

## **GENERAL TERMS AND CONDITIONS FOR THE PROVISION OF EDUCATIONAL SERVICES OF THE ALICE SMITH SCHOOLS ASSOCIATION**

These General Terms and Conditions for the Provision of Educational Services ("**T&C**") are made as bye-laws under the Powers and Duties of Governors, in particular Clause 38 of the Constitution of The Alice Smith Schools Association ("**Association**"). These T&C shall apply in all cases relating to the provision of Services (as herein defined) and shall constitute a legally binding agreement between the Association and all parent(s)/legal guardian(s) of the child ("**Parent**").

The Association and the Parent shall be referred to individually as the "**Party**" and collectively as the "**Parties**".

### **1. DEFINITIONS AND INTERPRETATIONS**

#### **1.1 Definitions**

As used in these T&C, the expressions set out below shall have the meanings ascribed thereto:

"**Application Fee**" means the application fee stated in the Letter of Offer or Conditional Letter of Offer payable by the Parent to the Association to process the Application for Admission Form.

"**Business Day**" means a day other than Saturday and Sunday and public holidays in Kuala Lumpur.

"**Change of Law**" means the occurrence of any of the following: (a) the adoption or coming in effect of new laws, rules and regulation, (b) any change in any laws, rules and regulations or in the administration, interpretation, implementation or application thereof by any Regulatory Authority, or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Regulatory Authority.

"**Class Work**" has the meaning given to it in the PDPA Notice.

"**Conditional Letter of Offer**" means the conditional letter of offer issued by the Association when a school place is offered to the child of the Parent, subject to the fulfilment of the condition(s) stated therein.

"**Council of Governors**" means the appointed governors of the Association under the Constitution of the Association.

"**Student Exclusion Policy**" means the Student Exclusion Policy of the Association, including all amendments, modifications and variations made thereto from time to time.

"**Enrolment Fee**" means the enrolment fee stated in the Letter of Offer or Conditional Letter of Offer payable by the Parent to the Association to confirm a school place offered to the child of the Parent.

**“Force Majeure Event”** means any event materially affecting the performance of these T&C arising from or attributable to the acts, events, omissions or accidents which are beyond the reasonable control of a Party, including but not limited to acts of God, outbreak of hostilities, riot, civil disturbance, acts of terrorism, the act of any government or authority (including refusal or revocation of any licence or consent), fire, explosion, flood, earthquake, epidemic, pandemic, power failure, failure of telecommunications lines, failure or breakdown of equipment, machinery or vehicles, default of suppliers or sub-contractors, theft, malicious damage, strike or lock-out or industrial action, which is part of an industry-wide campaign.

**“Intellectual Property Rights”** means all rights in and to trade secrets, trademarks, service mark, trade name, business name, products, copyright, confidential information, patents, industrial designs, inventions, circuit layouts, discoveries and all other intellectual property rights, in each case, whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**“Letter of Offer”** means the letter of offer issued by the Association when a school place is offered to the child of the Parent.

**“Parent Deposit”** means the deposit equivalent to one term of tuition fees, which is required to be maintained for each child at all times by the Parent with the Association.

**“Parent Member”** means a Parent who has been approved by the Council of Governors to become a member of the Association.

**“PDPA Notice”** means the Personal Data Protection Notice of the Association, including all amendments, modifications and variations made thereto from time to time.

**“Photographs”** has the meaning given to it in the PDPA Notice.

**“Re-entry Fee”** means the re-entry fee stated in the Letter of Offer or Conditional Letter of Offer payable by the Parent to the Association for a child who has left and is returning to the Association’s school within a period of five (5) years from the date of the child’s departure from the Association’s school.

**“Regulatory Authority”** means any court or government body, whether national, supra-national, federal, state, local, foreign or provincial, including any political subdivision thereof, including any department, commission, board, bureau, agency, or other regulatory or administrative governmental authority or instrumentality, and further including any quasi-governmental person or entity exercising the functions of any of these.

**“School Day”** means any day, including a partial day, or selected segment(s) of time in such day or partial day, which the Association’s school is in session and the child

attends the programme and/or course of the Association, whether on-campus or otherwise, whichever is applicable.

**"School Term"** means each term of the school year as notified by the Association to the Parent from time to time.

**"Services"** means the provision of educational services by the Association to the child.

**"Term Fees"** means the fees which the Association charges for the Services, including but not limited to the tuition fee, Parent Deposit, any increase in the Parent Deposit, English as an Additional Language fee (if any), Special Educational Needs fee (if any) and/or any other fees payable by the Parent to the Association.

