

EDUMATE TERMS OF SERVICE

These Edumate terms of service consist of:

- (a) this document and its schedules ("**Service Terms**");
- (b) the Edumate services agreement and its schedules ("**Service Agreement**") duly signed by the entity identified as the customer in Item 1.1 of Schedule 1 of the Service Agreement ("**Customer**").

To the extent of any inconsistency between these Service Terms and the Service Agreement, the terms of the Service Agreement will prevail.

Collectively these documents form the "**Agreement**" that is made between The Alpha School System Pty. Ltd. (ABN 87 010 874 816) of 21b/441 Nudgee Road Hendra, QLD 4011 ("TASS") and the Customer. The Agreement sets out the terms and conditions on and subject to which TASS will provide, and Customer will use, the Edumate Software ("**Software**") and any related or additional services (collectively Software and services are the "**Service**" or "**Services**").

1. License and provision of products and services

Subject to Customer's compliance with the terms and conditions of the Agreement, TASS grants to Customer a non-exclusive, non-transferable licence to use the Service during the term of this Agreement for Customer's internal use only ("**License**").

The License is only granted for the products identified as Products in Item 1.1 of Schedule 1 of the Service Agreement ("**Products**"). The Customer is not licensed or otherwise authorised to use any part of the Service not explicitly defined in the Service Agreement.

1.1 Support Services

TASS will provide the support services described in Item 1.1 of Schedule 1 of these Service Terms to the Customer in relation to the Service ("**Support Services**"). TASS has no obligation to provide any other support services or assistance to the Customer other than the Support Services.

1.2 Additional Services

The Customer may request that TASS provide additional services outside the scope of the Support Services ("**Additional Services**"). TASS shall consider these requests at no additional charge to the Customer, but TASS may accept or reject these requests in its sole discretion. If TASS accepts a request to provide Additional Services, TASS will notify the Customer and the Additional Services will be provided on the terms of the Agreement and charged in accordance with clause 6.2 unless otherwise agreed by the parties in writing.

1.3 Private Cloud and Cloud Hosting

Where the parties agree the Products purchased by the Customer include either the Private Cloud Hosting Service or the Cloud Hosting Service ("**Cloud**") clause 1.3 of these Service Terms will apply.

Provision of Services

- a) During the term of the Agreement, TASS will provide Customer with access to the Service by means of the provision of the additional Cloud

services in the manner specified in Item 3.1 of Schedule 3 and the Cloud Support Services specified in Item 3.5 of Schedule 3 to this Agreement.

b) If any consents (which may include, without limitation, consents for TASS to access, use, store and disclose Customer Data) are required for TASS to provide the Cloud, the Customer must procure those consents for TASS. TASS's obligations to provide the Cloud are conditional on those consents having been procured. The Customer shall comply with TASS's reasonable requests for confirmation of these consents having been procured.

c) TASS may configure its system for providing access to the Cloud and determine the nature and manner of its internal technical support in its discretion. The Customer agrees to comply with such access and use procedures (including as to communications and security) as TASS notifies the Customer from time to time.

d) The Customer shall be responsible for providing its own Customer Access Facilities and ensuring that the Customer Access Facilities do not at any time adversely affect TASS, the Service or the Cloud (including by the presence or transmission of any virus or similar thing) and are otherwise reasonably appropriate for use in conjunction with the Cloud and the Service.

e) The Customer agrees that the maximum data storage space to be made available to it for the purposes of the Agreement is as specified in Item 3.2 of Schedule 3. Customer agrees to comply with any notice from TASS (giving at least 30 days advance notice) for any changes to TASS's practices, policies and limits relating to data storage space.

f) If the Customer's use of the Cloud and/or the Service causes undue performance loss, or impairs or threatens to impair the continued proper functioning of TASS's equipment or Software or that of any of TASS's suppliers, the provision of the Cloud and/or the Service to the Customer may be suspended without notice.

g) Without limiting TASS's rights under clause 1.3(c) either party may at any time request a variation to this clause 1.3. The other party must consider this request in good faith. Any variation to this clause 1.3 must be agreed by the parties in writing and duly documented and signed in the Service Agreement. The parties agree that:

- i. in no case will a variation of the clause 1.3 requested by the Customer result in a reduction of the fees payable by the Customer unless TASS in its absolute discretion agrees to such a reduction; and;
- ii. if an increase in any fees is necessary by reason of a variation of the Cloud (as determined by TASS), on or after the date upon which the variation takes effect, TASS may issue an invoice for the increase in fees for the balance of the then current payment period.

