

Title: Revised and Updated Terms and Conditions of Business - October 2020

1. Introduction

Camden Learning's current terms and conditions of business were drafted in 2018. Periodically it is advisable to update and revised them in response to changed statutory or trading conditions or some other substantial reason.

Our business terms and conditions sets out the contractual foundation between Camden Learning and our customers, both members and non-member schools. They are significant as they protect the business, define our procedures, limits the Company's liability and explains what we have agreed to do our obligations and theirs as customers.

2. Purpose

The purpose of the report is for the Board to agree the revised set of terms and conditions of business which are attached as Appendix 1.

3. Background

As set out above in the introduction our terms and conditions sets out the contractual framework between the Company and its customers. Our terms & conditions defines key terms used in the terms and conditions, outlines the legal limitations and clearly sets out payment terms, including the options on interest charges if there is a failure to settle the account.

The t&c's are can be viewed on our website. They are cited in our brochures and referred to in all our order forms where they state. *"Furthermore, by placing this order you are accepting Camden Learning Limited's terms and conditions of business.* The t&c's are a core document upon which we trade with our schools and customers.

4. Amendments to Terms and Conditions

Set out below are the areas and sections of the document where amendments have been made, in consultation with LBC Legal Services.

In section 11, Confidentiality and Data Protection clauses have been strengthened. Principally, this has been in response to moving our CPD offer on to a video conferencing platform.

Section 13, covering intellectual property rights, has also been revised. This is for a similar reason to the changes made in section 11 and the changing context of our business. Specifically, there is an increased risk given the virtual nature of our activities of them being recorded on to digital devices, including to a mobile phone. The knock-on effect could be that those recordings are shared/ copied beyond LBC without the Company's permission or knowledge, thereby denying revenue and the acknowledgement of the services rendered.

The review has also been used to tidy up some of the clauses. In the definitions section at the beginning of the document there have been some additional definitions added such as Company, Intellectual Property and Quote, while others have been revised to provide a little more clarity.

Clause 16.8 has been redrafted and a new section called Law and Jurisdiction has been added.

In summary, it has been more adjustments and revisions have been needed rather than a fundamental rewriting of the document.

5. Recommendation

For the Board to agree the revised set of terms and conditions of business are attached as Appendix 1.

6. Next Steps

To make Camden Learning's member schools aware of the change in the terms and conditions of Business and to update the Camden Learning Website with the revised document.

Appendix 1

Camden Learning Standard Terms and Conditions of Business

For the Avoidance of Doubt

If there is any inconsistency between any of the provisions of the Service Specification, the School's SLA agreement with the Company ("SLA") and these terms and conditions then the provisions of this agreement shall prevail."

1. Definitions

1.1. "Agreement" means these terms and conditions.

"Calendar Bookings" refers to the agreed delivery patterns and times for a product available online or by other means as agreed with the Site Customer.

"Camden Learning" is a not-for-profit school improvement company/ partnership between Camden schools and the London Borough of Camden. The registered address is **11th Floor, 5 Pancras Square, Camden, London, N1C 4AG.**

"Company" means Camden Learning.

"CPD Training Course" means any continuing professional development training course offered and booked or ordered by the school or client customer

"Customer" or "Site Customer" means the school or client Customer referred to in each Order, A **Quote or Price Offer** will equate to an agreed price after having been ordered as a required Product or Service.

"Intellectual Property Rights" means patents, inventions, trademarks, service marks, logos, design rights (whether capable of being registered or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether capable of being registered or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

"Invoices" means sales invoices from the Company, sent to the Customer for the Price of Products or Services ordered online or otherwise booked as a confirmed order.

"Order" means the written request for Products or Services received by Camden Learning from the Customer which includes the package type, the Service Level Agreement Subscription price and the Service Level Agreement Subscription Period.

"Price" means the amount payable to Camden Learning for the Products or Services as specified in each Order. A Quote will constitute a confirmed amount to be paid for charging purposes.

"Products or Services" means any products or services ordered by the Site Customer as contained in any Order,

A "Proposal" or "Price Offer" refers to any service proposal in the Order, which may form part of this Agreement.

