



## Alef Education free pilot - terms and conditions

**Effective:** 07 January 2022

**Version:** 1.3

### 1. Interpretation

1.1 In addition to the definitions given in the Order Form, the definitions in this clause apply to these Conditions.

**Authorised Users:** those teachers, students and other staff of the Customer who are authorised by Alef Education to use the Services as further described in clause 2.2.

**Alef Education Data Protection Schedule:** means the document setting out additional data protection and privacy terms which apply to controls around the use of the Personal Data, as amended, updated or replaced from time to time which is available on the Alef Education website <https://alefeducation.com/legalterms/DataProtectionSchedule.pdf>

**Approved Sub-processor List:** means the document setting out details of the third party vendors used by Alef Education to provide the Services who will have access to the Personal Data, as amended, updated or replaced from time to time which is available on the Alef Education website <https://alefeducation.com/legalterms/ApprovedSub-ProcessorList.pdf>

**Client Privacy Promise:** Alef Education's client privacy promise setting out how Alef Process Personal Data through the Services on behalf of its clients, end-users and other relevant individuals, as amended, updated or replaced from time to time which is available on the Alef Education website [www.alefeducation.com/privacy-promise](http://www.alefeducation.com/privacy-promise).

**Confidential Information:** any and all information, documents, data and other materials that Alef Education provides to the Customer or that the Customer receives or acquires from Alef Education related to any business of Alef Education, if such information, document, data or other materials is not generally available or accessible to the public through lawful means and without any improper disclosure or use by the Customer or any other person.

**Conditions:** the terms and conditions set out herein.

**Contract:** Contract: the contract agreed between the Customer and Alef Education comprising:

- i. the Order Form;
- ii. the Alef Education Data Protection Schedule;
- iii. Approved Sub-processor List;
- iv. the Client Privacy Promise; and
- v. these Conditions,

and if there is any conflict or ambiguity between the terms of any of the documents above, a term contained in the document referred to higher in the list shall take precedence.



**Controller:** the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the Processing of Personal Data; where the purposes and means of Processing are determined by applicable Data Protection Legislation, the controller (or the criteria for nominating the controller) may be designated by those laws

**Customer Data:** the data, including Personal Data, inputted by the Customer, Authorised Users, or Alef Education on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

**Data Protection Legislation:** the data protection legislation and regulations specified in the Order Form, or where there is none, the data protection legislation and regulations of the United Arab Emirates.

**Educational Content:** the educational content described in the Order Form that is proprietary to Alef Education.

**Effective Date:** the date of the Contract as set out in the Order Form.

**Free Pilot Period:** the period set out in the Order Form.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in Confidential Information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.

**Order Form:** the order form signed by Alef Education and the Customer in respect of a free pilot for the Services.

**Personal Data:** any information received from or on behalf of the Customer in connection with the performance of Alef Education's obligations under the Contract which identifies a living individual and information relating to the same that can identify (directly or indirectly) an individual from that data alone or in combination with other identifiers possessed or that can reasonably be accessed by Alef Education.

**Personal Data Breach:** shall mean a breach by Alef Education of the applicable Data Protection Legislation.

**Process, Processed or Processing:** any operation or set of operations which is performed on Personal Data, including collecting, recording, organising, structuring, storing, sharing, viewing, adapting, altering, retrieving, consulting, using, disclosing, disseminating, combining, restricting, erasing and destroying

**Processor:** means a natural or legal person, public authority, agency or other body which Processes Personal Data on behalf of the Controller;



**Security Breach:** unauthorized use, disclosure, or accessing by any person of any Customer Data or any Authorised User's credentials to access the Software or Services.

**Services:** the Software and Educational Content subscription services provided by Alef Education to the Customer under the Contract via the internet and any ancillary services or other specific services mentioned in the Order Form as may be modified or updated from time to time.

**Special Data:** information about an identifiable individual relating to racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data used to uniquely identify a person, health data or data relating to sex life or sexual orientation and any information relating to vulnerable individuals, such as children.

**Software:** the online software platform and applications provided by Alef Education as part of the Services and referred to in the Order Form.

**Suggestions:** means all suggested improvements to the Services that the Customer provides to Alef Education.

**Support Services:** Alef Education's support services in relation to the Services as detailed in the Order Form.

**User Subscriptions:** the user subscriptions agreed for the Customer as per the Order Form or otherwise authorized by Alef Education in writing which entitle Authorised Users to access and use the Services in accordance with the Contract.