Cloud Service levels

h) Subject to the terms of this Agreement, during the term of this Agreement TASS shall provide the Cloud in accordance with the Cloud Service Levels as defined in Item 3.6 of Schedule 3 of these Service Terms.

Maintenance of the Solution

i) Customer acknowledges and agrees that TASS may suspend access to, and use of, the Cloud and the Service in order to coordinate scheduled work on TASS's infrastructure used to provide access to the Service ("**Scheduled Maintenance**"). Except where TASS is required to undertake urgent repairs or maintenance or suspend access to the Service by law, TASS will:

- i. provide the Customer with reasonable notice of the Scheduled Maintenance; and
- ii. use reasonable endeavours to schedule the Scheduled Maintenance for a time which minimises the impact of the suspension on the Customer's access to, and use of, the Cloud and the Service.

Customer Data

j) TASS shall on reasonable notice make Customer Data and related data, documentation or records maintained on behalf of the Customer available for inspection by the Customer or the Customer's auditors. The Customer agrees to pay any reasonable charges invoiced by TASS for providing this access.

k) TASS shall, to the extent specified in Item 3.4 of Schedule 3 of these Service Terms, make backup copies of Customer Data.

l) All Customer Data is, and remains, the property of the Customer. Each party must ensure that the Customer Data is to the extent practicable signified as being the property of the Customer, and remains at all times, free of any lien, charge or other encumbrance.

m) TASS will use commercial best efforts, during the Term of this Agreement, to ensure:

- i. the Customer has access at all times to the Customer Data, from within the Software, whilst in the possession or under the control of TASS; and
 - ii. the Customer has access to the Customer Data at any time, and such access is provided without condition or additional charge;
 - iii. the Customer may request extraction or representation of the Customer Data in a different format as is otherwise provided by the Software, such a request will be treated as an Additional Service.
- n) TASS:
- i. will use commercial best efforts to implement security measures, and take all reasonable steps, to ensure that Customer Data is protected against outside misuse, interference and loss, and from unauthorised access, modification or disclosure, including undertaking any staff training as may be required at the Customer's request and expense; and

- ii. will provide and observe such additional security measures as may be reasonably requested by the Customer at the Customer's expense.
- o) TASS must immediately:
 - i. notify the Customer of any actual, suspected or potential breach of this clause 1.3(n); and
 - ii. immediately take all reasonable steps to prevent or stop a suspected or actual breach of this clause 1.3(n), and take all reasonable steps to mitigate the consequences of such suspected or actual breach.

Availability

- p) Customer accepts that circumstances may arise where TASS is unable to provide the Cloud, and consequently the Service, under the Agreement to the Customer. TASS agrees to use its best endeavours to provide all Services in accordance with the Agreement.

- q) In the event that the Cloud is unavailable for a continuous period in excess of eighteen hours on a Business Day (or consecutive Business Days) TASS will allow the Customer a fee credit equal to twice the unavailable time against the invoice of an amount, which reflects the proportion of the fees attributable to the time during which the Cloud was unavailable.

- r) The credit provided for by clause 1.3 (q) shall be calculated in good faith by TASS with reference to the particular services which were unavailable, the time during which any of the services were unavailable and the number of locations at which any of the services were unavailable. For the avoidance of doubt any credit will be calculated on the value of the Cloud only and not the entire Fee for the Service.

