

MATHS PATHWAY STANDARD TERMS AND CONDITIONS

1. DURATION

1.1. These Standard Terms, together with the Order Form constitute an agreement between the school named in the Order Form (**the School**) and MATHS PATHWAY PTY LTD (ACN 166 061 516) (**Maths Pathway**) of 9 Bushfield Crescent, Coolaroo in the State of Victoria (**this Agreement**). You should read these terms carefully before signing the Order Form.

1.2. This Agreement shall have effect from the date specified in the Order Form (**Commencement Date**) for the period specified in the Order Form (**Term**) unless terminated earlier in accordance with this Agreement.

1.3. If the Term includes a trial period as specified in the Order Form (**Trial Period**), then this Agreement will automatically terminate at the end of the Trial Period, unless the School notifies Maths Pathway in writing that it wishes to extend this Agreement for the Term.

2. LICENCE OF THE MATHS PATHWAY E-LEARNING SYSTEM

As from the Commencement Date, Maths Pathway shall grant a licence to the School for the number of students specified in the Order Form (**Number of Licensed Users**) to access and use online the Maths Pathway e-Learning System software and its associated academic content (as amended from time to time at Maths Pathway's sole discretion) (**the Licensed Material**) as well as download, print and photocopy documents (**Licence**).

3. SERVICES

3.1. As from the Commencement Date, Maths Pathway shall provide to the School access to the Licensed Material and technical support in relation to the use of the Licensed Material (**the Services**). Maths Pathway shall endeavour (but is not obligated) to respond to technical support requests

within 24 hours of receiving a written request.

3.2. Maths Pathway may provide further professional development services during the term of the Licence, to be documented in a separate agreement between the parties.

3.3. For the avoidance of doubt, Maths Pathway will not install any hardware or software and its technical support relates only to the use of the Licensed Material.

4. LICENCE FEE

4.1. In consideration of Maths Pathway granting the Licence and supplying the Services during the Term, the School agrees to pay the fee specified in the Order Form (**Licence Fee**) on the terms specified in the Order Form (**Licence Fee Payment Terms**). All fees are expressed exclusive of GST unless specifically stated otherwise.

4.2. If there is a Trial Period, then the School is required to pay the trial fee as specified in the Order Form (**Trial Fee**) in respect of the Trial Period.

4.3. If the Licence Fee is outstanding at any time, then Maths Pathway may at its sole discretion suspend or terminate the Licence upon written notice to the School with effect from the conclusion of the current school term.

5. COLLECTION OF DATA

5.1. The School acknowledges that Maths Pathway may, to the extent permitted by law use student performance and demographic data collected by use of any Licensed Material subject of this Agreement:

- (a) for internal analytical purposes; and
- (b) for future studies that may be published, but subject to the condition that no student name, number or other data

is used that is capable of identifying any individual student.

This clause 5.1. will continue to operate following termination of this Agreement for any reason.

5.2. Except as otherwise expressly stated in this Agreement or any other agreement entered between the School and Maths Pathway, to the extent permitted by law the School retains all proprietary rights to any student data collected and may request records of such data be supplied to it by Maths Pathway upon reasonable notice.

6. WARRANTIES AND IMPLIED TERMS

6.1. Maths Pathway warrants that:

- (a) It has the right and authority to grant the Licence without infringing any intellectual property rights; and
- (b) It has full corporate power to enter into this agreement with the School.

6.2. The School warrants that:

- (a) It, its employees and students will not infringe the Licence and any of Maths Pathway's intellectual property rights in the Licensed Material; and
- (b) It has full capacity and power to enter into this Agreement and accept the obligations under this Agreement.

6.3. To the extent permitted by law, any warranties or terms implied into this Agreement are expressly excluded.

7. TERMINATION

7.1. Either party may terminate this Agreement on the expiration of 60 days' written notice.

7.2. Either party may terminate this Agreement immediately upon written notice if any of the following occurs:

- (a) A party breaches this Agreement and such breach is

not remedied within 14 days of the other party serving a written request for the breach to be remedied;

- (b) The licence of intellectual property granted by Mastery Learning Pty Ltd (ACN 166 061 534) to Maths Pathway is terminated for any reason;
- (c) The School ceases to conduct classes for any period in excess of 7 days (other than ordinary public holidays or school holidays that affect the School);
- (d) A party:
 - (i) Becomes insolvent;
 - (ii) Goes into liquidation;
 - (iii) Has an administrator, official manager, receiver or receiver and manager appointed;
 - (iv) Enters into a scheme or arrangement with its creditors or any class of them; or
 - (v) Passes a resolution or an application to a court is taken for the winding up, dissolution, official management or administration of that party.

