

TERMS AND CONDITIONS

The Goods and/or Services (as defined below) are provided by the COUNCIL FOR ADMINISTRATION, incorporated in England & Wales under the Companies Act 1985 (Registered No.3235481) whose registered office is at 6 Graphite Square, Vauxhall Walk, London, SE11 5EE, subject to the terms set out below.

By purchasing Goods and/or Services from us, you agree to be legally bound by these Terms and Conditions. These Terms and Conditions are made up of the following two parts: Part A sets out the general terms that govern any purchase by you of Goods and/or Services and Part B provides the definitions of the defined terms that are used in Part A.

PART A – TERMS AND CONDITIONS RELATING TO THE SALE OF GOODS AND THE SUPPLY OF SERVICES

1. The Contract Between Us

- 1.1 The Terms and Conditions govern the supply of Goods and/or Services to you, that are ordered by you over the telephone or by submitting an Order Form to us.
- 1.2 Some sections of these Terms and Conditions apply to all of CfA's Customers, but other sections are specific to Consumers only or to Business Users only. These Terms and Conditions intend to comply with all of your statutory rights as a Consumer. However, in the event that any uncertainty arises, your statutory rights will take priority over these Terms and Conditions.
- 1.3 Where you order Services as a Consumer, subject to the terms of the Contract, once payment has been received CfA will allow you to use the relevant Services for the duration that your use of the Services is permitted as described in the acknowledgement provided by us to you in accordance with clause 4.1 below, and at that time the Contract between us will be formed.
- 1.4 Where you order Services otherwise than as a Consumer, subject to the terms of the Contract, once payment has been received CfA will allow you to use the relevant Services for the duration that your use of the Services is permitted as described in the Invoice, and at that time the Contract between us will be formed.
- 1.5 Where you order Goods as a Consumer, subject to the terms of the Contract, the Contract will be formed once you receive an acknowledgement referred to at clause 4.1 below from us relating to your Order.

- 1.6 Where you order Goods otherwise than as a Consumer, subject to the terms of the Contract, the Contract will be formed once you receive an Invoice from us relating to your Order.

2. Conditions of Use

- 2.1 The Goods and/or Services are only available to residents of the United Kingdom. You acknowledge and understand that you may not order the Goods and/or Services from countries outside the United Kingdom.
- 2.2 By requesting the Goods and/or Services on behalf of an organisation, you warrant and represent that you have the authority to bind that organisation to the Contract.
- 2.3 By requesting Goods and/or Services on your own behalf, you warrant and represent that you are at least 18 years old, either entering into the Contract for yourself or entering on behalf of your child or a child in your legal care (who is at least 13 years of age). If you are a parent or guardian entering the Contract for the benefit of your child, you agree that you are fully responsible for his or her use of the Goods and/or Services, including all charges and liability that he or she may incur.
- 2.4 If we notify you of any Software release or version, you agree immediately to destroy all copies of the relevant Software that includes the relevant prior release or version.
- 2.5 Whilst we will endeavour to tell you about changes to Goods and Services, including for promotional offers, security or any other reasons, CfA is entitled to modify or discontinue the provision of Goods and Services (or any parts of them) at any time without giving notice to you.

3. Price

- 3.1 The Price payable for the Goods and/or the Services that you request are as set out in the Invoice we send to you and, where you are a Consumer, in the acknowledgement we send to you in accordance with clause 4.1. The Invoice and acknowledgement will set out whether or not the Prices are inclusive or exclusive of the delivery costs and the VAT or other applicable sales tax or duty (if any).

4. Payment and Delivery

- 4.1 Where you are a Consumer and you place an Order we will send you written confirmation of your Order setting out the details of the Goods and/or Services to be supplied to you and the date when the Goods and/or Services become available for collection or use and a reference number will be assigned for your future reference.