- s) The Customer agrees that except as set out in clause 1.3(q to r) TASS will not be liable to the Customer for any claim, loss or damage whether direct or indirect arising out of TASS's failure to supply any Services.

Unexpected Circumstances

- t) The Customer will not hold TASS responsible for any delay or disruption in the provision of the Cloud in accordance with the Agreement due to circumstances beyond the control of TASS. Examples of such circumstances may include but not necessarily be limited to the following:
 - i. government directions;
 - ii. acts of God;
 - iii. unavailability or suspension by the telecommunications carriers;
 - iv. acts or omissions by third parties.

2. Term

The Agreement commences on the Service Agreement date and continues for the period(s) identified in clause 2 of the Service Agreement ("**Term**").

3. Restrictions

Except to the extent permitted by the Agreement and by law, the Customer must not modify, copy, duplicate, reproduce, merge, combine with any other products, reverse engineer or decompile the whole or any part of the Service without the prior written consent of TASS.

Where the parties agree the Products purchased by the Customer include On-premise hosting, the Customer may make one copy of the software for backup or archival purposes.

4. Acceptable use

The Customer must not make or permit any use of the Service in a way which in TASS's reasonable opinion is unacceptable, including where:

- (a) it involves the publication, communication or recording of anything which is false, defamatory, harassing or obscene;
- (b) it involves the communication of unsolicited commercial electronic messages;
- (c) it would involve the contravention of any person's rights (including Intellectual Property Rights);
- (d) it may contravene any applicable laws;
- (e) it involves removing or modifying any Service markings or any notice of TASS's rights;
- (f) it involves making programs or materials resulting from the Service available to any third party for use in the third party's business;
- (g) it involves commercially exploiting any part of the Service (including by making it available to any third party); or
- (h) it involves distributing or transmitting any part of the Service by any means.

The Customer agrees that TASS may immediately suspend the Customer's right to use all or any part of the Service, and remove or disable access to any person that contravenes the restrictions in this clause 4 or is otherwise in breach of the Agreement.

Edumate is not liable to the Customer under the Agreement or otherwise if and to the extent the Customer's use of the Service is contrary to any laws, regulations or rules (including those regarding privacy, intellectual property and working with children) or any third party rights.

5. Customer's Other Obligations

5.1 Access to Facilities and Employees and Obligation to Cooperate

The Customer shall provide TASS with access to the Customer's premises, equipment and employees, and shall cooperate with TASS, as reasonably necessary for TASS to perform its obligations under the Agreement (including by performing to the Customer Responsibilities set out in Item 2.1 of Schedule 2 of these Service Terms).

5.2 Data Security

In connection with the operation of the Service, the Customer shall use reasonable efforts to prevent unauthorised third parties from accessing the Services.

The Customer shall maintain (and TASS shall have no responsibility to provide or maintain) adequate technical and procedural access controls and system security

requirements and devices, necessary to ensure data privacy, confidentiality, integrity, authorisation and virus detection and eradication.

The Customer agrees that the access rights of any individual user permitted to use the Services (for example on a named or password-enabled basis) cannot be shared or used by more than one individual.

5.3 Data backup

Except where the parties agree that TASS will provide either:

- a) Private Cloud Hosting; or
- b) Cloud Hosting

It is the Customer's responsibility to maintain secure and complete back-up copies of data that the Customer processes or stores using the Service suitable for the Customer's requirements. TASS shall have no obligation to perform such services for the Customer or any liability in relation to any data which is lost, corrupted or accessed without the Customer's authority.

5.4 Data quality

The Customer agrees that it has sole responsibility for the accuracy, quality, integrity, legal compliance, reliability and appropriateness of all content uploaded to, processed using, or generated through the Service. TASS shall have no obligation to ensure data quality or any liability in relation to any defect, error, inaccuracy or other failure in such data.

6. Fees and expenses

In consideration for grant of the license and the use of the Service the Customer will pay TASS the Fee or Fees as identified in Clause 3 and Item 1.2 of Schedule 1 of the Service Agreement ("**Fee**").

