



**SUPPLY OF LEARNING MATERIALS AND E-ASSESSOR**

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**THESE TERMS AND CONDITIONS RELATE TO ALL PURCHASES OF LEARNING MATERIALS PROVIDED BY LEARNING CURVE GROUP LIMITED** (company number 05233487) whose registered office is at 1-10 Dunelm Rise, Durhamgate, Spennymoor, DL16 6FS (the “**Publisher**”)

Purchaser of the Publisher’s learning content (the “**Client**”)

The “**Client**” agrees to the following when placing the order and using the online platform, e-Assessor

**BACKGROUND:**

- (A) The Publisher publishes and sells educational learning material and access to an online e-assessment platform.
- (B) The Client wishes to purchase, and the Publisher wishes to supply the Materials and e-Assessor to the Client on the terms set out in this Agreement.

**TERMS AGREED**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

**Charges** the Charges set out in advance of any order and being the charges paid to the Publisher by the Client in connection with the Goods and in accordance with clause 8 (*price and payment*);

**Client Nominated Contact** means the appointed contact nominated by the Client;

**Confidential Information** means any information, including Personal Data as defined by the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003, and from the date of its becoming applicable, the GDPR together with any national legislation intended to enact, implement or supplement the GDPR (or any part thereof), and all applicable laws and regulations from time to time relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and Publishers of the parties including all intellectual property rights, together with all information derived from any of the above, and any other information clearly designated as being confidential or

which ought reasonably be considered to be confidential (whether or not it is marked “confidential”);

<b>Commencement Date</b>	means from the date of the first order;
<b>e-Assessor</b>	means the online e-assessment platform provided by the Publisher in connection with the Materials;
<b>Goods</b>	means the Materials and e-Assessor purchased from the Publisher;
<b>GDPR</b>	means the General Data Protection Regulation (Regulation (EU) 2016/679) and data controller, data processor, data subject and personal data each have the same meaning as set out in the GDPR.
<b>Materials</b>	means the materials listed in Schedule 1 that may be purchased by the Client from the Publisher;
<b>Orders</b>	means orders submitted by the Client to the Publisher for the Materials;
<b>Users</b>	means the Client, its staff and those students of the Client undertaking qualifications associated with the Material;

## 1.2 Interpretation

- (a) All defined terms used in this Agreement shall have the meaning given to them in clause 1.1.
- (b) The headings and sub-headings used in this Agreement are for convenience or reference only and shall not affect the interpretation of the Agreement.
- (c) 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.
- (d) The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- (e) If there is an inconsistency between any of the provisions in the main body of this Agreement and the Schedules, the provisions in the main body of this Agreement shall prevail unless expressly stated to the contrary herein.
- (f) A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- (g) Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- (h) Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

- (i) A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- (j) A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- (k) Unless otherwise stated to the contrary, a reference to **writing** or **written** excludes fax and e-mail.
- (l) Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- (m) References to clauses and schedules are to the clauses and schedules of the Agreement; references to paragraphs are to paragraphs of the relevant Schedules of this Agreement.
- (n) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (o) The terms **subsidiary** and **holding company** shall have the meanings given in sections 1159 Companies Act 2006 and include parent and subsidiary undertakings as defined in section 1162 Companies Act 2006 (each section being as in force at the date of this Agreement).

## 2. **COMMENCEMENT AND DURATION**

This Agreement shall commence on the Commencement Date and shall, subject to the provisions of clause 8, remain in effect until 1 (one) year from the Commencement Date at which time it shall automatically terminate without need for either party to give notice to the other (the "**Term**").

## 3. **SCOPE OF AGREEMENT**

- 3.1 The Client may submit an Order in writing (including by email) at any time during the Term.
- 3.2 The Order constitutes an offer by the Client to purchase the Materials detailed in the Order in accordance with the terms of this Agreement. The Order shall be deemed to be accepted on the earlier of:
  - (a) when the Publisher issues a written acceptance of the Order; or
  - (b) when the Publisher delivers the Materials to the Client.
- 3.3 The terms of this Agreement may be varied or excluded (in whole or in part) by any subsequent agreement in writing signed on behalf of the Publisher and the Client, but not otherwise.

## 4. **THE CLIENT'S OBLIGATIONS**

For the duration of the Term the Client will:

4.1 comply with and shall procure that all Users comply with the terms of use set out in Schedule 1 including the terms of this Agreement; and

4.2 pay the Charges as they fall due.

## 5. **PUBLISHER'S OBLIGATIONS**

For the duration of the Term, the Publisher shall provide the Materials on receipt of orders in accordance with the terms of this Agreement.