A **"Quote"** means the price we quote to the customer for services.

A **"Service Level Agreement Subscription"** refers to Products and Services supplied by Camden Learning (or partners organisations trading on the Company's behalf) and set out

in the Order during the Service Level Agreement Subscription Period.

"Service Level Agreement Subscription Period" refers to the duration of the Service Level Agreement Subscription

2. Products and Services

- 2.1. Camden Learning agrees to supply during the Service Level Agreement Subscription Period and the Site Customer agrees to purchase the Products and Services with the terms and conditions as set out in this Agreement and those forming the on-line checkout process.
- 2.2. The Company will endeavour to provide the Products and Services to the Customer in accordance with the defined Order, Quotation or Price Offer.
- 2.3. We may choose to provide Products and Services by the use of recognised contractors and trading partners. Where this occurs this will be identified in the relevant brochure or on our website and other supporting documentation and will be explained each service offered by Camden Learning.

3. Payment

- 3.1. The Site Customer agrees to pay Camden Learning or in accordance with the service payment requirements, and the Price for the Products and Services.
- 3.2. Camden Learning reserve the right to charge interest (at a rate of 4% per month or as otherwise in force from time to time) calculated on a daily basis from the date payment is due until payment is received.
- 3.3. If a Customer has paid for Products and Services that for any reason the Company are unable to provide, other than in situations where the Products cannot be provided because of some act, failure to act, delay or negligence on the part of the Customer. Either the delivery of the product will be delayed, to such time, that Camden Learning can arrange to deliver it or the Customer will be refunded or not charged for the Products.
- 3.4. If a Product or Service has been requested by the Customer without a written order and the customer accepts delivery of the requested Product or Service, this will constitute an Order and the Customer will be subject to these terms and conditions and charged for that Product or Service.
- 3.5. All Camden Learning services and products prices are quoted exclusive of VAT.

4. Quotations and Proposals

- 4.1. The Customer, by signing the Quotation or Proposal, set out in the Order accepts the Price proposed by Camden Learning for the Products and Services offered shall be bound to pay that Price.

5. The Obligations of the Service Supplier

- 5.1. Camden Learning shall make every endeavour to provide the Products and Services in accordance with the Order, Quotation, Proposal and any other specific requirements that have been agreed between the parties in writing.

5.2. Should any revisions to the Quotation be required, for example because of a necessary change of specification or price, Camden Learning will advise the customer of these revisions and agree the details of the final order before order confirmation is made.

5.3. Camden Learning shall not be responsible for prices changes from equipment and other third party suppliers, but will make every endeavour to advise the Customer of any changes and the impact on any order.

6. Delivery

6.1. We shall endeavour to deliver the Products at the time and date and in the manner specified, or as otherwise agreed with the Customer.

6.2. The Products may, by mutual agreement, be delivered in advance of the delivery date quoted on the Order, Quotation or Proposal.

6.3. Camden Learning shall normally run services from 1st April ending 31st March. Annual Subscription Products delivered for a school academic year basis shall run from 1st September ending 31st August. Orders for more than one year shall be for multiples of full academic or financial years.

7. The Customer's Obligations

7.1. The Customer shall provide Camden Learning, in good time with all necessary information or confirmations required to undertake, perform or provide the Products or Services.

7.2. The Customer will provide reasonable access to its premises if Camden Learning or its trading partners reasonably require it for the delivery of the committed Products or Services.

7.3. The Customer shall at all times comply with Camden Learning's Zoom Policy as may be updated by Camden Learning from time to time.

8. Modifications and Variations

8.1. In exceptional circumstances, Camden Learning may need to vary the schedule, content or delivery of the Products or Services and will advise the Customer of their intention to do so.

8.2. In some instances, individual Products or Services may have discreet terms and conditions applicable to their particular Product or Service. These shall be in addition to the terms and conditions outlined herein. Should there be any conflict between these terms and conditions and the other terms and conditions then the order of precedence will be as stated in the additional terms and conditions.