6.1 Licence and Support Fee

The Fee shall be payable annually in advance and may be invoiced by TASS no sooner than 90 days prior to the start of that contract year, with a due date no sooner than 30 days prior to that contract year.

The Fee is calculated by TASS in good faith based on the Customer's total number of current enrolled students as at the most recent Government Census Date that occurred prior to the start of the relevant year multiplied by the fee per student.

6.2 Additional Services fees

The fees payable for each Additional Service agreed by the parties under clause 1.2 of these Service Terms are bought in blocks of hours as follows:

10 hour pack	20 hour pack	40 hour pack
\$2375 ex GST	\$4500 ex GST	\$8000 ex GST

Hours will expire if not used within 12 months from purchase.

Ad hoc Professional Services consulting is available at the rate of \$250 ex GST per hour.

A minimum of three hours is used when a TASS team member visits the Customer's premises, otherwise hours are used in 15 minute increments for any work performed by TASS outside the Support Services. Onsite visits are made by prior arrangement with the Customer.

Additional travel charges will apply for TASS onsite visits at the following rates:

- Road travel: \$0.74 per km travelled from the TASS consultant's office location
- Flights at cost
- Accommodation at cost

The fees and expenses for Additional Services are payable by the Customer on a monthly basis in arrears and shall be invoiced by TASS no sooner than the last day of the calendar month to which the fees relate.

TASS may increase the fees for Additional Services at any time by updating these Service Terms.

6.3 Expenses

Customer will reimburse TASS for reasonable out-of-pocket expenses in connection with the delivery of the Support Services and Additional Services subject to TASS providing receipts or other written evidence of the expenses. TASS must notify the Customer of anticipated expenses prior to the delivery of the Support Services and Additional Services.

7. Customer to provide information

7.1 Customer to provide student numbers

Customer must provide TASS with such information as is reasonably required by TASS to calculate the Fee in accordance with clause 6.1.

7.2 Audit rights

Customer must, subject to receiving reasonable written notice from TASS, comply with any request from TASS that the Customer provide access to such information and documents as are reasonably required for the TASS to verify:

- (a) the accuracy of the information provided by the Customer under clause 7.1; or
- (b) the Customer's compliance with the terms of this Agreement.

8. Intellectual property

Nothing in this Agreement effects any transfer or assignment in ownership of any Intellectual Property Rights in the Service or any item which exists prior to the date of this Agreement, or any content uploaded to, processed using, or generated through the Service by Customer and its authorised users.

TASS will own any Intellectual Property Rights in any materials or other things created by or on behalf of TASS in the course of providing the Support Services or Additional Services.

TASS hereby warrants to the Customer that TASS has the necessary rights to grant to the Customer the licence to use the Service as set forth in this Agreement. In the event of any breach of the foregoing warranty, the Customer's sole remedy shall be either (at TASS's sole discretion):

(a) TASS procuring, at TASS's expense, the right for the Customer to use the Software;

(b) TASS modifying the Service to render it non-infringing or to circumvent the allegation of infringement (as applicable); or

(c) TASS refunding to the Customer the full amount of the current year's Fee upon the cessation of use of the Service and the return of all copies thereof to TASS.

9. Warranty of Functionality

9.1 Software to comply with specifications

TASS warrants that the Service shall perform in all material respects according to the TASS's published specifications concerning the Service (when used with the appropriate computer equipment) for a period of 90 days following the delivery of the Service to the Customer.

TASS does not warrant that the Service will operate uninterrupted or that it will be free from minor defects or errors that do not materially affect such performance, or that the applications contained in the Service will meet Customer's requirements.

9.2 Remedies for breach of warranty

If the Customer considers that there has been any breach of the warranty in clause 9.1, the Customer must promptly notify TASS in writing.

If TASS confirms the existence of such a breach, TASS will (at its option) either:

(a) repair or amend the Service so that it conforms with the warranty; or

(b) refund the current year's Fee paid by the Customer for the Service upon the Customer ceasing the use of the Service and the return of all copies thereof to TASS.

