

TERMS AND CONDITIONS OF SUPPLY

Agreed Terms:

These terms and conditions ("Conditions") shall be incorporated in and shall govern any Contract between the supplier, namely Gladstone Education Limited ("Gladstone Education") and you (the "Customer"). These Conditions shall constitute the entire agreement between Gladstone Education and the Customer regarding the Contract and shall prevail over any terms and conditions contained in or purported to be contained in any Order or other document or communication from the Customer.

1. Definitions

- 1.1. **CI or Custom Integration:** any Services, including but not limited to any image and/or application loading and maintenance, software integration, hardware integration and/or asset management services, which provide for the combination of any Integration Material or IM with any Products;
- 1.2. **Contract:** any contract between Gladstone Education and the Customer for the supply of any Products and/or Services, incorporating these Conditions.
- 1.3. **Conditions:** means these conditions together with any special conditions agreed in writing by Gladstone Education;
- 1.4. **Customer:** the person or firm who purchases any Products and/or Services from Gladstone Education;
- 1.5. **Description:** a document forming part of the Contract which describes any Products or Services;
- 1.6. **IM or Integration Material:** any hardware and/or software specified or provided by the Customer for the purposes of CI;
- 1.7. **IPR or Intellectual Property Rights:** any patents, trademarks, registered designs, copyright, design rights, know-how and/or trade and business names together with any application for the same and any other similar protected rights in any country;
- 1.8. **Order:** a request by the Customer to purchase any Products and/or Services from Gladstone Education;
- 1.9. **Order Confirmation:** an acceptance in writing by Gladstone Education of any Order;
- 1.10. **Price:** the charge for any Products and/or Services payable by the Customer to Gladstone Education;
- 1.11. **Products:** any products (including but not limited to any Third Party Software and/or hardware) which the Customer purchases from Gladstone Education but excluding any IM;
- 1.12. **Services:** any services (including but not limited to CI) which the Customer purchases from Gladstone Education in accordance with any Services Offering;
- 1.13. **Services Offering:** any Services option offered by Gladstone Education from time to time;
- 1.14. **Software:** any computer operating system, middleware, application or other software that is created or owned by Gladstone Education;
- 1.15. **Third Party Products:** any products which do not bear the Gladstone Education brand, including but not limited to: screens, access control devices, computers and servers;
- 1.16. **Third Party Software:** any computer operating system, middleware, application or other software that is not created or owned by Gladstone Education;
- 1.17. References to legislation shall be construed to include references to future re-enactments and modifications from time to time.
- 1.18. Headings to clauses shall not affect their meaning.
- 1.19. Words in the singular include the plural and in the plural include the singular.

2. Quotations/Orders and Changes

- 2.1. Any quotation is given on the basis that no Contract shall come into existence until Gladstone Education issues an Order Confirmation to the Customer. Any quotation shall be valid only if it is in writing and any such quotation shall only be valid for 30 days after the quotation date, unless otherwise stated in the quotation.
- 2.2. Each Order or acceptance of a quotation for Products and/or Services shall be regarded as an offer by the Customer to purchase Products and/or Services subject to these Conditions and shall not be subject to any other terms and/or conditions specified by the Customer in any Order or in any other document.
- 2.3. No Order shall be deemed to be accepted by Gladstone Education until Gladstone Education issues an Order Confirmation to the Customer.
- 2.4. Any variation to these Conditions shall be at Gladstone Education's absolute discretion and any variation must be confirmed in writing by Gladstone Education.
- 2.5. Gladstone Education reserves the right to make any change to a specification in an Order but will identify any such change in the Order Confirmation. Gladstone Education confirms that any such change will not materially impair functionality or performance. Gladstone Education will not make any significant variation to any Products or Services without the Customer's prior agreement and, except as provided for in this Condition 1, will deliver any Products and/or perform any Services in accordance with the Order Confirmation.