9. Termination/Cancellations

9.1. Camden Learning sets out clear policies for termination of services or contracts. Either party may cancel any or all of the Products or Services contained in the Order, Quotation or Proposal by giving the other at least six months written notice for School Improvement SLA subscriptions and not less than 12 weeks for all other and services.

9.2. If the Customer gives Camden Learning less than 6 months for SLA services or notice 12 weeks' notice for other products, or cancels part-way through delivery of the Products or Services, it may be liable for the full cost of the Product or Service ordered or charged. Any costs that the Company incurs because of the cancellation, up to the full cost of the identified Product or Service.

9.3. In the event, that Camden Learning are unable to supply all or any part of the Products or Services, it shall refund the Customer for that part of the Products it cannot deliver or amend

its charge as might otherwise be agreed with the Customer.

- 9.4. If Camden Learning has scheduled products or services to take place on the Customer's site, and the Customer fails to advise the Company; or its trading partners of any change in the schedule of those who will be receiving the Products or Services within 48 hours before the Service is due to be carried out or the Products are due to be delivered. Then those Services or Products shall be deemed to have been delivered and will be charged.
- 9.5. If delays are caused by the Customer not responding to Camden Learning with suitable delivery times to enable a delivery to be made, the Company may either extend the time in which delivery of the order can be fulfilled. If no further action is taken after, an extension of time is granted, may deem the products to have been delivered and the Customer will be charged accordingly.
- 9.6. If a Party is in breach of a material term of this Agreement and despite written notice from the other Party, fails to remedy such breach within 30 days, then the other Party shall be entitled to terminate this Agreement with immediate effect.
- 9.7. The Company may cancel all or part of the Products or Services (and may refund a reasonably apportioned percentage of the Price on a *quantum meruit* basis) if it is considered that, the usage of the Product or Services exceeds what is consider reasonable usage under all the circumstances.
- 9.8. If the Customer cannot attend a training course, they shall give no less than 5 working days written notice and have the right to defer to another date, subject to availability. Cancellation after the start of the course, or if no cancellation notification for a booking, will be subject to a non-attendance penalty charge
- 9.9. If the Customer does not attend a training course or does not give notice as required by clause 9.8, then the Customer will be liable for the full cost of the training course or as otherwise agreed.

10. Non-Solicitation of Employees

- 10.1. The Customer shall not, for a period of 12 months from the date of delivery of the Products or end date of the Services, (except with the prior written consent of Camden Learning. Directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of Camden Learning any employee, worker, consultant, associate or other person involved in the delivery of any Products or Services ordered under this Agreement.
- 10.2. The Customer shall not solicit similar Products or Services, as it may have in the past received from the Camden Learning, from an employee of or Camden Learning via a private arrangement with that employee.
- 10.3. If the Customer breaches clauses 10.1 or 10.2 above; it shall without prejudice to any other rights or remedies of Camden Learning, on demand, pay a sum equal to either three months' basic salary payable by either party to that employee or worker, or five times the Price for the Product or Services in the case of a consultant or associate plus the recruitment costs incurred by the Company in replacing such person.
- 10.4. To assist Camden Learning safeguard their intellectual property, we ask the Customer to inform us immediately, should former employees of the Camden Learning to provide Products or Services, which the Company can or would normally provide a service approach them.

11. Confidentiality and Data Protection

- 11.1. The Parties shall keep confidential all information pertaining to the Products and Services and this Agreement, unless otherwise agreed.

- 11.2. All information processed under this Agreement shall be dealt with in accordance with Camden Learning's common law duty of confidentiality, our Data Protection policies and any guidance from the Information Commissioner's Office on information sharing, the Data Protection Act 2018 and compliance with the GDPR and the Freedom of Information Act 2000.

12. Health and Safety

- 12.1. Camden Learning or other trading partners acting on its behalf and any of its personnel shall, when using the Customer's premises or facilities, comply with the Customer's policies and procedures relating to security and workplace health and safety.