## 6. **DELIVERY**

6.1 The Publisher shall deliver the Materials to the location set out in the Order or such other location as the parties may agree in writing. Delivery shall be completed on the Materials' arrival at the agreed delivery location.

6.2 Any dates quoted for delivery are approximate only and the time of delivery is not of the essence. The Publisher shall not be liable for any delay in delivery of the Materials that is caused by either a Force Majeure Event (as defined in this Agreement) or the Client's failure to provide the Publisher with adequate delivery instructions or any other instructions that are relevant to the supply of the Materials.

6.3 If the Publisher fails to deliver the Materials, subject to clause 11, the Client's sole remedy, at the Publisher's discretion will be a refund or a replacement of the Goods.

## 7. **TITLE AND RISK**

The risk in the Materials (including without limitation risk of any loss or damage) shall pass to the Client on delivery. Title to the Materials shall pass to the Client upon the Publisher receiving payment in full (in cash or cleared funds) for the Materials.

## 8. **PRICE AND PAYMENT**

8.1 In return for the supply of the Goods the Client shall pay the Charges as agreed in advance of the order.

8.2 The Publisher will invoice the Client for each Order on or after the date of delivery.

8.3 The Client shall pay each invoice submitted to it by the Publisher, in full and in cleared funds, within 30 (thirty) days from the date of each invoice.

8.4 Without prejudice to any other right or remedy that the Publisher may have, if the Client fails to pay the Publisher on the due date, the Publisher may:

(a) charge interest on such sum from the due date for payment until payment is made (whether before or after any judgment) at a rate of 8% (eight percent per annum above Bank of England's base rate; and

(b) suspend the Client's access to e-Assessor until payment has been made in full.

8.5 The Publisher may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Client against any amount payable by the Publisher to the Client.

9. **FORCE MAJEURE**

Neither party shall be liable for, or be deemed to be in breach of, this Agreement as a result of any delay in performing or failure to perform any of its obligations under this Agreement where that delay or failure is caused by any circumstances beyond the reasonable control of that party (a **Force Majeure Event**). If a Force Majeure Event occurs and persists for 30 (thirty) days or more either party may terminate this Agreement by providing written notice to the other. This provision does not apply to the Client's obligation to pay the Charges as detailed in this Agreement.

10. **TERMINATION OR BREACH**

10.1 Either party may terminate this Agreement immediately by serving written notice to that effect on the other party if at any time any one or more of the following events occurs:

- (a) the other party makes any voluntary arrangement with its creditors, becomes bankrupt, enters administration or goes into liquidation (otherwise than for the purposes of solvent amalgamation or reconstruction); or
- (b) a security holder takes possession, or a receiver or administrative receiver is appointed, over all or any material part of the property or assets of the other party; or
- (c) the other party ceases to carry on business; or
- (d) the other party commits a material breach of any of the provisions of this Agreement and in the case of a breach capable of remedy, fails to remedy that breach within 30 (thirty) days after being served with a written notice specifying the breach and requiring it to be remedied.

10.2 On the termination or expiry of this Agreement for any reason:

- (a) the Client shall pay to the Publisher all of the Publisher's outstanding unpaid invoices and, in respect of Goods supplied but for which no invoice has been submitted, the Publisher may submit relevant invoices which shall be payable within 30 (thirty) days of receipt; and
- (b) those provisions of this Agreement which expressly or by implication have effect after termination shall continue in full force and effect.

11. **LIMITATION OF LIABILITY**

11.1 Nothing in this Agreement shall operate to limit or exclude the liability of the Publisher to the Client for any death or personal injury caused by the negligence of the Publisher or any of its employees or agents, or for any other matter in respect of which liability cannot lawfully be limited or excluded.

11.2 The Publisher shall not be liable to the Client (whether in contract, tort, for breach of statutory duty, or otherwise) for: (i) any loss of profit; or (ii) any indirect or consequential loss or damage; or loss of or corruption of data arising under or in connection with this Agreement.

- 11.3 Subject Always to clause 11.1 and 11.2 the total liability of the Publisher to the Client (whether in contract, tort, for breach of statutory duty, or otherwise under this Agreement) shall not exceed the value of the Charges paid to the Publisher in relation to this Agreement. This amount includes any and all claims combined, including any costs and lawyers' fees awarded.
- 11.4 The Publisher uses all reasonable efforts to ensure that the content of the Materials is accurate, reflects best practice, and that all referenced legislation is correct at the date it was written. The content of the Materials is provided for general information purposes and it not intended to be all-inclusive. The content of the Goods does not constitute professional advice (whether legal, medical or otherwise). The Client acknowledges that professional advice should be sought in relation to any particular circumstances.
- 11.5 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.