**Virus:** any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

## 2. User subscriptions

2.1 From the Effective Date, and subject to the rights of Alef Education and the restrictions set out in the Contract, Alef Education hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Authorised Users to use the Services during the Free Pilot Period and any agreed Renewal Period solely for the Customer's internal school education.

2.2 In relation to the Authorised Users, the Customer shall ensure that:

- (a) the maximum number of Authorised Users that it authorises to access and use the Services shall not exceed the number of User Subscriptions;



- (b) it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services;
- (c) each Authorised User shall keep a secure password for his/her use of the Services and that each Authorised User shall keep his password confidential;
- (d) it shall permit Alef Education or Alef Education's designated auditor to audit the Services in order to establish the name and password of each Authorised User and Alef Education's data Processing facilities to audit compliance with the Contract. If any of the audits reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Alef Education's other rights, the Customer shall promptly disable such passwords and Alef Education shall not issue any new passwords to any such individual.

2.3 The Customer shall not, and shall ensure that its Authorised Users shall not, access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that is illegal or consists of:

- (a) abusive language;
- (b) adult, pornographic, revenge, suicide or other obscene material;
- (c) material which is inflammatory or which incites intolerance, hate or violence;
- (d) discriminatory material; or
- (e) material which promotes sedition or overthrow of government, public demonstrations or is otherwise politically sensitive.

2.4 The Customer shall not:

- (a) except to the extent expressly permitted under the Contract:
  - (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software (as applicable) in any form or media or by any means; or
  - (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;
- (b) access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, discriminatory, harassing or racially or ethnically offensive; or is otherwise illegal or causes damage or injury to any person or property;
- (c) access all or any part of the Services in order to build a product or service which competes with the Services;
- (d) use the Services to provide services to third parties;



- (e) licence, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Authorised Users;
- (f) attempt to obtain, or assist third parties in obtaining, access to the Services;
- (g) use or interfere with the Services in any way that will damage or disrupt any part of it; or
- (h) use the Services in such a way that could disable or overburden the Services or interfere with any other customers using the Services.

2.5 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify Alef Education.

2.6 The rights provided under this clause 2 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

### **3. Services**

3.1 Alef Education shall, during the Free Pilot Period and any agreed Renewal Period, provide the Services to the Customer on and subject to the terms of the Contract.

3.2 Alef Education shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for planned or unscheduled maintenance.

3.3 Alef Education will, as part of the Services, provide the Customer with the Support Services. Alef Education may amend the Support Services in its sole and absolute discretion from time to time.

### **4. Alef Education's obligations**

4.1 Alef Education undertakes that the Services will be performed with reasonable skill and care. Notwithstanding the foregoing, Alef Education:

- (a) does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and
- (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

4.2 The Contract shall not prevent Alef Education from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under the Contract.



## 5. Customer data and data protection

- 5.1 The parties agree that any Processing of Personal Data under the Contract shall be in accordance with the provisions of the Contract, the Alef Education Data Protection Schedule, Approved Sub-processor List and the Client Privacy Promise.
- 5.2 The Customer acknowledges and agrees that Alef Education may obtain aggregate technical and other data through the provision of Services (**Aggregated Data**), and Alef Education, including Alef Education's agents and sub-contractors, may use the Aggregated Data to analyse, improve, support and operate the Services and otherwise for any business purpose, during and after the term of the Contract, including without limitation to generate industry benchmarks or best practices guidance, recommendations or similar reports for distribution to and consumption by the Customer and other of Alef Education's customers and prospects. The Customer acknowledges that (a) Aggregated Data is not Personal Data; (b) Aggregated Data is the property of Alef Education; and (c) Alef Education reserves all Intellectual Property Rights which may, at any time, subsist in the Aggregated Data.