3. Price and Payment

- 3.1. Any Price quoted in Gladstone Education's sales or marketing materials (including Gladstone Education's website) or in any conversation with Gladstone Education's staff is subject to confirmation in writing by Gladstone Education and is exclusive of VAT which will be chargeable at the rate fixed by legislation at the date of supply.
- 3.2. The Price for any Products and/or Services shall, (unless a Customer has been granted credit by Gladstone Education subject to the provisions of Condition 3), be paid by the Customer to Gladstone Education at the following times:
 - Software:** The Price shall be payable on delivery;
 - Third Party Software:** The Price shall be payable immediately upon the Customer's receipt of the Order Confirmation;
 - Hardware:** The Price shall be payable immediately upon the Customer's receipt of the Order Confirmation;
 - Software Support:** The Price shall be payable within 30 days of the date of Gladstone Education's invoice;

Hardware Support: The Price shall be payable within 30 days of the date of Gladstone Education's invoice;

Training/other Services: The Price shall be payable within 30 days of the date of Gladstone Education's invoice;

Cards: The Price shall be payable within 30 days of the date of Gladstone Education's invoice;

Please note that Customers who have not previously placed an Order with Gladstone Education must make payment in advance (in full or in part, as applicable) as follows:

Hardware and peripherals: 100% payment on order;

Software: 50% payment on Order/remainder on delivery;

Services: 50% payment on Order/remainder on completion of Contract;

Hardware and/or Software Support: 30% on Order/remainder on completion of Contract.

- 3.3. The Price payable by the Customer will be shown on Gladstone Education's Order Confirmation and invoice. The cost of freight, insurance, import or export charges, duties or other associated costs such as travel, mileage, accommodation, delivery, sales, value added tax and excise taxes shall be added by Gladstone Education to the Price unless the Customer has been notified in writing that any or all such additional costs are included in the Price.
- 3.4. Gladstone Education may, without excluding or limiting any other remedy available to it under the Contract or otherwise, suspend delivery of any Products and/or performance of any Services until Gladstone Education has received payment of the Price in full and may charge interest on any amount outstanding at the rate of 8% per annum above the Bank of England base rate calculated on a daily basis. If Gladstone Education takes steps to recover any amount outstanding (and/or any Products) any and all recovery costs are to be borne by the Customer.
- 3.5. With respect to any Products which are to be delivered in instalments, Gladstone Education reserves the right to increase the Price due to any change in, without limitation, exchange rates, duties, insurance, freight, handling and purchase costs.
- 3.6. Credit terms are subject to Gladstone Education's acceptance of an application form to open an account and the validation of trade references and payment terms are strictly 30 days from date of invoice.
- 3.7. The grant of any credit by Gladstone Education to the Customer shall be at Gladstone Education's absolute discretion.
- 3.8. Gladstone Education will charge extra for any release certification necessary.

4. Payment Options

- 4.1. **By BACS:** Payments via BACS should be made Sterling Sort Code: 60-22-19 Account No: 66528054
- 4.2. **By Post:** Please send your payment and remittance advice to:
 - Gladstone Education Limited
 - Hithercroft Road
 - Wallingford
 - Oxon
 - OX10 9BT

Cheques should be crossed and made payable to Gladstone Education Limited.

- 4.3. **Credit Card or Debit Card:** Debit Mastercard, Mastercard, Switch, Maestro, Visa, and Delta are all accepted. Please call 01491 201010 to make payment.
- 4.4. **Direct Debit:** Direct Debit is available at the discretion of Gladstone Education. Please contact 01491 201010 to discuss your requirements further.