This is the Customer's sole and exclusive remedy for a breach of the warranty in clause 9.1.

9.3 Exclusions

The warranty in clause 9.1 shall not apply if:

(a) the Service is used improperly or not in accordance with TASS's published Product documentation;

(b) the defect is caused by a modification to the Service (except a modification made by TASS as an Additional Service), by the Customer or third-party hardware or software; or

(c) the defect could have been avoided by installing an upgrade or update made available to the Customer under clause 10.

10. Software Upgrades

During the term of this Agreement, TASS shall make available to the Customer any general updates to, and new releases of, the Service as and when they are made available by TASS to the general public.

11. Payment

Any amounts owed by Customer to TASS pursuant to this Agreement must be paid within seven days from the date of the relevant invoice from TASS. In the event any overdue amount owed by the Customer is not paid following fourteen days written notice from TASS that such amounts are overdue, then TASS may impose a late payment charge at the compound interest rate of one percent per month on the overdue amount calculated from the date on which the amount was due for payment.

In the event any overdue amount owned by the Customer is not paid within 60 days from when the amount was due for payment TASS reserves the right to limit or restrict access to the Service.

The Customer must not assert or exercise any right of set off against money payable by the Customer to TASS under this Agreement.

12. Taxes

Expressions which are not defined, but which have a defined meaning in the *A New Tax System (Goods and Services Tax) Act 1999*, have the same meaning when used in this clause 12.

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under the Agreement are exclusive of GST or any other taxes or duties payable in respect of the transactions contemplated under the Agreement. In addition to all other amounts due hereunder, the Customer shall also pay to TASS, or reimburse TASS as appropriate, all amounts due for tax on the Service and for sales, use, excise taxes or other taxes which are measured directly by payments made by Customer to TASS.

If GST is imposed on any supply made under or in accordance with the Agreement, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the taxable supply, subject to the recipient receiving a valid tax invoice in respect of the supply at or before the time of payment.

Where a party is required under the Agreement to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

- (a) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party, or to which the representative member for a GST group of which the other party is a member, is entitled; and
- (b) if the payment or reimbursement is subject to GST, an amount equal to that GST.

13. Warranty Disclaimer

TASS's warranties set forth in the Agreement are the only warranties given and TASS excludes (to the extent permitted by law) all other warranties, express or implied, including warranties of merchantability and fitness for a particular purpose. If any law implies a condition, guarantee or warranty into this Agreement in relation to the supply of any goods or services by TASS which cannot lawfully be excluded then, to the maximum extent permitted by law, TASS's liability for any breach of such implied term or guarantee will be limited to (in the case of services) the supply of the relevant service again or the payment of the cost of having that service re-supplied or (in the case of goods) the replacement or repair of the goods or the payment of the cost of having them replaced or repaired.

14. Customer Indemnity

Customer agrees to indemnify TASS, its related bodies corporate and their directors, officers, employees, agents and contractors against any claims, liability, loss, cost, expense or damage arising from or in connection with any use of the Service for which the Customer is responsible or any breach by Customer of its obligations under this Agreement.

15. Limitation of Liability

15.1 In no event will TASS be liable for any incidental, consequential or other indirect loss or damage suffered or incurred by the Customer arising out of or in connection with the Agreement (including loss or corruption of data, loss of profit, loss of use, wasted overheads, loss of revenue and loss of reputation or goodwill), regardless of whether TASS was advised of the possibility of such losses in advance or whether such losses may reasonably be supposed to have been in the contemplation of both parties as a probable consequence.

15.2 In no event shall TASS's liability to the Customer under or in connection with the Agreement exceed the amount of the Fee paid by Customer under the Agreement in the twelve months preceding the earliest event giving rise to the claim, regardless of whether Customer's claim is based on contract, tort (including negligence), strict liability, product liability or otherwise.