- 4.2 You will receive an Invoice for the Prices, and you must pay such Invoice within thirty (30) days of the date of receipt thereof. CfA may suspend delivery of Goods and/or Services until full payment is received. If CfA has delivered Goods and the Goods remain neither paid for nor made available for collection when reasonably demanded, then CfA may recover the outstanding payment and/or Goods and the recovery costs are to be paid by the Customer.
- 4.3 Any period or times stated for delivery or for compliance with any other contractual obligations of CfA are estimates only. If the estimated delivery date cannot be met then a Consumer (but not a Business User) will be contacted and advised of a proposed new date for delivery. If the Consumer refuses the revised delivery date and delivery is not made within 30 days from the original date that the Contract was formed or the previously agreed delivery date (if applicable), then a Consumer may cancel the Contract without charge and CfA shall provide a full refund. In any event, CfA accepts no responsibility for loss or damage resulting from delay or failure to notify the Business User of any such delay.

5. Licence

- 5.1 To access and use certain Services you may need to install or activate Software (if any). Alternatively, Software may be supplied as part of the provision of Goods pursuant to a Contract. This clause 5 applies where Software is supplied pursuant to a Contract.
- 5.2 Any Software is licensed or sub-licensed (as applicable) to you, not sold, subject to these Terms and Conditions. Subject to these Terms and Conditions, CfA hereby grants to you a royalty-free, non-exclusive, limited, non-assignable, non-transferable, non-sublicensable right to install and use one copy of the Software in the United Kingdom, for the period that these Terms and Conditions apply.
- 5.3 Subject to these Terms and Conditions, CfA or its licensors retain all rights, title and interest in and to the Software (including content) and any updates to such Software (including all images, photographs, text, files, content, electronic documents, data or information, and applets incorporated into or accessed via the Software). This provision will survive any expiry, cancellation or termination of any Contract for any reason.
- 5.4 Nothing in any Contract will grant to you in any way any right to use any computer program, service or technology other than the Software nor any additional rights that have not been expressly granted to you under a Contract. This provision will survive any expiry, cancellation or termination of any Contract for any reason.

- 5.5 By entering into a Contract which involves the licence of Software, you agree to comply with the provisions of the licence agreements which we provide to you. Any commercial off the shelf product provided will be subject to the terms of the applicable end user licence agreement packaged with such product. Any such licence agreements or such other applicable end user licence agreement shall prevail over these Terms and Conditions to the extent of any conflict or inconsistency between that licence and these Terms and Conditions in relation to the subject matter of such licence.
- 5.6 You agree not to do or permit anyone to do any of the following:
- (A) reverse engineer, decompile, modify, alter, disassemble, or otherwise attempt to seek to discover the source code of, the Software or any text, graphics, file, scripts or other materials forming part of the Software in any way, except and only to the extent that such activity is permitted by law notwithstanding this limitation;
 - (B) rent, lease, loan, lend, sell, copy, or distribute the Software in whole or in part other than as expressly required to be permitted under these Terms and Conditions;
 - (C) use the Software or any portion thereof to create any tool or software product that can be used to create software applications of any nature whatsoever;
 - (D) remove, alter, cover, obfuscate, or otherwise deface any trademarks, copyright or other protective notices or metadata tag on the Software or included in the Goods and/or the Services;
 - (E) tamper with the Software or undertake any activity which does or is intended to bypass, modify, defeat or otherwise circumvent (or having the effect of facilitating, modifying, or assisting the bypassing, defeating or circumventing of) proper and secure operation of the Software or any mechanisms operatively linked to the Software; or
 - (F) include with the Software any other software licensed under (or use the Software in any manner that would cause it to become subject to) an open source licence (requiring the computer code to be disclosed or distributed in source code form, licensed to third parties for the purpose of making derivative works, or redistributable at no charge).

6.0 Rights to cancel

6.1 If you are a Consumer, you may cancel this Contract until, but no later than, the end of the seventh Working Day:

- (A) after the day on which you receive the Goods; or
- (B) after the day on which the Contract for the supply of Services is concluded (see clause 1.3 above) unless the supply of Services commences before this time,

and obtain a refund in accordance with clause 6.4.

6.2 On cancellation of a Contract for the supply of Goods in accordance with clause 6.1 above, the Consumer shall return the Goods to CfA in their original condition, undamaged and at the cost of the Consumer. The Consumer shall take reasonable care to ensure that the Goods are not damaged whilst in transit using means arranged by the Consumer. Whilst in possession of the Goods the Consumer shall be under a duty to take reasonable care of them. CfA shall take action against the Consumer for Goods returned which have been made unfit for resale or damaged whilst in the possession of Consumer.