8. ACTION ON TERMINATION

8.1. For the purposes of this clause:

Confidential Information means information that is by its nature confidential, including the terms of this Agreement, but excluding:

- (a) information already known to the receiving party at the time of disclosure by the other party; or
- (b) information in the public domain other than as a result of disclosure by a party in breach of its obligations of confidentiality under this Agreement; and

Intellectual Property Rights means any and all intellectual property rights (whether registered or not) owned by the Licensor in relation to the Licensed

Material, including copyright, trade marks, trade secrets, domain names, business or trading name, confidential information and know-how.

- 8.2. Upon termination of this Agreement for any reason the School, its employees and students shall:
 - (a) cease use of the Licensed Material and any associated academic content and relinquish all rights granted pursuant to the Licence; and
 - (b) relinquish possession of and deliver to Maths Pathway all materials, items, pictures, documents and notes whatsoever and in any medium relating to or incorporating Maths Pathway's Intellectual Property Rights and Confidential Information.
- 8.3. This clause survives termination of this Agreement.
- 8.4. Termination of this Agreement shall not affect any accrued rights or liabilities of either party.

9. INTERPRETATION

- 9.1. In this Agreement except to the extent that the context otherwise requires:
 - (a) words importing the singular include the plural and vice versa and words importing a gender include other genders;
 - (b) where a word or phrase is given a particular meaning, other parts of speech or grammatical forms of that word or phrase have corresponding meanings;
 - (c) references to a clause, order form or annexure shall be construed as references to a clause of or order form or annexure to this Agreement and references to this Agreement include the attached Order Form and any annexures;
 - (d) a reference to a party to this Agreement or any other document or Standard Terms includes its successors and permitted assigns;

- (e) a reference to a party shall be construed as a reference to a party to this Agreement;
- (f) a reference to a document or Standard Terms including this Agreement includes a reference to that document or Standard Terms as amended, novated, supplemented, varied or replaced from time to time;
- (g) in the interpretation of this Agreement, headings shall be disregarded;
- (h) references to currency shall be construed as references to Australian currency;
- (i) if any day appointed or specified by this for the payment of any money falls on a Saturday, Sunday or a day on which trading banks (as defined in the *Banking Act 1959* (Cth)) are not open for business in Victoria (**Non Business Day**), the day so appointed or specified shall be deemed to be the next day which is not a Non Business Day.

10. GENERAL

10.1. Further Assurances

Each of the parties shall sign, execute all such further documents and do all such acts, matters and things as shall be necessary or desirable to give full effect to this Agreement.

10.2. Assignment

No party shall assign or purport to assign any right under this Agreement without the prior written consent of the other party.

10.3. Entire Standard Terms and Variation

This Agreement:

- (a) contains the entire understanding of the parties as to its subject matter and there is no other understanding, Standard Terms, warranty or representation whether expressed or implied in any way defining or extending or otherwise relating to these provisions of the assets or any of the matters to which this Agreement relates; and

- (b) may only be altered in writing and signed by all parties.

10.4. Counterparts

This Agreement may be executed in any number of counterparts all of which, when taken together, shall constitute one and the same instrument.

10.5. Waiver

In this Agreement:

- (a) The failure of a party at any time to require full or partial performance of any provision of this Agreement will not affect in any way the full right of that party to require that performance subsequently;
- (b) The waiver of any party of a breach of a provision of this Agreement will not be deemed a waiver of all or part of that provision or of any other provision or of the right of that party to avail itself of its rights subsequently; and
- (c) Any waiver of a breach of this Agreement must be in writing signed by the party granting the waiver, and will be effective only to the extent specifically set out in that waiver.

10.6. Notices

Any notice required or authorised to be given or served upon a party pursuant to this Deed shall be in writing and be deemed duly given or made if delivered or sent by prepaid mail to the party's address specified in this Agreement, which shall be deemed served forty eight (48) hours following its posting.

10.7. Modification and Severability

The parties agree and acknowledge that:

- (a) all the provisions of this Agreement are reasonable in all the circumstances and that each provision is and will be deemed to be severable and independent; and
- (b) if all or any part of any provision is judged invalid or unenforceable in all the

circumstances, it will be deemed to be deleted and will not affect the validity or enforceability of the remaining provisions.

10.8. Costs

The parties shall bear their own costs in connection with the preparation and execution of this Agreement.

10.9. Governing Law and Jurisdiction

The parties agree and acknowledge that:

- (a) This Agreement is governed by and is to be construed in accordance with the laws of the State of Victoria; and
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Victoria, and Courts entitled to hear appeals from these Courts.

10.10. Confidentiality

The parties agree to keep the terms of this Agreement confidential. This obligation shall continue after termination of this Agreement.