16. Dispute Resolution and Termination

16.1 Dispute resolution

If there is a dispute between the parties in connection with the Agreement, then within 5 Business Days of a party giving the other notice of the dispute under this clause 16.1, a representative of each of the Customer and TASS must meet and use all reasonable endeavours acting in good faith to resolve the dispute.

If the dispute is not resolved within 21 Business Days of notification under clause 16.1, the parties may (but are not obliged to) agree to submit the dispute for mediation by an independent party acceptable to both parties. The mediation will be conducted in accordance with the Mediation Guidelines published by the Australian Commercial Dispute Centre. The costs of such mediation will be met equally by the parties.

A party must not start court proceedings in relation to a dispute until it has exhausted the procedures in this clause 16.1. If the parties do not agree to submit the dispute to mediation under this clause 16.1, then they are free to pursue their rights at law. Notwithstanding this clause, neither party is prevented from applying to a court at any stage for urgent injunctive or other relief.

16.2 Termination for convenience

TASS may terminate the entire Agreement or Products for convenience at any time by giving Customer 90 days' prior written Notice.

Customer may terminate the entire Agreement or Products for convenience at any time after expiry of the Initial Term by giving Edumate 90 days' prior written Notice.

16.3 Termination for breach

If a party commits a material breach of any of its obligations under this Agreement and:

- (a) the breach is not capable of remedy; or
- (b) the breach is capable of remedy but the party in breach has failed to remedy that breach within 14 days of receiving written notice from the other party,

the non-defaulting party may terminate the Agreement with immediate effect by written notice to the other party.

16.4 Termination for insolvency

If a party becomes, or threatens to become, or is in jeopardy of becoming, subject to any form of insolvency administration or ceases to conduct business so as to properly perform its obligations under the Agreement, the other party may terminate the Agreement immediately by written notice to that party.

16.5 Termination for Force Majeure

If a party fails to perform any of its obligations due to a Force Majeure Event for more than thirty days, the other party may terminate the Agreement immediately by written notice to that party.

16.6 Termination of Products

The parties' rights to terminate Products in accordance with this clause 16 are subject to any provisions in respect of termination of the Product set out in the Schedules of the Agreement.

If a Product is terminated by the Customer other than for breach under clause 16.3 before the Service Termination Date, Customer agrees to pay to TASS the Early Termination Charges of 1 year's Fee.

Customer agrees that the Early Termination Charges are a genuine pre-estimate of the anticipated or actual losses TASS will incur as a result of such early termination and are reasonable and not a penalty.

16.7 Consequences of termination

Upon termination of the Agreement, the Customer must immediately cease using the Service and each party must return or destroy (at the direction of the other party) any of the other party's Confidential Information in the party's possession within thirty days of termination.

Termination of the Agreement will be without prejudice to rights accrued prior to the end of the Agreement.

Clauses of the Agreement that are expressed to, or by their nature, survive the termination or expiry of the Agreement will survive and continue in effect.

On termination, TASS will have no obligation (except as required by law) to refund any fees that have been prepaid by the Customer pursuant to the Agreement.

17. Confidentiality

Each party must keep the Confidential Information of the other party confidential and must not:

- (a) use or permit the use of that confidential information;
- (b) make copies of that confidential information; or
- (c) disclose that confidential information to any person, other than for the purposes of this Agreement, with the other party's prior written consent or as required by law.

TASS must not use the Customer Data to contact, solicit or target any person or undertake any data mining or other data analysis activities that will identify any individual.

18. Privacy

In performing this Agreement, TASS shall comply with its privacy policy in force, updated from time to time.

Customer acknowledges and agrees that TASS will provide the Service from Australia. Customer also acknowledges and agrees that Customer Data may be accessed by TASS staff outside of Australia for processing and support purposes.

Customer agrees to obtain any consents relevant to its use of the Service as required by Commonwealth and State privacy laws. Such consents include those in relation to the collection, use, disclosure and storage of personal information or sensitive of any individual whose personal information or sensitive information may be included in Customer Data or uploaded, stored, or otherwise recorded using the Service (including disclosure to TASS and its contractors and transfer to parties located outside Australia).

