

Academic Study Consultants Limited

Written Feedback and Online Tutoring Services

Terms and Conditions

Please read these Terms and Conditions carefully. All contracts that the Provider may enter into from time to time for the provision of the Provider's written feedback and online tutoring services shall be governed by these Terms and Conditions, and the Provider will ask the Customer for the Customer's express written acceptance of these Terms and Conditions via the *My Professor* website before providing any written feedback or tutoring services to the Customer.

1. Definitions

- 1.1 In these Terms and Conditions, except to the extent expressly provided otherwise:

"Business Day" means any weekday other than a bank or public holiday in England

"Business Hours" means the hours of 09:00 to 17:00 GMT/BST on a Business Day;

"Charges" means the following amounts:

- (a) the amounts as specified on the *My Professor* website;
- (b) such amounts as may be agreed in writing by the parties from time to time for additional ad hoc services;

"Contract" means a particular contract made under these Terms and Conditions between the Provider and the Customer;

"Customer" means the person or entity identified as such in the agreement made via the *My Professor* website;

"Effective Date" means the date or dates agreed through the *My Professor* website incorporating these Terms and Conditions;

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"Provider" means Academic Study Consultants Limited, a company incorporated in England and Wales (registration number 12647263) having its registered office at *P.O.Box B30, 35 Westgate, Huddersfield, HD1 1PA*

"Services" means the written feedback and online tutoring services specified on the *My Professor* website;

"Statement of Work" means a written statement of work agreed by or on behalf of each of the parties through the *My Professor* website;

"Term" means the term of the Contract, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2; and

"Terms and Conditions" means all the documentation containing the provisions of the Contract, namely the main body of these Terms and Conditions and the Statement of Work, including any amendments to that documentation from time to time.

2. Term

- 2.1 The Contract shall come into force upon the Effective Date.
- 2.2 The Contract shall continue in force until:
 - (a) all the Services have been completed; and
 - (b) all the Charges have been paid in cleared funds,upon which it will terminate automatically, subject to termination in accordance with Clause 13.
- 2.3 Unless the parties expressly agree otherwise in writing, each Statement of Work shall create a distinct d under these Terms and Conditions.

3. Services

- 3.1 The Provider shall provide the Services to the Customer in accordance with these Terms and Conditions.
- 3.2 The Provider shall provide the Services as described on the *My Professor* website.
- 3.3 If the Customer believes that any element of the Services does not meet the standard specified in Clause 3.2, then the Customer must promptly notify the Provider and allow the Provider to investigate the matter (including where applicable allowing the Provider to inspect the results of those Services) and, if those Services do not meet that standard, re-perform those Services.
- 3.4 The Provider shall devote such of its personnel's time and expertise to the performance of the Services as may be necessary for their satisfactory and timely completion.
- 3.5 The Provider shall comply with all reasonable requests and directions of the Customer in relation to the Services.
- 3.6 For the avoidance of doubt, the Provider does not guarantee that the receipt of the Services will lead to any particular grading or result in any course, examination or assignment. The Provider does not carry out contract writing, does not correct any part of the Customer's written text, does not provide a proof-reading or editing service. The provider does not offer advice on specific courses or learning units.

4. Services: written feedback and online tutorials

- 4.1 The Provider shall provide the Services agreed from time to time between the parties in writing through the booking and purchasing facility on the *My Professor* website
- 4.2 The Provider will carry out written feedback from time to time as agreed between the parties.
- 4.3 The Provider will carry out written feedback within a period of seven working days from the date of purchase.