5. Delivery of Products

- 5.1. Any delivery date specified in any Order Confirmation is an estimate and time shall not be made of the essence by notice. If no date is so specified, delivery shall be within a reasonable time.
- 5.2. Gladstone Education shall not be liable for any consequences of late delivery, however caused.
- 5.3. The place of delivery shall be as stated in the Order Confirmation.
- 5.4. The Customer shall make all arrangements necessary to take delivery of the Products when they are tendered for delivery.
- 5.5. A charge may be made to cover any extra costs involved for delivery to an address which is different to that stated in the Order Confirmation.
- 5.6. Should expedited delivery be agreed, an extra charge may be made to cover any overtime or any other additional costs.
- 5.7. If for any reason the Customer fails to accept delivery of any of the Products, or Gladstone Education is unable to deliver the Products on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:
 - 5.7.1. risk in the Products shall pass to the Customer (including for loss or damage caused by Gladstone Education's negligence); the Products shall be deemed to have been delivered: and
 - 5.7.2. Gladstone Education may store the Products until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance); or sell the Products at the best price readily obtainable and (after deducting any reasonable costs and expenses in connection with the storage and expedited sale of the Products), charge the Customer for any shortfall below the Price for the Products.
- 5.8. The Customer shall provide at the place of delivery and at its expense adequate and appropriate equipment and manual labour for unloading the Products.
- 5.9. If delivery involves difficult access to or at the place of delivery and/or the place of delivery is located at an unreasonable distance from any feasible vehicular access point, Gladstone Education reserves the right to levy an extra delivery charge.
- 5.10. If Gladstone Education delivers to the Customer a quantity of Products of up to 10% more or less than the quantity accepted by Gladstone Education, the Customer shall not be entitled to object to or reject the Products or any of them by reason of the surplus or shortfall and shall pay for such Products at the pro rata Contract rate.