6.3 The provisions of clauses 6.1 to 6.2 do not apply to Goods that are damaged or defective.

6.4 On cancellation of a Contract CfA will refund the Price paid for the Goods and/or Services ordered pursuant to such Contract, less the direct cost of recovering the Goods (when applicable), within a period of 30 days from the date of cancellation.

6.5 No Contract may be modified or cancelled by a Business User without CfA's prior written consent. In the event that cancellation is agreed for whatever reason the Business User shall indemnify CfA against all costs, claims, loss and expenses incurred by CfA out of or in connection with such cancellation, including but not limited to, any consequential loss and loss of profits.

6.6 You may end your subscription to any Services at any time by giving to CfA at least one calendar month's prior written notice. To withdraw a request or end your subscription to any Services you must notify CfA via info@cfa.uk.com in writing by post or by facsimile to the address as stated in clause 12 indicating your intention to cancel the Contract.

6.7 We may terminate this Contract upon giving written notice to the Customer if:

- (A) you commit a material breach of the Contract and fail to remedy such a breach, if capable of remedy, within 30 days of written notice being given to it by us requiring a remedy; or
- (B) you fail, without good reason, to pay on time.

- 6.8 We shall be entitled to cancel or suspend delivery of any Goods or supply of Services if the performance of our obligations under this Contract is any way adversely affected by any cause whatsoever beyond our control including but not limited to the delays or defaults of our suppliers or the default of any sub-contractor, war, strike, lock-out, trade disputes, flood, accident to premises or machinery, or act of terrorism.
- 6.9 Upon any termination or expiry of a Contract for Services pursuant to clause 6, you agree to cease using the Services and to destroy all copies of any Software provided in connection with such Services within 10 days following its termination, expiration or cancellation.
- 6.10 This clause 6 will survive any expiry, cancellation or termination of the Contract for any reason.

7. Intellectual Property Rights

- 7.1 Intellectual Property Rights owned or licensed by CfA and/or its suppliers or licensors in connection with the Goods and Services, including any Software supplied under a Contract will be and will remain vested in CfA and/or its suppliers or licensors at all times.
- 7.2 CfA and its licensors reserve all rights in the Goods, the Services and the Software not expressly granted to you and your users under a Contract. If CfA receives a notice alleging that you have engaged in behaviour that infringes CfA's or any other person's Intellectual Property Rights or reasonably suspects the same, CfA may suspend or terminate your use of the Services without notice to you. If CfA suspends or terminates your use in this way, to the extent permitted by law, it shall have no liability or responsibility to you, including for any amounts that you have previously paid for the Goods and/or Services.

8.0 Disclaimer

- 8.1 Except as expressly stated in these Terms and Conditions, CfA does not give any representations, warranties or undertakings in relation to the Goods and/or the Services, and in particular the source of supply or manufacture of the Goods and/or the Services. CfA does not make any warranty or representation to Business Users as to the merchantability of the Goods and/or the Services or warrant that the Goods and/or the Services are of satisfactory quality, without defect or fit for any particular purpose. Any representation, condition or warranty applicable to Business Users which might be implied or incorporated into a Contract by reason of statute, common law or otherwise is excluded to the fullest extent permitted by law.
- 8.2 The nature of Internet communications means that our Services and/or the Software may be susceptible to data corruption, interception, non-availability and delays. The Services and Software may also be unavailable from time to time due to repairs, maintenance or development work. You agree that CfA has no obligation to provide support for the Services and/or the Software except as expressly set out on the Invoice.

- 8.3 To the extent permitted by law, there is no warranty or condition of title, quiet enjoyment, quiet possession, correspondence with description or non-infringement with regard to the Software or the Services and CfA makes no representations, warranties or promises on behalf of its licensors or their suppliers.