- 4.3 The Provider may from time to time extend the written feedback time in line with demand. In such a case the Customer will be notified by email of the next possible date. Charges for the Services will not be reduced in these circumstances.
- 4.4 Written feedback services must be paid for in advance via the *My Professor* website. Once purchased no refund will be given.
- 4.5 If a party wishes to reschedule a tutorial, then that party must give to the other party a written request for such rescheduling at least 2 Business Days before the Services appointment is due to commence. In these circumstances, each party will use all reasonable endeavours to agree an alternative Services appointment.
- 4.6 If a Customer wishes to reschedule a tutorial within less than 2 working days before the Services appointment is due to commence then that party must give the other party a written request for such rescheduling. A 50% charge on the agreed charge will be levied by the Provider.
- 4.7 The Customer may cancel a tutorial by giving to the Provider at least 2 working days' written notice of cancellation. If the Customer cancels a Services appointment in accordance with this Clause 4.5, then the Customer shall be released from any liability to pay Charges in respect of the relevant Services, and shall be entitled to a refund of any Charges previously paid in respect of those Services.
- 4.8 If the Customer wishes to cancel a tutorial within less than 2 working days before the Services appointment is due to commence no refund will be given
- 4.9 If the Customer has a scheduled tutorial and does not present themselves within 15 minutes of the start time the appointment will be cancelled. No refund will be given.
- 4.10 In the case where a Customer has not given warning of cancellation in relation to the terms in section 4 and does not attend a scheduled tutorial then no refund will be given.
- 4.11 If the Provider is unable to attend a tutorial by reason of personnel shortage or illness, then providing the Provider has used reasonable endeavours to engage alternative personnel, the Provider may by written notice to the Customer cancel the Services appointment, in which case:
- (a) the Provider shall not be in breach of these Terms and Conditions or otherwise liable to the Customer in respect of a failure to supply the relevant Services; and
 - (b) the Customer shall be released from any liability to pay Charges in respect of the relevant Services and shall be entitled to a refund of any Charges previously paid in respect of those Services.

5. Provider personnel

- 5.1 The Provider shall ensure that all personnel involved in the provision of the Services:
- (a) have been interviewed by the Provider;
 - (b) have supplied proof of identity and satisfactory references to the Provider;

- (c) have been properly trained and are adequately experienced in the provision of the Services; and
- (d) hold all necessary qualifications and certifications required for their work in relation to the Services.

6. Charges

- 6.1 The Customer shall pay the Charges to the Provider in accordance with these Terms and Conditions.
- 6.2 All amounts stated in or in relation to these Terms and Conditions are, unless the context requires otherwise, stated inclusive of any applicable value added taxes.
- 6.3 The Provider may elect to vary any element of the Charges by giving to the Customer written notice of the variation on the *My Professor* website.

7. Payments

- 7.1 The Provider shall issue invoices for the Charges to the Customer in advance of the delivery of the relevant Services to the Customer.
- 7.2 The Customer must pay the Charges to the Provider following the issue of an invoice in accordance with this Clause 7.
- 7.3 The Customer must pay the Charges by electronic payment via the *My Professor* website (using such payment details as are notified by the Provider to the Customer from time to time).
- 7.4 If the Customer does not pay any amount properly due to the Provider under these Terms and Conditions, the Provider may charge the Customer interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month).

8. Warranties

- 8.1 The Provider warrants to the Customer that it has the legal right and authority to enter into the Contract and to perform its obligations under these Terms and Conditions.
- 8.2 The Customer warrants to the Provider that it has the legal right and authority to enter into the Contract and to perform its obligations under these Terms and Conditions.
- 8.3 All of the parties' warranties and representations in respect of the subject matter of the Contract are expressly set out in these Terms and Conditions. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of the Contract will be implied into the Contract or any related contract.

9. Limitations and exclusions of liability

- 9.1 Nothing in these Terms and Conditions will:

- (a) limit or exclude any liability for death or personal injury resulting from negligence;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law, and, if a party is a consumer, that party's statutory rights will not be excluded or limited by these Terms and Conditions, except to the extent permitted by law.

9.2 The limitations and exclusions of liability set out in this Clause 11 and elsewhere in these Terms and Conditions:

- (a) are subject to Clause 11.1; and
- (b) govern all liabilities arising under these Terms and Conditions or relating to the subject matter of these Terms and Conditions, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in these Terms and Conditions.