- 5.11. Gladstone Education may deliver the Products by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 5.12. Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.
- 6. Passing of Ownership and Risk in Products**
- 6.1. Ownership of any Products shall not pass to the Customer until Gladstone Education has received full payment of the Price for the Products. Gladstone Education may recover any Products supplied at any time prior to ownership passing if the Customer is in breach of these Conditions.
- 6.2. The Customer may resell any Products before ownership has passed to it solely on the following conditions:
- 6.2.1. any sale shall be effected in the ordinary course of the Customer's business at full market value; and,
- 6.2.2. any such sale shall be a sale of Gladstone Education's property on the Customer's own behalf and the Customer shall deal as principal when making such a sale; and,
- 6.2.3. the proceeds of any such sale shall be held by the Customer as Gladstone Education's bailee and in a fiduciary capacity, and the Customer shall pay the proceeds into a separate bank account opened for that purpose and approved by Gladstone Education and shall ensure that in no circumstances are the proceeds mingled with other money or paid into an overdrawn bank account but are at all times identifiable as Gladstone Education's money; and,
- 6.2.4. if the Customer has not received the proceeds of any such sale it will, if called upon to do so by Gladstone Education, assign to Gladstone Education within seven days after being required in writing so to do by Gladstone Education, all rights against the person or persons by whom the proceeds are owed.
- 6.3. If the Customer is overdue in making any payment to Gladstone Education or becomes insolvent, is unable to pay its debts, ceases to trade, has a receiver appointed over the whole or any part of its assets, has an administrator appointed, enters into any composition with creditors generally, is wound up (other than for the purpose of a bona fide scheme of solvent reconstruction) or any step is taken, whether by the Customer or any other person, towards any of the foregoing events, or Gladstone Education reasonably expects any such event to occur, Gladstone Education may cancel the Contract and suspend or cancel any deliveries. Without limitation, Gladstone Education shall be entitled upon demand to the immediate return of any Products which remain in the ownership of Gladstone Education and the Customer grants Gladstone Education an irrevocable licence at any time to enter any premises where the Products are or may be stored or otherwise located in order to recover them.
- 6.4. Recovery of any Products shall not discharge the Customer's liability to pay the whole of the Price due for them.
- 6.5. Risk in any Products passes to the Customer on delivery of the Products to the Customer or to their representative, or upon the Products being appropriated to the Customer but kept at the Gladstone Education or any third party premises at the Customer's request.
- 7. Acceptance of Products on Delivery, and Returns**
- 7.1. Notwithstanding anything herein to the contrary, the Customer may only reject any Products for material non-conformity with the corresponding Description and by providing written notice thereof to Gladstone Education within 7 days after delivery; otherwise the Customer shall be deemed to have accepted the Products.
- 7.2. Returns will not be accepted by Gladstone MRM on any product ordered by the Customer and confirmed via Order Confirmation that can not be resold, including, but not limited to Third Party Licences.
- 7.3. The Customer shall notify Gladstone Education:
- 7.3.1. promptly following delivery, in the event that the Product or any part of the Product is missing, or the Product has been incorrectly delivered or does not correspond to its specification, or is otherwise not as ordered or the Product/Product packaging is visibly damaged; and
- 7.3.2. in any event within 48 hours of the discovery of any non-visible damage or defect in any Product.
- 7.3.3. In any instance in which any Products may be returned to Gladstone Education by the Customer under the Contract, they must either be returned to Gladstone Education's premises or be made available for collection at a time which is mutually convenient.
- 7.4. Customers must act reasonably in complying with any request by Gladstone Education to collect any Products at a particular time.
- 7.5. Returns shall, in any event, only be accepted by Gladstone Education if the Products are returned in their original packaging, unless otherwise agreed in writing.
- 7.6. The Customer shall be liable for the cost of remedying any damage to any Products returned or, at Gladstone Education's option, the cost of replacing any such damaged Products, where such damage has, in the opinion of Gladstone Education, been caused by the Products being inadequately packaged by the Customer or otherwise through the fault of the Customer.
- 7.7. Gladstone Education reserves the right to levy a handling and restocking charge of 25% on any Products which are returned if they were ordered in error or are no longer required. If the Products are faulty or are being returned pursuant to Condition 7.1 the restocking charge will not apply.
- 7.8. Return delivery and insurance costs shall be payable by the Customer, unless otherwise agreed in writing by Gladstone Education.
- 7.9. Gladstone Education shall not be liable for any loss or damage sustained to any Products in transit from the Customer's place of business.
- 8. Statutory Rights, Warranties, Repairs, Replacements and Provision of Services**
- Products:**
- 8.1. Unless stated otherwise by Gladstone Education, all Products are guaranteed to be free from defects for 12 months from delivery; any spare parts are guaranteed to be free from defects for 90 days from installation or their delivery date, whichever is the earlier. Where annual maintenance cover is taken out, a separate warranty shall apply. Should any Products be defective within this period, Gladstone Education shall repair or replace the Product within a reasonable time. All reasonable care shall be used to resolve problems within a realistic period in the circumstances. With respect to any defect in any Third Party Products, Gladstone Education shall pass the benefit of any applicable third party warranty on to the Customer, insofar as is possible.