## 12. **TECHNIQUES**

The Publisher intends to employ appropriate methods, procedures, techniques, personnel and sources of information but reserves the right to vary these as necessary or desirable in order to achieve the aims of the provision of this Agreement.

## 13. **INTELLECTUAL PROPERTY**

- 13.1 All Intellectual Property rights subsisting in or relating to the Goods are owned by the Publisher.
- 13.2 Copyright in the Materials is reserved to the Publisher in all work undertaken and other documents produced or commissioned by the Publisher under, or in connection with, any agreement with the Client. No such document shall be copied or published (in whole or in part) or disseminated to any third party without the written permission of the Publisher.
- 13.3 If any work is copied then without prejudice to any other right or remedy of the Publisher, the Client will pay a fee to the Publisher equal to 175% (one hundred and seventy five percent) of the agreed Charges per copy made.

## 14. **CONFIDENTIALITY**

- 14.1 Without prejudice to the generality of the foregoing, each party shall safeguard and keep confidential the terms of this Agreement and all Confidential Information that it may acquire in relation to the business or affairs of the other party. Neither party shall use or disclose the other party's Confidential Information except to the extent that such use or disclosure is necessary for the purposes of performing its obligations or exercising its rights under this Agreement. Each party shall ensure that its officers and employees and any other persons to whom the Confidential Information is disclosed comply with these requirements.
- 14.2 The obligations on a party set out in clause 14.1 shall not apply to any information to the extent that such information:
- (a) is publicly available or becomes publicly available through no act or omission of that party;



- (b) is required to be disclosed by law or by order of a court of competent jurisdiction or other competent authority.

**15. DATA PROTECTION**

- 15.1 The Client acknowledges that once any personal data in relation to any person is passed to the Client under the terms of the Agreement, the Client becomes the data controller in relation to that data for the purposes of the Data Protection Act 1998 and GDPR.
- 15.2 Both parties agree to comply with the provisions of the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003, and from the date of its becoming applicable, the GDPR together with any national legislation intended to enact, implement or supplement the GDPR (or any part thereof), and all applicable laws and regulations from time to time relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

**16. NOT A PARTNERSHIP**

- 16.1 The Client and the Publisher declare that they are not partners and nothing in this Agreement shall be construed as creating a formal partnership between them. Neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way.
- 16.2 The Publisher believes that, at the date of entering into this Agreement, no conflict of interest exists or is likely to arise in the performance of its obligations under this Agreement. If, during the term of the Agreement, a conflict or risk of conflict of interest arises, the Publisher undertakes to notify the Client in writing of that conflict or risk and take any steps that the Client reasonably requires to resolve the conflict or deal with the risk.

**17. SEVERANCE**

If any provision in this Agreement is declared void or unenforceable by any court or other body of competent jurisdiction, or is otherwise rendered so by any applicable law, that provision shall to the extent of such invalidity or unenforceability be deemed severable and all other provisions of this Agreement not affected by such invalidity or unenforceability shall remain in full force and effect.

**18. THIRD PARTIES**

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

**19. ASSIGNMENT**

- 19.1 The Client shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights or obligations under this Agreement without the prior written consent of the Publisher.

19.2 The Publisher may assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights or obligations under this Agreement at any time without notice to the Client.

20. **BRIBERY AND MODERN SLAVERY ACT**

Both parties will observe the highest standard of ethics during the term of this Agreement and shall comply with the Bribery Act 2010 and Modern Slavery Act 2015.

21. **ENTIRE AGREEMENT**

21.1 The Client and the Publisher acknowledge that this Agreement contains the whole agreement and understanding between them with respect to all matters which are referred to in it and the subject matter of it. Each of the parties acknowledges and agrees that it has not been induced to enter into this Agreement in reliance upon, and in connection with this Agreement does not have any remedy and waives all rights in respect of, any warranty, representation, statement, agreement or undertaking of any nature whatsoever other than as expressly set out in this Agreement.

21.2 Both the Client and the Publisher have both entered into the Agreement as a result their own independent investigations into all matters relevant to the Agreement. The Agreement supersedes any previous agreements, prior drafts, undertakings, representations, warranties and arrangements of any nature whatsoever between the Client and the Publisher (whether written or oral) in connection with the subject matter of this Agreement.

21.3 Nothing in this Agreement shall operate to limit or exclude any liability for any fraudulent misrepresentation or for any other matter in respect of which liability cannot lawfully be limited or excluded.