9.0 Limitation of Liability

- 9.1 To the extent permitted by law and subject to clause 9.4, CfA, its directors, employees or other representatives will not be liable (whether in contract, tort or otherwise, and even if CfA or its licensors has been advised of the possibility of such damages) for:

- (A) loss or damage referred to in clauses 8.1 or 8.2 above;
- (B) loss or damage arising out of the provision of, failure to provide, or inability to use, the Goods (including the Software) and/or Services in any way or any failure to provide software support or information, software, services or content related to such software support;
- (C) any failure to provide, or delay in providing, the Goods and/or the Services if and to the extent that such failure or delay is caused by any event or circumstance beyond its reasonable control (including, without limitation, labour disputes, strikes, earthquake, floods, fire, lightning, utility or communications failures, vandalism, war, acts of terrorism, riots, insurrections, embargoes, or changes in law or regulation);
- (D) any failure of the Goods and/or Services to be fit for purpose, any viruses, worms, trojan horses, corrupted files, cracks, phishing, drop dead devices, bombs or other harmful devices, any inaccuracy or incompleteness of responses, results or effort, or any lack of possession or enjoyment of the Goods and/or Services; or
- (E) any special, incidental, punitive, indirect, or consequential damages whatsoever (including without limitation damages for loss of profits or confidential or other information, for business interruption, for loss of privacy, for failure to meet any duty including of good faith or of reasonable care, negligence, and any other pecuniary or other loss whatsoever).

- 9.2 Subject to clause 9.4, the provisions of this clause 9 set out the entire liability of CfA (including any liability for negligence or otherwise for the acts or omissions of its officers, employees, agents and sub-contractors) to the Customer in respect of: -

- (A) any breach of a Contract; and
- (B) any representation, statement or tortious act or omission including negligence arising under or in connection with a Contract.

- 9.3 Subject to clause 9.4, CfA's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of a Contract to Business Users, shall be limited to the invoiced value set out in the Invoice.
- 9.4 Nothing in this clause 9 shall exclude or restrict CfA's liability:
- (A) in respect of fraudulent misrepresentation;
 - (B) for death or personal injury caused by negligence;
 - (C) under section 12 of the Sale of Goods Act 1979; or
 - (D) any other liability which cannot be limited by law.

10. Your liability

- 10.1 You agree to reimburse CfA and its licensors (including defending CfA and its licensors from any third party claim or proceedings or legal fees or expenses) for any use you or your users make of any Goods and/or Services. You agree not to settle or disclose the fact or details of any claim or proceedings to any third party without our prior written consent. This clause 10 will survive any expiry, cancellation or termination of a Contract for any reason.
- 10.2 You agree to indemnify and hold CfA harmless from and against any breach by you of these Terms and Conditions, including without limitation, all claims, actions, proceedings, losses, liabilities, damages, costs, expenses (including reasonable legal costs and expenses) howsoever suffered or incurred by CfA in consequence of your (or your users') breach of these Terms and Conditions.
- 10.3 You agree that any unauthorised use of the Services, the Software, the Goods and/or any related materials would result in irreparable injury to CfA or its group companies or licensor(s) for which money damages may be inadequate, and in such event CfA, its affiliates and/or licensor(s), as applicable, shall have the right, in addition to other remedies available at law and in equity, to seek immediate injunctive relief against you. Nothing contained in these Terms and Conditions or any Contract shall be construed to limit the remedies available to CfA, its affiliates and/or licensor(s) under common law, in equity or under these terms or otherwise. This clause 10 will survive any expiry, cancellation or termination of any Contract for any reason.

11. Personal Information

- 11.1 You agree that CfA may process your personal information that you provide to it for the purposes of providing any Goods/Services to you and/or sending marketing communications to you. Details of our privacy policy are set out at www.cfa.uk.com

12. Contact Details

- 12.1 CfA operates a complaints handling procedure which is used to try to resolve disputes when they first arise. If you have a complaint, you shall give a notice of complaint to CfA in writing to the following address:

Customer Service
Council for Administration
6 Graphite Square
Vauxhall Walk
London SE11 5EE

Email: info@cfa.uk.com
Fax: +44(0) 20 7091 7340

13. Amendment

- 13.1 No additions to or modifications of these Terms and Conditions or any Contract shall be effective unless accepted by CfA in writing. CfA is entitled to terminate or revise the provisions of these Terms and Conditions and any Contract with immediate effect in the case of obvious errors or inaccuracies regarding the Goods, Services or Price by notifying the Customer at its last known address.