- 8.2. The obligation set forth in Condition 8.1 is contingent upon the Products not being used improperly and shall not extend to any part or parts of any Products which are modified or repaired without Gladstone Education's prior written consent. The Customer accepts that with respect to any Third Party Software, the obligation set forth in Condition 8.1 may be fulfilled by the licensor of that Third Party Software rather than Gladstone Education.
- 8.3. The obligation set forth in Condition 8.1 shall not apply to consumable items (including but not limited to till rolls), or if a defect is caused by an external factor, including but not limited to fair wear and tear, or by any software or hardware which is loaded onto or connected to any Products by the Customer where this software or hardware has not been supplied by Gladstone Education, or by any accident, hazard, humidity, electrical stress or any other environmental conditions which do not routinely occur in a typical home or office environment.
- 8.4. Product parts not critical to Product function, including but not limited to hinges, doors, cosmetic features, and frames, shall not be serviced and/or repaired or replaced.
- 8.5. If Gladstone Education makes any repairs to any Products under any Service Offering it will do so by using components which are new (or equivalent to new) in accordance with relevant industry standards and practice. Certain repairs or replacements may be carried out by the Customer under instruction by Gladstone Education, subject to Gladstone Education's prior written consent. Replaced or repaired parts will carry the relevant Service Offering warranty until the end of the original warranty period as described in the Service Offering.
- 8.6. If the Customer does not return any Product part or parts which have been removed by the Customer or which should otherwise have been returned with the Product, Gladstone Education may charge a fee which will be notified to the Customer in advance. The fee will reflect the cost incurred by Gladstone Education in retrieving the part(s), and/or the cost of procuring another component to recondition the Product and/or arising from any failure of the Product to comply with environmental obligations as a result of the Customer's failure to return the part or parts.
- Services:**
- 8.7. Gladstone Education shall perform the Services using reasonable skill and care. Gladstone Education response times are estimates and may vary according to, among other factors, the remoteness or accessibility of Customer's location, weather conditions and availability of components. Time shall not be of the essence in the performance of any Services.
- 8.8. The following matters shall be excluded from the Services unless otherwise agreed in writing by Gladstone Education: local working hours, relocation, removal of non-Gladstone Education supplied hardware or software, preventative maintenance, repairs to Products that are functioning within industry standards including without limitation defective pixels on monitors, transfer of data or Software and viruses. Without limitation, the Customer shall be responsible for the removal of non-Gladstone Education supplied Products.
- 8.9. Gladstone Education shall pass to Customers, to the extent that it is permitted to do so, the benefit of any warranty or guarantee given by any creator or supplier of Third Party Software or Third Party Products.
- 8.10. Any Services may be provided via telephone (at the normal national rate) or via the Internet where appropriate. Telephone calls may be recorded for training purposes.
- 8.11. The Customer must provide Gladstone Education with all reasonable courtesy, access, information and cooperation to enable Gladstone Education to perform the Services and shall be responsible for meeting any telephone and postal charges incurred in contacting Gladstone Education.
- 8.12. Gladstone Education owns any Products or parts that may be removed during repair. Gladstone Education may require the Customer to return any removed parts to Gladstone Education for reconditioning, analysis or for environmental reasons.
- 8.13. The Customer must satisfy themselves as to the suitability of any Products for their needs. Gladstone Education does not warrant fitness for any particular purpose.
- 8.14. Other than in accordance with the provisions of Condition 8.1, the Customer shall not be entitled to the repair or replacement of any Products unless otherwise stipulated in any relevant Service Offering or otherwise agreed by Gladstone Education in writing and Gladstone Education shall have no liability for any defect in any Products or for any failure to remedy any such defect.
- 8.15. Gladstone Education creates and repairs Products using components, which are new or equivalent to new in accordance with relevant industry standards and practice. Gladstone Education's warranty is given in place of all implied warranties and any implied warranties are excluded to the fullest permitted extent. Gladstone Education may revise its limited warranties from time to time but any such change will not affect any Products ordered by a Customer prior to the date of any such change. Where a maintenance contract is taken out by the Customer, additional warranties and conditions shall be applicable as per the terms of the applicable maintenance contract. Gladstone Education warrants that any Products shall, at the time of delivery, correspond to their Description.
- 8.16. Except as expressly provided herein or in any applicable Services Offering, Gladstone Education hereby excludes to the fullest extent permissible at law all conditions, warranties and stipulations, express or implied, statutory, customary or otherwise which but for such exclusion, would or might subsist in favour of the Customer.
- Cards:**
- 8.17. **Preliminary work**
All work carried out at the Customer's request, whether experimentally or otherwise shall be charged for.
- 8.18. **Proofs**
Proofs of any work undertaken pursuant to Condition 8.16 may be submitted to the Customer for the Customer's approval and Gladstone Education shall incur no liability for any errors not corrected by the Customer in any proofs so submitted. Any alterations and additional proofs necessitated thereby shall incur an additional charge. Any change in style, type or layout, where this has been left to the Customer's discretion, shall incur an additional charge.
- 8.19. **Minimum Order**
Minimum order value of £20.00; all orders below this amount will incur minimum £20.00 charge, pursuant to Section 3.