22. **NOTICES**

All notices to be given to a party under or in connection with this agreement must be in writing addressed to that party at its registered office or its principal place of business and shall be delivered personally, sent by pre-paid first class post or other next day delivery service ,commercial courier or email.

23. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute a single agreement.

Transmission of:

- (a) an executed counterpart of this Agreement (but for the avoidance of doubt not just a signature page) by fax; or
- (b) the executed signature page of a counterpart of this agreement (in PDF, JPEG or other agreed format) together with a full copy of the final agreed version of this agreement by email

shall take effect as delivery of an executed counterpart of this agreement. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible.

24. **JURISDICTION**

This Agreement, and any dispute or claim arising out of, or in connection with, it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales, and the parties accept the exclusive jurisdiction of the courts of England and Wales to settle any dispute or claim that arises out of, or in connection with, this Agreement, its subject matter or its formation.

25. **EXCLUSIVITY**

**During the Term of this Agreement, the Client shall not solicit or negotiate or enter into any agreement with any other person with respect to any goods or services the Publisher is supplying in this Agreement.**

This Agreement has been entered into on the date stated at the beginning of this document.

## SCHEDULE 1

### Terms of Use of e-Assessor

#### 1. **Publisher's Obligations**

The Publisher will, subject to the terms and conditions set out in this Agreement, during the Term:

- provide and host an online platform through which e-Assessor can be accessed by employees of the Client and its Learners (as such term is defined in this Agreement ("**Users**");
- where the User is a Learner grant that User access to e-Assessor for the duration referred to in this Agreement, commencing on the date when the User's course for their corresponding qualification commences;
- demonstrate the online platform and its capabilities of e-Assessor to the Client and its nominated staff, either remotely or by agreement at designated premises in order to facilitate the effective use of e-Assessor by the Client;
- provide staff and nominated persons of the Client, access codes for the system to enable them to access the administrative and reporting tools for internal tracking, monitoring, reporting, audit or compliance purposes (as required);
- provide sufficient information to enable the Client to resolve minor technical issues associated with passwords and access by the Users.

In association the above the Publisher grants to the Client for the duration of the Agreement a non-exclusive and non-transferable right to permit the Users to use e-Assessor throughout the duration of this Agreement purely for their domestic and personal use.

In the event that the Client becomes aware of a fault affecting the functionality of e-Assessor, the Client shall notify the Publisher as soon as the Client becomes aware of such a fault by telephone or email during the normal UK business hours of 9.00am-5.00pm Monday to Friday and the Publisher shall use its reasonable endeavours to remedy such fault remotely during the normal UK business hours of 9.00am-5.00pm Monday to Friday.

The Publisher does not guarantee that e-Assessor, or any content uploaded to e-Assessor, will always be available or be uninterrupted. The Publisher may suspend, withdraw, discontinue or change all or any part of e-Assessor without notice. The Publisher will not be liable to the Client if for any reason e-Assessor is unavailable at any time or for any period.

Without prejudice to the generality of the foregoing the Publisher may withdraw or suspend access to e-Assessor for short periods of time to carry out maintenance or repair to servers or to implement improvements to e-Assessor. The Publisher will notify the Client of planned maintenance by email.

The Publisher will provide support and initial instructions for the use of e-Assessor to the Client in line with information supplied to the Publisher by the Client to enable Users to register any activation codes given to them.

## 2. **Client's Obligations**

The Client acknowledges and agrees Users are responsible for configuring its information technology, computer programmes and platform in order to access the e-Assessor and that they should use their own virus protection software. The Client must not and will procure all Users do not:

- misuse e-Assessor by knowingly introducing viruses, trojans, worms, logic bombs or other material which is malicious to technologically harmful;
- attempt to gain unauthorised access to e-Assessor, the server on which e-Assessor is stored or any server, computer or database connected to e-Assessor; and
- attack e-Assessor via a denial-of-service attack or a distributed denial-of-service attack.

The Client will:

- ensure that the number of Users that it authorises to access and use e-Assessor does not exceed the number of Materials it has purchased from time to time pursuant to this Agreement;
- not, without prior written agreement of the Publisher, allow a User's access details to e-Assessor to be used by anyone other than that User;
- maintain a written up-to-date list of current Users and will provide such list to the Publisher when requested from time to time;
- use all reasonable endeavours to prevent any unauthorised access to, or use of, e-Assessor and, in the event of any such unauthorised access or use, promptly notify the Publisher;
- ensure that Users use e-Assessor in accordance with the terms and conditions of this Agreement and the Client acknowledges it will be responsible for any User's breach of the same;
- ensure that any amendments to this Agreement between the Client and the Publisher are reflected, where appropriate, in each User agreement reached by the Client and its Users;
- ensure that at no point in the use of e-Assessor that the Users breach the intellectual property rights of any person;
- identify to the Publisher the key staff responsible for tracking, monitoring and reporting and those responsible for audit and compliance, to ensure that the appropriate level of access to e-Assessor and necessary support is offered and available within the Agreement.