9.3 The Provider will not be liable to the Customer in respect of any losses arising out of a Force Majeure Event.

9.4 The Provider will not be liable to the Customer in respect of any loss of profits or anticipated savings.

9.5 The Provider will not be liable to the Customer in respect of any loss of revenue or income.

9.6 The Provider will not be liable to the Customer in respect of any loss of business, contracts or opportunities.

9.7 The Provider will not be liable to the Customer in respect of any special, indirect or consequential loss or damage.

9.8 The liability of the Provider to the Customer under the Contract in respect of any event or series of related events shall not exceed the greater of:

- (a) £2000.00 and
- (b) the total amount paid and payable by the Customer to the Provider under the Contract in the 3 month period preceding the commencement of the event or events.

10. Force Majeure Event

10.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under the Contract (other than any obligation to make a payment)], that obligation will be suspended for the duration of the Force Majeure Event.

10.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under the Contract, must:

- (a) promptly notify the other; and
- (b) inform the other of the period for which it is estimated that such failure or delay will continue.

10.3 A party whose performance of its obligations under the Contract is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

11. Termination

11.1 Either party may terminate the Contract by giving written notice as described in section 4.

11.2 Either party may terminate the Contract immediately by giving written notice of termination to the other party if the other party commits a material breach of these Terms and Conditions.

11.3 Either party may terminate the Contract immediately by giving written notice of termination to the other party if:

- (a) the other party:
 - (i) is dissolved;
 - (ii) ceases to conduct all (or substantially all) of its business;
 - (iii) is or becomes unable to pay its debts as they fall due;
 - (iv) is or becomes insolvent or is declared insolvent; or
 - (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
- (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Contract); or
- (d) if that other party is an individual:
 - (i) that other party dies;
 - (ii) as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or
 - (iii) that other party is the subject of a bankruptcy petition or order.]

12. Effects of termination

12.1 Upon the termination of the Contract, all of the provisions of these Terms and Conditions shall cease to have effect, save that the following provisions of these Terms and Conditions shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 7.2, 7.4, 9, 12 and 15.

- 12.2 Except to the extent that these Terms and Conditions expressly provides otherwise, the termination of the Contract shall not affect the accrued rights of either party.

13. Notices

- 13.1 Any notice given under these Terms and Conditions must be in writing, whether or not described as "written notice" in these Terms and Conditions.
- 13.2 Any notice from one party to the other party under these Terms and Conditions must be given by following method (using the relevant contact details set out on the My Professor website:
- (a) Email
- providing that, if the stated time of deemed receipt is not within Business Hours, then the time of deemed receipt shall be when Business Hours next begin after the stated time.
- 13.3 The addressee and contact details set out on the *My Professor* website may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 15.

14. Subcontracting

- 14.1 Subject to any express restrictions elsewhere in these Terms and Conditions, the Provider may subcontract any of its obligations under the Contract, providing that the Provider must give to the Customer, promptly following the appointment of a subcontractor, a written notice specifying the subcontracted obligations and identifying the subcontractor in question.
- 14.2 The Provider shall remain responsible to the Customer for the performance of any subcontracted obligations.

15. General

- 15.1 No breach of any provision of the Contract shall be waived except with the express written consent of the party not in breach.
- 15.2 If any provision of the Contract is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of the Contract will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).
- 15.3 The Contract may not be varied except by a written document signed by or on behalf of each of the parties.
- 15.4 The Customer hereby agrees that the Provider may assign the Provider's contractual rights and obligations under the Contract to any successor to all or a substantial part of the business of the Provider from time to time OR any third party- providing that such action does not serve to reduce the guarantees benefiting the Customer under the Contract. Save to the extent expressly permitted by applicable law, the Customer must not without the

prior written consent of the Provider assign, transfer or otherwise deal with any of the Customer's contractual rights or obligations under the Contract.

- 15.5 The Contract is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Contract are not subject to the consent of any third party.
- 15.6 Subject to Clause 11.1, a Statement of Work, together with these Terms and Conditions, shall constitute the entire agreement between the parties in relation to the subject matter of that Statement of Work, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.
- 15.7 The Contract shall be governed by and construed in accordance with English law.
- 15.8 The courts of England shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Contract.