- 8.20. **Variations in Quantity**
Every effort will be made to deliver the correct quantity ordered, but estimates are conditional upon margins of 5% (for PVC cards) and 10% (for smartcards or fobs) being allowed for overages or underages, the same to be charged or deducted as appropriate.
- 8.21. **Price Variation**
Estimates are based on Gladstone Education's current costs of production and unless otherwise agreed, are subject to amendment on or at any time after acceptance to meet any rise or fall in any such costs.
- 8.22. **Customer's Property**
- 8.22.1. Gladstone Education shall be entitled to make a reasonable charge for the storage of any Customer's property left with Gladstone Education before receipt of the Order or after notification to the Customer of completion of the work.
- 8.22.2. The Customer's property and any property supplied to Gladstone Education by or on behalf of the Customer shall, whilst it is in the possession of Gladstone Education or in transit to or from the Customer, be deemed to be at the Customer's risk unless otherwise agreed and the Customer should insure any such property accordingly. The Customer shall be responsible for delivering any such property to Gladstone Education's premises and shall be responsible for any and all carriage costs involved.
- 8.23. **Materials supplied by the Customer**
- 8.23.1. Gladstone Education may reject any materials or artwork files supplied or specified by the Customer which appear to Gladstone Education to be unsuitable. Any additional costs incurred, if any materials are found to be unsuitable either before or during production, may be charged to the Customer, except that if the whole or any part of any such additional costs could have been avoided but for any unreasonable delay by Gladstone Education in ascertaining the unsuitability of the materials in issue, then that amount shall not be charged to the Customer.
- 8.23.2. For the avoidance of doubt, where unsuitable materials or artwork files are supplied or specified by the Customer, Gladstone Education reserves the right to refuse to commence production or discontinue production, as applicable. In any event, no responsibility will be accepted for any imperfect work caused directly or indirectly by any defect in or unsuitability of any materials so supplied or specified.
- 8.23.3. Quantities of materials supplied shall be adequate to cover normal spoilage.
- 8.24. **Illegal Matter**
- 8.24.1. Gladstone Education shall not be required to print or produce any matter which in its opinion is or may be of an illegal or libellous nature, or which may infringe the proprietary or other rights of any third party.
- 8.24.2. The Customer shall promptly and fully indemnify and shall hold Gladstone Education harmless with respect to any claim, cost, loss, damage or expense arising out of any material printed or produced at the Customer's request. This indemnity shall extend, without limitation, to any sum paid for relevant legal advice or in the settlement of any claim.
9. **Custom Integration (CI)**
- 9.1. CI may be provided, at the sole discretion of Gladstone Education, in accordance with the Customer's instructions and technical specifications and subject to any current Gladstone Education requirements.
- 9.2. The Customer shall specify and provide IM, or Gladstone Education may obtain IM, in accordance with the Customer's instructions. If Gladstone Education indicates acceptance and/or validation of IM, Gladstone Education then will integrate IM into the Products, in order to produce a CI product. Gladstone Education may install a CI product according to the Customer's instructions or pursuant to Gladstone Education's technical guidelines, if agreed in writing. Gladstone Education reserves the right to refuse to undertake CI or to discontinue CI at any time if this is not technically feasible.
- 9.3. Gladstone Education does not warrant the functionality of, or provide support for, IM and/or any CI product in any case. The Customer shall promptly and fully indemnify and shall hold Gladstone Education harmless with respect to any claim, cost, loss, damage or expense arising from or out of any CI product produced at the Customer's request in accordance with any instructions and/or specifications supplied or specified by the Customer. This indemnity shall extend, without limitation, to any sum paid for relevant legal advice or in the settlement of any claim.
10. **Force Majeure**
- 10.1. Neither party shall be responsible for non-performance of its respective obligations in the event of the occurrence of any circumstances beyond its reasonable control ("Force Majeure") including without limitation, strikes by non Gladstone Education employees, terrorist acts, war, governmental or regulatory actions, natural disasters, severe weather, or unforeseeable transport or production problems affecting companies that supply Gladstone Education.
- 10.2. If the Force Majeure event lasts longer than 60 days then Gladstone Education shall have the right to terminate the Agreement by providing notice in writing to Customer. No compensation to the Customer shall be due in these circumstances.
11. **Liability**
- 11.1. Gladstone Education does not exclude its liability to the Customer:
- 11.1.1. For breach of Gladstone Education's obligations under section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
- 11.1.2. For personal injury or death arising as a result of Gladstone Education's negligence;
- 11.1.3. Under section 2(3) of the Consumer Protection Act 1987;
- 11.1.4. For any matter which it would be illegal for Gladstone Education to exclude or to attempt to exclude its liability; or
- 11.1.5. For fraud or fraudulent misrepresentation.
- 11.2. Except as provided in Condition 11.1, Gladstone Education shall be under no liability to the Customer whatsoever (whether in contract, tort, (including negligence), breach of statutory duty, restitution or otherwise) for any injury, death, damage or direct or indirect or consequential loss (all of which terms include, without limitation, pure economic loss, loss of profits, loss of business, loss of use, loss of data, computer downtime, depletion of goodwill, business interruption, increased purchasing or manufacturing costs, loss of opportunity, or loss of contracts and like loss) howsoever caused.
- 11.3. Save as set out in Condition 11.1, Gladstone Education's total liability in contract, tort, (including negligence), breach of statutory duty, misrepresentation or otherwise shall be limited to repairing or replacing Products