The Client will not:

- except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:
  - and except to the extent expressly permitted under this agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit or distribute all or any portion of e-Assessor (or the content therein) in any form or media or by any means; or
  - attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of e-Assessor; or
- access all or any part of the e-Assessor in order to build a product or service which competes with e-Assessor; or
- use e-Assessor to provide services to third parties; or
- license, sell, rent, lease, transfer assign, distribute, display, disclose or otherwise commercially exploit, or otherwise make e-Assessor available to any third party except the Users; or
- attempt to obtain, or assist third parties in obtaining access to e-Assessor other than as provided under this Agreement.

### 3. **Content uploaded to e-Assessor**

The Publisher is not responsible, or liable to any third party, for the content or accuracy of any content posted by the Client or any User on or using e-Assessor. In the event of any loss or damage to such content, the Client's sole and exclusive remedy shall be for the Publisher to use its reasonable endeavours to restore such content from the latest backup maintained by the Publisher.

The Client warrants that, at all times during the use of the site by the Users, it will, and will procure that its users will:

- only use the e-Assessor for lawful or legal purposes under any applicable local, national or international law or regulation;
- not upload using e-Assessor, material, information or images that are unlawful under any applicable local, national or international law or regulation;
- not upload using e-Assessor material, information or images which are obscene, defamatory, or of an inappropriate nature or contain images of sexual nature or that could be deemed to be inappropriate in terms of sexual or discriminator content;
- not knowingly contain any viruses, Trojan horses, worms or any other harmful programs or similar computer code designed to adversely affect the operation of e-Assessor.

The Client acknowledges it will be liable to the Publisher and agrees to indemnify the Publisher for any loss or damage arising from a breach of any of the above warranties by the Client or any User.

Without limiting any other right or remedy it may have, in the event that the Client breaches any of the above warranties the Publisher reserves the right to immediately suspend or delete the Client's access to e-Assessor as the Publisher reasonably deems necessary without prior notice or reference to the Client.

#### **4. Copyright and intellectual property rights**

The Client acknowledges and agrees that all copyright and other intellectual property rights relating to e-Assessor are owned by the Publisher. All content used within e-Assessor provided by the Publisher will remain the intellectual property of the organisation that wrote the content and, where applicable, owns the copyright to the programmes.

#### **5. Data Protection**

The Client warrants that:

- Where a User uploads Personal Data (within the meaning of the Data Protection Act 1998 and in accordance with the GDPR, to e-Assessor, the Client has the User's permission to upload, access and use such User's Personal Data and the Client shall have the right and authority to grant the Publisher access to the Personal Data for the purposes of fulfilling its obligations under this Agreement; and

The Client hereby acknowledges that in hosting e-Assessor, the Publisher is acting as a data processor and the Client is the data controller for the purposes of GDPR. In their capacity as data controller, the Client agrees to comply with its obligations as data controller under GDPR. The Client acknowledges that it is responsible for obtaining appropriate consents from Users to use the Personal Data of any such Users in the manner envisaged in this Agreement.

The Client accepts that the Publisher and/or subcontractors may require access to Users' Personal Data in the course of providing access to e-Assessor and hereby permits the Publisher and/or subcontractors to access the Personal Data for this purpose. The Publisher warrants, to the extent that it processes any Personal Data on behalf of the Client, that they shall only use such Personal Data to perform their duties hereunder and for no other purpose whatsoever.

#### **6. Liability**

Nothing in these Terms of Use excludes or limits the Publisher's liability for death or personal injury arising from its negligence, or fraud or fraudulent misrepresentation, or any other liability that cannot be excluded or limited by English law.

Subject to the above paragraph, the Publisher's total liability is limited to a sum equal to an amount the Publisher has received from the Client in Charges in the preceding 12 (twelve) months prior to such liability arising.

To the extent permitted by law, the Publisher excludes all conditions, warranties, representations or other terms which may apply in relation to use of e-Assessor by the Client or any content on it, whether express or implied.

For the avoidance of doubt the limitations and exclusions of liability set out in this Agreement also apply in relation to the use of e-Assessor and the content on e-Assessor.

**7. Jurisdiction**

These Terms of Use 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 law of England and Wales.

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