to time, including any usage restrictions, limited warranties and indemnities relating to any Third Party Services which can be downloaded or otherwise accessed by the Reseller and/or Customer as set out in an Order and/or the Details Document. These terms also may include in relation to third party software, a "EULA" (end user licence agreement), as well as in relation to third party products, the manufacturer's instructions for use.

Schedule 1

SECTION A – Data processing information

UK GDPR Article	Description	Details
28 (3)	Subject matter of the processing	The subject matter will be [TBC].
	Nature and purposes of the processing	The Supplier shall carry out the Processing of Personal Data on behalf of and as instructed by the Reseller in respect of the Services resold by the Reseller and provided to the Reseller for Resale by the Supplier. Such processing shall include: [TBC]
	Type of Personal Data	The Supplier will Process the following types of Personal Data on behalf of the Reseller when required to do so in order to provide the Services: • TBC
	Categories of Data Subject	[TBC]
	Duration of the processing	[TBC]
28 (3) (a)	Documented instructions	Those set out in this Agreement and the Supplier shall comply with any further written instructions with respect to Processing issued by the Reseller.
28 (3) (b)	Confidentiality	[TBC]
28 (3) (c)	Security	[TBC]
28 (3) (d)	Other processors	As set out in the table below detailing Sub-Processors to be engaged by the Supplier in accordance with this Agreement
28 (3) (e)	Data subject's rights	See Clause 12.4 of this Agreement
28 (3) (f)	Compliance	See Clause 12.3 of this Agreement
28 (3) (g)	Data deletion	[See Clause 12.4(g) of this Data Processing Agreement]
28 (3) (h)	Transparency	See Clause 12.7 of this Data Processing Agreement

Name of sub-processor	Activity undertaken by sub-processor	Location of sub-processor	Type of data processed by sub-processor
[please detail any sub-processors used]			

SECTION B – Technical and Organisational Measures

[Please describe the technical and organisational measures used by the Supplier to protect the Data against accidental or unlawful destruction, loss, alteration, damage, unauthorised disclosure of, or access to, Data transmitted, stored or otherwise Processed].