- or in the case of Services, re-performing the Services or, at Gladstone Education's option, refunding any monies already paid.
12. **Obligations of the Customer**
- 12.1. The Customer shall be responsible for complying and shall comply with any health and safety regulations applicable to the Customer's premises and shall notify Gladstone Education of any such regulations which are pertinent to the performance of any Services by Gladstone Education.
- 12.2. The Customer must provide Gladstone Education with all reasonable courtesy, information, cooperation, facilities and access to the Customer's premises to enable Gladstone Education to perform the Services, failing which Gladstone Education shall not be obliged to perform any Services.
- 12.3. The Customer shall be responsible for backing up any data and ensuring the confidentiality of any data maintained at the Customer's premises whether such data relates to any Products, Services or any other relevant matter.
13. **Intellectual Property and Software**
- 13.1. Gladstone Education indemnifies the Customer against all reasonable, direct and demonstrable costs and liabilities arising from any claim that the Customer's use of any Products or Software infringes any third party IPR. Gladstone Education may recall and exchange or modify any Products or Software or refund the Customer an appropriate amount (minus depreciation in this event), or require the Customer to install replacement or altered Software from a CD, DVD or an internet download.
- 13.2. Gladstone Education retains all Gladstone Education-owned IPR in any Products. The Customer must notify Gladstone Education immediately of any infringing or unauthorised use of any Products or IPR in relation thereto.
- 13.3. Gladstone Education does not indemnify the Customer with respect to:
- 13.3.1. any Third Party Products or Third Party Software; or
- 13.3.2. any unauthorised modification or use of any Products or Software; or
- 13.3.3. any CI product or IM; or
- 13.3.4. any claim arising from any use of any Products or Software in conjunction with anything not supplied by Gladstone Education. The Customer must comply with the license conditions for any Software supplied.
- 13.4. The Customer shall promptly and fully indemnify Gladstone Education for any claim which arises due to the Customer's own actions or omissions, and also for any claim related to IM or IPR specified, provided or owned by the Customer and integrated into any Product.
- 13.5. Gladstone Education shall have sole control over the conduct of any litigation, negotiations and the settlement of any claims and the Customer must provide reasonable assistance to Gladstone Education in relation thereto if so requested.
14. **Licences**
- 14.1. Each of the OnRecord/Orbit brands of software is licensed by Gladstone Education and where it is purchased outright by the Customer, ownership of the specific licence shall pass to the Customer.
- 14.2. Software not owned by Gladstone Education is supplied subject to licence and any warranty of the software licensor.
- 14.3. Gladstone Education provides the Customer with any software licence required, where necessary; the Customer must comply with that licence. If the Customer chooses to accept the operating system licence at start-up, it shall be the responsibility of the Customer to license such software.
- 14.4. From time to time Gladstone Education may install software for demonstration purposes; under such circumstances, it shall be the Customer's responsibility to license such software.
15. **TUPE**
The Customer shall keep Gladstone Education fully indemnified against any claims, costs, demands, awards, compensation or other liability of any nature arising out of the termination of the employment rights (by way of redundancy or otherwise) or transfer or deemed transfer of any employment rights of any employee of the Customer or otherwise resulting from the entering into or termination of any Order, Services or the Contract (in whole or in part) for whatever reason.
16. **Export Control**
The Customer is advised that any Products, which may include technology and software, are subject to EU export control laws and the laws of the country where they are delivered or used. Under these laws, the Products may not be sold, leased or transferred to restricted end-users or countries or for any restricted end-uses. The Customer agrees to abide by these laws.
17. **Data Protection**
- 17.1. Any personal data, (as that term is defined under the Data Protection Act 1998) obtained by Gladstone Education from the Customer shall be held and processed in accordance with applicable laws and in conformity with Gladstone Education's Privacy Policy. For a copy of Gladstone Education's Privacy Policy, please visit Gladstone Plc's website www.gladstoneplc.com or contact: Gladstone Education Limited, Hithercroft Road, Wallingford, Oxon, OX10 9BT, UK.
- 17.2. The Customer consents to the processing of the Customer's personal data in accordance with the provisions of Condition 17.1.
18. **Confidentiality**
Each party must treat all information received from the other which is marked 'confidential' or which reasonably appears to be confidential as it would treat its own confidential information.
19. **Termination**
- 19.1. Either party may terminate the Contract with immediate effect if the other:
- 19.1.1. commits a material or persistent breach of these Conditions and fails to remedy such breach (in the event that such breach is remediable) within 30 days of written notice being given to it by the other party requiring a remedy;
- 19.1.2. becomes insolvent or bankrupt or is unable to pay its debts as they fall due.
- 19.2. Gladstone Education may terminate the Contract with immediate effect by written notice if the Customer fails to pay any due payment on time or if the Customer breaches (or Gladstone Education reasonably suspects that the Customer has breached) any requirement of confidentiality.
- 19.3. The following clauses of these Conditions shall survive any termination or expiration of these Conditions and shall continue to bind the parties and their permitted successors and assigns: clauses 3, 8-13, 14.3, 15-18, 19.3 and 22-24 inclusive.
- 19.4. Orders may be cancelled at any time prior to delivery of any Products or performance of any Services. If any Order is cancelled by the Customer pursuant to the provisions of this Condition, the following cancellation fees shall be payable, as applicable:
A Cancellation fee of 50% will be payable for hardware ordered but not despatched.