## 6. Customer's obligations

The Customer shall:

- (a) provide Alef Education with:
- I. all necessary co-operation in relation to the Contract; and
  - II. all necessary access to such information as may be required by Alef Education;

In order to provide the Services, including but not limited to Customer Data, security access information and configuration services and the Customer shall notify Alef Education immediately in writing if any consents are invalid or withdrawn relating to the Processing of any Customer Data and Personal Data;

- (b) without affecting its other obligations under the Contract, comply with all applicable laws and regulations with respect to its activities under the Contract;
- (c) carry out all other Customer Responsibilities set out in the Contract in a timely and efficient manner.
- (d) ensure that the Authorised Users use the Services in accordance with the terms and conditions of the Contract and shall be responsible for any Authorised User's breach of the Contract;
- (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for Alef Education, its contractors and agents to perform their obligations under the Contract, including without limitation the Services;
- (f) ensure that its network and systems comply with the relevant specifications provided by Alef Education from time to time;



- (g) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Alef Education's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet;
- (h) comply with all Data Protection Legislation governing the Processing of Customer Data , including, but not limited to: (i) making all disclosures required by the relevant Data Protection Legislation for the use of Customer Data as described in the Contract, including, but not limited, to the right of Alef Education to generate, own, and use Aggregated Data (collectively, the **Data Uses**); (ii) obtaining all consents required by the relevant Data Protection Legislation for the Data Uses; (iii) assessing and maintaining the security of the Customer Data; (iv) notifying relevant parties, including government agencies and individuals, in the event of any breach, unauthorized access to Customer Data, or unauthorised use or acquisition of Customer Data; and (v) responding to and acting on all student, parent, consumer, and individual requests to enforce rights established in the Data Protection Legislation, if relevant;
- (i) maintain appropriate administrative, organizational, technical, and physical measures to protect confidentiality, security, and integrity of (i) the Confidential Information of Alef Education, and (ii) Customer Data; and
- (j) notify Alef Education immediately of any Security Breach.

6.2 Alef Education reserves the right, without liability or prejudice to its other rights to the Customer, to disable or restrict the Customer's and/or its Authorised User's access to the Services, to terminate the Contract, or to take other actions Alef Education determine are necessary where there is found to be a breach of any of these Conditions or any other terms of the Contract.

## **7. Proprietary rights and data**

- 7.1 The Customer acknowledges and agrees that Alef Education and/or its licensors own all Intellectual Property Rights in the Services. Except as expressly stated herein, the Contract does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Services.
- 7.2 The Customer further acknowledges and agrees that any Suggestions given to Alef Education are hereby irrevocably assigns to Alef Education all of its rights, title, and interest in and to the Suggestions.

## **8. Confidentiality**

- 8.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Contract. A party's Confidential Information shall not be deemed to include information that:
  - (a) is or becomes publicly known other than through any act or omission of the receiving party;



- (b) was in the other party's lawful possession before the disclosure;
- (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
- (d) is independently developed by the receiving party, which independent development can be shown by written evidence.

8.2 Subject to clause 8.3, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of the Contract.

8.3 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction.

8.4 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Alef Education's Confidential Information.

8.5 The Customer further acknowledges and agrees that Alef Education may reference the Customer and use its name to identify it as a Customer of the Services in sales and marketing literature.

8.6 The above provisions of this clause 8 shall survive termination of the Contract, however arising.

## 9. Limitation of liability

9.1 In providing the Services the Customer may be presented links to other sites, resources and/or information provided by third parties including but not limited to end users (collectively **Third Party Materials**). Such Third Party Materials are provided for the Customer's information only and should not be interpreted as approval by Alef Education of them. The Customer acknowledges that Alef Education does not have any control over the contents of Third Party Material and that they do not represent Alef Education's views or values.

9.2 Except as expressly and specifically provided in the Contract:

(a) the Customer assumes sole responsibility for results obtained from the use of the Services by the Customer, and for conclusions drawn from such use. Alef Education shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Alef Education by the Customer in connection with the Services, or any actions taken by Alef Education at the Customer's direction;

(b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Contract, and Alef Education does not make any warranty of any kind that the Services will meet Customer's or any other person's requirements, operate without interruption, achieve any intended result, be compatible or work with any software, system, or other services, or be secure, accurate, complete, free of harmful code, or error free; and





- (c) the Services are provided to the Customer on an "as is" basis.

9.3 Subject to this clause 9 and to the fullest extent permitted by law:

- (a) Alef Education shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Contract; and
- (b) Alef Education's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to US\$100.

## 10. Term and termination

10.1 The Contract shall, unless otherwise terminated as provided in this clause 9, commence on the Effective Date and shall continue for the Free Pilot Period and, thereafter, the Contract shall be automatically renewed for successive equal periods (each a **Renewal Period**), unless either party notifies the other party of termination, in writing, at least 60 days before the end of the Free Pilot Period or any Renewal Period, in which case the Contract shall terminate upon the expiry of the applicable Free Pilot Period or Renewal Period.