19. Force Majeure

A party will not be liable for any delay or failure to perform its obligations under this Agreement if such delay is due to Force Majeure Event. If a delay or failure of a party to perform its obligations is caused by Force Majeure Event, the performance of that party's obligations will be suspended while the Force Majeure Event continues.

20. Notice

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services.

If to TASS:

Chief Executive Officer
The Alpha School System Pty Ltd
Unit 21B/441 Nudgee Road
Hendra QLD 4011

If to the Customer:

The address listed for the Customer in Item 1.1 of Schedule 1 of the Service Agreement.

21. General

21.1 This Agreement shall be construed and enforced in accordance with the laws of the state of Queensland. Each of the parties submits to the jurisdiction of the courts of Queensland.

21.2 Neither the Agreement nor any rights or obligations under the Agreement may be assigned, novated or sub-licensed by the Customer without the prior express written approval of TASS. TASS may assign, novate or otherwise delegate all or any of its rights and obligations under this Agreement.

21.3 TASS may use subcontractors to perform any of its obligations under this Agreement.

21.4 This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. Unless otherwise permitted under the terms of the Agreement, the Agreement may be varied or replaced only by a document that is duly executed by both parties.

21.5 If any term of the Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then the Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

21.6 The Agreement may be executed in any number of counterpart copies, each of which shall be deemed to be an original if originally executed, all of which shall constitute one and the same Agreement.

22. Interpretation

In the Agreement, headings and underlining are for convenience only and do not affect the otherwise clear interpretation of this Agreement. Unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) a covenant or agreement on the part of two or more persons binds them jointly and severally;
- (c) a reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust, state or government and vice versa;
- (d) a reference to a recital, clause, schedule, annexure or exhibit is to a recital, clause, schedule, annexure or exhibit of or to this Agreement;
- (e) a recital, schedule, annexure, exhibit or a description of the parties forms part of this Agreement;
- (f) a reference to any agreement or licence is to that agreement or licence (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (g) a reference to any party to this Agreement or any other licence or arrangement includes that party's executors, administrators, substitutes, successors and permitted assigns;
- (h) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (i) a reference to a month is to a calendar month;
- (j) if an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing; and
- (k) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Agreement or any part of it.

23. Additional Definitions

Confidential Information includes information that is by its nature confidential, is designated as confidential, or a party knows or ought reasonably to have known is confidential, but does not include information which is in the public domain or is in or comes into a party's possession independently of this Agreement (other than due to a breach of this Agreement) or is independently developed by a party. For the avoidance of doubt, Confidential Information includes Customer Data input by the Customer into the Service.

Customer Access Facilities means telecommunications, networks, systems and any other facilities used or required by or on behalf of the Customer for accessing the Software in manner set out in the Agreement.

Customer Data means data of any kind of the Customer that is provided by or on behalf of the Customer to TASS or that is otherwise generated, held or stored by TASS in the course of performing the Service and other obligations under the Agreement, and includes such data that:

- a) may cause the Customer reputational or brand damage;
- b) may cause the Customer to become subject to fines or other action by applicable governmental or regulatory authorities if it is the subject of unauthorised information disclosure, loss or corruption;
- c) is personal information or records of students or other individuals; and/or
- d) is corporate proprietary or financial information such as may be subject to the *Corporations Act 2001* (Cth) or would be the subject of intellectual property rights owned by the Customer.

Force Majeure Event means any communications disruption, fire, lightning strike, flood, earthquake, natural disaster, sabotage, nuclear contamination, terrorism, war or civil riot or other event beyond the reasonable control of the affected party to the extent that it results in the affected party being unable to perform an obligation (apart from a payment obligation) under this Agreement on time.

Intellectual Property Rights includes all present and future copyright, all proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, rights in confidential information (including trade secrets and know how), registered designs, circuit layout rights and all other rights generally falling within the scope of the term "intellectual property rights".