A Cancellation fee of 50% will be payable for Software ordered but not installed.
A Cancellation fee of 100% will be payable for Services cancelled within 7 days of the scheduled work date.

A Cancellation fee of 100% will be payable where, within 7 days of the schedule date, a Customer requests a reschedule of services, unless Gladstone MRM is able to re-deploy the scheduled resources elsewhere.

20. No Waiver

Gladstone Education's failure to insist upon strict performance of any provision of these Conditions shall not be deemed to be a waiver of its rights or remedies in respect of any present or future default of the Customer in performance or compliance with any of these Conditions.

21. Complaints

21.1. In the event that any Customer has a complaint about any Products or Services purchased from Gladstone Education then the Customer must contact Gladstone Education immediately. The Customer will be contacted by Gladstone Education as soon as possible and Gladstone Education shall aim to provide a resolution within 5 working days.

21.2. All complaints will be dealt with in a fair and confidential manner.

22. Law and Jurisdiction

This Agreement shall be governed by English Law and shall be subject to the exclusive jurisdiction of the English courts.

23. Assignment and Subcontracting

23.1. Gladstone Education may assign, subcontract or transfer its obligations or rights under the Contract, whether in whole or in part.

23.2. Customers may only do any of the acts referred to in Condition 23.1 with Gladstone Education's prior written consent.

24. Miscellaneous

24.1. Each of the above Conditions shall be read and construed independently of each other so that if any one or more of them is held to be invalid for any reason whatsoever, then the remaining Conditions shall remain in full force and effect.

24.2. Further, if any Condition is found to be void, but would otherwise be valid if some part of it were deleted, then any such Condition shall apply with such modification as may be necessary to make it valid and effective.

24.3. All notices sent to either party must be in writing and sent to a legal officer of each party, at the address provided on the invoice (for Gladstone Education) and at the address provided to Gladstone Education (for the Customer).

24.4. This agreement forms the entire agreement between the parties to the exclusion of all other terms or conditions and representations (verbal or otherwise), and Gladstone Education shall have no liability in relation to any such terms, conditions or representations, unless the same are made fraudulently.

24.5. No amendment to or variation of these Conditions shall be effective unless confirmed by an authorised representative of Gladstone Education in writing.

Customers can find all Gladstone Education policies, Products and Service Offering details and notices at www.gladstoneeducation.com.