13. Copyright and Intellectual Property

- 13.1. All Intellectual Property Rights in all reports, documents produced by Camden Learning in the performance or provision of the Products or Services and in any continual professional development (CPD) sessions or other training events hosted by Camden Learning, including digital recordings captured of such CPD sessions and training events, shall remain vested with the Company. Subject to Clause 13.3, Camden Learning reserves the right at its entire discretion, to grant an irrevocable, royalty free license to the Customer to use such goods, reports and documents for the specific purpose of the Products or Services.
- 13.2. Any Products or Services, CPD sessions or training events which the Customer shall purchase, may only be reproduced for non-commercial or training purposes on condition that the school, organisation or individual using it has purchased the Product or Service or because that school, organisation or individual has been granted authorisation to use this material by Camden Learning or by special agreement with Camden Learning. For the avoidance of doubt, Products or Services, CPD sessions or training events (or recordings thereof) may not be passed-on, resold, amended or delivered to a third parties (either for commercial or non-commercial purposes) who have neither purchased the Product or Service, CPD session or training event, from Camden Learning on its behalf or had the written permission of either party Camden Learning to use it.
- 13.3. Customers are prohibited from the use, re-use, reproduction of and storage of any digital recordings of any CPD sessions or training events relating to the Service Level Agreement Subscription, without prior agreement.

14. Dispute Resolution

- 14.1. Concerns relating to the Products or Services provided under this Agreement should be raised in writing, in the first instance, with the nominated service contact person.
- 14.2. If the Customers concern is not resolved it shall be escalated as set out in the Camden Learning's complaints process, which can be found on the Company's website.
- 14.4. Where a dispute arises that is not settled within the above resolution processes, an option for referral to the Camden Learning's Managing Director. In this case, any decision shall be final and binding on all parties.

15. Limitation of Liability

- 15.1. Camden Learning will provide and/or perform or procure the Products and Services for the Customer with reasonable skill and care and acknowledges that it may be liable to the Customer for any losses, damages, costs or expenses ("Losses") if a breach of the duty of care, wilful default or dishonesty is established.
- 15.2. Camden Learning will maintain suitable insurance coverage at a level commensurate with an

organisation of the Borough's size and risk profile and include appropriate cover for employer's liability and professional indemnity.

- 15.3. The aggregate amount of liability of Camden Learning whether to the Customer or to any third party, in contract, tort or otherwise, for any losses arising from or in any way connected with the Products shall be limited to a maximum ten (10) times the itemised contract value, or £200,000, whichever is lesser, subject to Clause 15.4.
- 15.4. Camden Learning will not be liable if any claimed losses are due to the Customer providing false, misleading or incomplete information or documentation or due to the acts or omissions of any person other than an employee or agent of the Company.

16. General

- 16.1. This Agreement constitutes the whole understanding between the parties and supersedes any prior discussions, negotiations, arrangements or agreements between the parties in relation to the Products or Services.
- 16.2. The invalidity or unenforceability of any provision of this Agreement shall not affect the continuation in force of the remainder of this Agreement.
- 16.3. The rights granted to either party under this Agreement shall not be waived except in writing. Any waiver of any of such rights or of any breach of this Agreement by either party shall not be construed as a waiver of any other rights or of any other or further breach.
- 16.4. Failure by either party to exercise or enforce any rights conferred upon it by this Agreement shall not be deemed to be a waiver of any such rights or operate to bar the exercise or enforcement thereof at any subsequent time or times.
- 16.5. The section headings contained in this Agreement are for convenience purposes only and shall not affect the interpretation of this Agreement.
- 16.6. Nothing in this Agreement confers or purports to confer any right pursuant to the Contracts (Right of Third Parties) Act 1999 or otherwise to enforce any of its terms on any person who is not a party to it.
- 16.7. All prices listed or displayed on the Camden Learning website or brochure are correct at the time of their being published. However, the Company reserve the right to amend prices from time to time. All current and up to date prices are available on the website to be found at www.camdenlearning.org.uk.
- 16.8. Camden Learning reserves the right to update these Terms and Conditions from time to time.

17. Law and Jurisdiction

- 17.1. The Parties accept the exclusive jurisdiction of the English Courts and agree that these Terms and Conditions, the Order, and all non-contractual obligations and other matters arising from or connected with the agreement, are to be governed and construed according to English Law.