Government Census Date means the date in which the Customer reports student numbers to the relevant state or federal government. Where such a date does not exist this will be taken to mean the first day of the academic year for the school or educational institution operated by the Customer.

SCHEDULE 1

Support Services

Item 1.1: Support Services

This section sets out the scope of the Support Services and the additional terms and conditions that apply to these services.

Helpdesk

- TASS will provide a helpdesk portal through which Customer can request assistance with the Service.
- The Customer must nominate up to a maximum of four staff who may use the helpdesk and provide the names of these staff to TASS in writing or as otherwise requested. Only these named staff will be permitted to log support questions using the helpdesk portal.
- The portal will allow the Customer to:
 - log questions concerning Service functionality;
 - log requests for custom reports (see below) or additional functionality (to be assessed as a request for an Additional Services in accordance clause 1.2 of the Agreement); and
 - log details of issues with TASS.

TASS will use reasonable endeavours to respond to questions, requests and issues logged through the helpdesk within a reasonable time.

Software updates and Upgrades

TASS will inform the Customer of publicly available updates and upgrades to the Service and make them available to the Customer in accordance with clause 10. TASS will also provide the Customer with release notes for these updates and upgrades that explain the changes to Edumate Software functionality.

Additional Services

The following are not included in the Support Services (but may be requested as Additional Services):

- Installation and implementation of the Service
- Advice relating to Customer's data, hardware, software or operating environment requirements
- Onsite visits and training
- Development of new functionality specifically requested by Customer
- Entering or storing data on behalf of the Customer

SCHEDULE 2

Customer responsibilities

Item 2.1: Customer responsibilities

Without limiting Customer's responsibilities and obligations under the terms of the Agreement, Customer is responsible for the following:

- All data entry and maintenance
- Importing of data
- Answering questions from end users
- Creating custom reports
- Implementation planning, management and progress reviews

- All data backup and storage (except where provided for under clause 5 to these Service Terms)
- Effectively communicating to the Customer's users any changes to the Software
- Changes to Customer's ACL (Access Control Lists) setup and making changes to usernames or passwords and user access
- Providing sufficient network and computing infrastructure to allow for the smooth running of the software and sufficient access for TASS support staff

SCHEDULE 3

Private Cloud and Cloud details

Item 3.1: Access

Manner of providing access: Encrypted http (HTTPS)

Item 3.2: Data storage

Maximum data storage space: Maximum 50MB per attachment/document and 100GB_overall.

Item 3.3: Fees

Usage fees: Included in the Fee defined by the Agreement

Other fees: as set out in the Agreement.

Item 3.4: Cloud Backup Policy

Backups will be maintained of the Customer Data such that at least one full backup is maintained in a separate location to the main provision of the Service not more than 24 hours old. Incremental backups are taken every hour throughout the day.

Daily database snapshots will be maintained for a period of 12 months. Only the most current version of uploaded files (including video, documents, photos and so forth) will be maintained at any time.

Item 3.5: Cloud Support Services

Helpdesk - Fault Reporting:

All faults to be logged as a ticket at <http://helpdesk.edumate.com.au>

For matters based on a service outage call Mon-Fri 1300 309 931

In emergency cases of service outage during weekends or public holidays call 1300 309 931 or alternate advised number

Item 3.6: Cloud Service Levels

TASS will host the Software on a secure hosting platform located in Australia.

TASS is to make the Service available to the Customer during the term of the Agreement on a 24 hour, 365 days per year basis with a target availability of 99.9%, excluding the following:

- Any outage caused by Customer's acts or omissions, code faults or Customer supplied or requested applications or plug-ins.
- Any outage caused by circumstances beyond TASS's control, such as but not limited to connectivity faults, upstream providers, external networks, suppliers,

warranty or non-warranty repairs, customer error, inherent hardware or software defects, power failure or power surge/spike.

- Any outage to improve, modify or change systems such as the replacement or addition of server or infrastructure equipment, or change hosting location.
- Any outage required for Scheduled Maintenance.