14. Entire Agreement

- 14.1 The Contract sets out the whole of our agreement relating to the supply of the Goods and/or the Services to you by CfA, and supersedes and extinguishes any prior agreement, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to such subject matter.
- 14.2 In particular, nothing said by any sales person on behalf of CfA should be understood as a variation of the Contract or as an authorised representation about the nature or quality of any Goods and/or the Services offered for sale by CfA. To the extent permitted by law, CfA shall have no liability for any such representation being untrue or misleading.
- 14.3 This clause 14 will survive any expiry, cancellation or termination of a Contract for any reason.

15. Severance

- 15.1 If any of these Terms and Conditions should be determined to be invalid, illegal or unenforceable for any reason by any court of competent jurisdiction then such Term or Condition shall be severed and the remaining Terms and Conditions shall survive and remain in full force and effect and continue to be binding and enforceable.

16. Relationship

- 16.1 Nothing in these Terms and Conditions or any Contract constitutes, or will be deemed to constitute, a partnership between us nor will it constitute, or be deemed to constitute, either of us as the agent of the other of us for any purpose.

17. Assignment

- 17.1 In respect of Consumers, we may at any time, without consent of the Consumer, assign all or any part of our rights, benefits and/or obligations arising pursuant to these Terms and Conditions and/or any Contract to a competent third party, provided that the assignment does not negatively affect the provision of Goods and Services to such Consumer (if any) and the rights or remedies of the Consumer under the Terms and Conditions and any Contract.
- 17.2 In respect of Business Users, we may at any time, without consent of the Business User, assign all or any part of our rights, benefits and/or obligations arising pursuant to these Terms and Conditions and any Contract to a competent third party.
- 17.3 You may not assign or transfer any of your rights or obligations, nor sub-contract any of your obligations, under these Terms and Conditions or any Contract without the prior written consent of CfA.

18. Governing Law

- 18.1 These Terms and Conditions and each Contract shall be governed by and construed in accordance with the laws of England and you hereby submit to the exclusive jurisdiction of the English courts. This clause 18 will survive any expiry, cancellation or termination of these Terms and Conditions and each Contract for any reason.

19. Third Party Rights

- 19.1 No person who is not a party to these Terms and Conditions and/or any Contract shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms and Conditions or any Contract.

PART B – DEFINITIONS

“Business User” means a legal entity or a person who buys or agrees to buy the Goods and/or the Services from CfA for private use;

“Consumer” means an individual who buys or agrees to buy Goods and/or Services from CfA for private use;

“Contract” means these terms as amended from time to time and the order confirmation that may be given by us to you in accordance with clause 4.1 and applicable Invoice;

“Customer” means Consumers and Business Users collectively;

“CfA”, “our” or “we” means the Council for Administration or its successors or assigns;

“Goods” means all goods and products, including but not limited to student handbooks and Business & Administration Standards CD-ROM, newspapers, periodicals, magazines, or Software, that are from time to time supplied by CfA and available for customers to purchase or subscribe;

“Intellectual Property Rights” means all patents, trade marks, registered designs, and applications for the same, copyright, design rights, know-how, trade and business names and any other similar protected rights in any country;

“Invoice” means the invoice to be sent by CfA to the Customer specifying (i) the Price of Goods or Services, the delivery cost and the VAT and other applicable sales tax or duty (if any) payable by the Customer and (ii) the arrangements for payment;

“Order” means your order for Goods and/or Services as set out on an Order Form as received by us and as may be acknowledged by us in accordance with clause 4.1;

“Order Form” means an order form as provided to you by us and as completed by a Customer which specifies the Goods and/or Services ordered and the Price of such Goods and/or Services;

“Price” means the total charges or purchase price payable for the Goods and/or the Services sold by CfA to the Customer;

“Services” means all the publications and services, including but not limited to, Forward ePortfolios PLUS, events and programmes, the professional discussion forum, and the CfA network membership, that are from time to time supplied by CfA and available for customers to purchase or subscribe;

“Software” means the software made available to you pursuant to a Contract and any updates, modifications, upgrades and revisions to such software from time to time;

“Terms and Conditions” means these terms as they may be updated in accordance with clause 13; and

“Working Day” means every day of a calendar year apart from weekends and statutory and public holidays.