10.2 Without affecting any other right or remedy available to it, either party may terminate the Contract by providing a minimum of two days' written notice to the other. In addition, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any other term of the Contract;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

10.3 On termination of the Contract for any reason:

- (a) all licences granted under the Contract shall immediately terminate and the Customer shall immediately cease all use of the Services;
- (b) each party shall return and make no further use of any equipment (including the Alef Equipment) and other items (and all copies of them) belonging to the other party;
- (c) Alef Education may, subject to the provisions of its Client Privacy Promise and the Alef Data Protection Schedule destroy or otherwise dispose of any of the Customer Data in its



possession unless Alef Education receives, no later than ten days after the date of the termination of the Contract, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Alef Education shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by Alef Education in returning or disposing of Customer Data; and

- (d) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination shall not be affected or prejudiced.

#### **11. Force majeure**

Alef Education shall have no liability to the Customer under the Contract if it is prevented from or delayed in performing its obligations under the Contract, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, fire, flood, storm or default of suppliers or sub-contractors.

#### **12. Variation**

Alef Education may amend these Conditions from time to time. The Customer shall be deemed to accept any change to these Conditions by continuing to use the Services after being notified of a change to the Conditions. Subject to the foregoing, no variation of the Contract shall be effective unless it is in writing and signed by authorised representatives of each of the parties.

#### **13. Waiver**

No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

#### **14. Severance**

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.

#### **15. Entire agreement**

The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.



## **16. Assignment**

- 16.1 The Customer shall not, without the prior written consent of Alef Education, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 16.2 Alef Education may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

## **17. No partnership or agency**

Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

## **18. Third party rights**

No one other than a party to the Contract shall have any right to enforce any of its terms.

## **19. Notices**

- 19.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be: delivered by hand or by pre-paid recorded delivery at the address given in the Contract; or sent by email to the address notified by the receiving party from time to time.
- 19.2 A notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by recorded delivery service, at the time recorded by the delivery service; or, if sent by email, on the next business day after transmission.

## **20. International use**

Alef Education operates the Services in the United Arab Emirates. If the Customer chooses to access Alef Education's Services from locations outside the United Arab Emirates, the Customer consents to the collection, transmission, use, storage and Processing of content and data (including personal information) in the United Arab Emirates. The Customer also agrees to comply with and is solely responsible for ensuring compliance with all local laws, regulations, and rules in the jurisdiction in which it resides or accesses the Services, if and to the extent local laws are applicable to use of Alef Education's Services. Unless the Order Form states otherwise, Alef Education does not represent that its Services are appropriate or available for use in jurisdictions outside the United Arab Emirates. The right to access and use the Services is not granted in jurisdictions, if any, where it may be prohibited, or where the Customer's use would render Alef Education in violation of any applicable laws or regulations.

## **21. Governing law and jurisdiction**



Any dispute arising out of the formation, performance, interpretation, nullification, termination or invalidation of the Contract (or part thereof) or arising there from or related thereto in any manner whatsoever, shall be subject to the internal laws of the states or countries specified in the table below, without regard to conflicts of laws principles. In the event of any controversy or claim arising out of or relating to the Contract, or its breach or interpretation, the parties will submit to the exclusive jurisdiction of and venue in the applicable courts or arbitration bodies specified in the table below. Each party waives all defenses of lack of personal jurisdiction and inconvenient forum.

| <b>If the Customer's address in the Order Form is in:</b>                              | <b>The governing law is that of:</b>                            | <b>The courts or arbitration bodies having exclusive jurisdiction are:</b>  |
|--|---|---|
| The USA, Canada, Mexico, or any country in Central or South America or the Caribbean   | The state of New York and controlling United States federal law | Courts located in New York, USA   |
| Any country in Europe or Africa  | England & Wales   | Courts located in London, England   |
| Any country in the Middle East   | England & Wales   | Courts located in Dubai International Financial Centre (DIFC)   |
| Any country located in Asia or the Pacific region, other than Australia or New Zealand | England & Wales   | Arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre then in force, which rules are incorporated by reference in this clause.* |
| Australia or New Zealand   | New South Wales, Australia                                      | Courts located in Sydney, New South Wales, Australia  |

\*The Tribunal will consist of one independent, disinterested arbitrator. The language of the arbitration will be English. The determination of the arbitrator will be final, conclusive and binding. Judgment upon the award rendered may be entered in any court of any state or country having jurisdiction.