**"Videos"** has the meaning given to it in the PDPA Notice.

## **1.2 Interpretation**

In these T&C, unless the context otherwise requires:

- (a) references to Clauses are to the clauses of these T&C and includes all amendments and modifications made thereto from time to time in force;
- (b) words denoting one gender include all other genders and words denoting the singular shall include the plural and vice versa;
- (c) any reference to "writing" or cognate expressions, includes any communications effected by electronic mail or other comparable means;
- (d) where a word or a phrase is defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (e) references to any party in these T&C or any other agreement or instrument referred to herein shall include their respective successors, personal representatives and permitted assigns;
- (f) references to any agreement or instrument shall include references to such agreement or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (g) references to Ringgit Malaysia or abbreviation of "RM" shall be taken as referring to amounts in Malaysian currency;
- (h) any reference to "pay", or cognate expressions, includes payments made in cash or effected through interbank transfer to the account of the payee, giving the payee access to immediate available, freely transferable, cleared funds;
- (i) headings to the Clauses of these T&C are inserted for convenience only and shall not affect the construction or interpretation of these T&C;

- (j) if any period of time is specified from a given day, or the day of a given act or event, it is to be calculated exclusive of that day and if any period of time falls on a day which is not a Business Day, then that period is to be deemed to only expire on the next Business Day; and
- (k) a reference to a "month" is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next succeeding calendar month.

## **2. APPLICATION**

These T&C shall become legally binding upon the acceptance and execution of the Letter of Offer or Conditional Letter of Offer. For the avoidance of doubt, the Application Fee, Enrolment Fee and/or Re-entry Fee paid to the Association shall not be refundable under any circumstances.

## **3. CONDITIONAL LETTER OF OFFER**

- 3.1 The Association reserves the right to issue a Conditional Letter of Offer to the child of the Parent as it may at its absolute discretion deem fit. The Association shall be entitled to withdraw or terminate the Conditional Letter of Offer and release the child from the Association's school in the event the condition(s) stated in the Conditional Letter of Offer is/are not fulfilled and adhered to.
- 3.2 In the event the Association withdraw or terminate the Conditional Letter of Offer and release the child from the Association's school, the Parent Deposit, less such sums as may then be due and payable to the Association in respect of the provision of Services, shall be refunded to the Parent free of interest within three (3) months from the last day of the child's last School Term, and thereafter, these T&C shall, save for the surviving clause(s), be terminated and be of no further effect and neither Party hereto shall have any claim against the other hereunder, save for any antecedent breach of these T&C and/or any non-payment of the Term Fees.
- 3.3 In the event the conditions(s) stated in the Conditional Letter of Offer is/are fulfilled and adhered to and the child has been admitted to the Association's school as a student, the Parent Deposit shall be refunded to the Parent in accordance with **Clause 8**.

## **4. COMPLIANCE**

The Parent shall at all times comply with and adhere to all bye-laws, rules, regulations, guidelines, terms and conditions, procedures, policies and/or any other notices made by the Association, including all amendments, modifications and variations made thereto from time to time.

## **5. TERM FEES**

The Council of Governors shall be entitled to increase the Term Fees at the beginning of any School Term by such amount as the Council of Governors may at its absolute

discretion deem fit for the purposes of meeting the costs of running the Association's school and its financial planning.

## **6. PAYMENT OF TERM FEES**

- 6.1 Bills for the Term Fees for each School Term shall be sent to the Parent prior to the commencement of that School Term. In the case of a new student, bills for the Term Fees shall be sent to the Parent upon the issuance of the Letter of Offer or Conditional Letter of Offer.
- 6.2 The Parent shall notify the Association in writing of any changes to the Parent's personal details, including but not limited to, his/her address, contact number and e-mail, in accordance with **Clause 16.2**, so that the bills for the Term Fees can be sent to and received by the Parent in good time.
- 6.3 The Parent shall promptly notify the finance office of the Association in the event the Parent did not receive the bills for the Term Fees two (2) weeks prior to the first day of the School Term. The Parent's non-receipt of the bills for the Term Fees shall not constitute a valid reason for non-payment of such bills.
- 6.4 The Term Fees shall be paid by the Parent to the Association prior to the first day of the School Term ("**Payment Due Date**").
- 6.5 In the event the Parent is unable to pay the Term Fees upon the expiry of the Payment Due Date, the Association shall be entitled to levy late payment interest at the rate of ten percent (10%) on the total outstanding Term Fees, subject always to **Clauses 6.6, 6.7 and 6.8**.
- 6.6 In the event the Term Fees remain unpaid for a period of two (2) weeks from the first day of the School Term, the Association shall be entitled to issue a barring letter to the Parent and the child in question shall be barred from attending the Association's school until the outstanding Term Fees is settled including all interest thereon.
- 6.7 In the event the Term Fees remain unpaid prior to the first day of the second half of the same School Term, the Association shall be entitled to release the child from the Association's school and forfeit the Parent Deposit, and thereafter, these T&C shall, save for the surviving clause(s), be terminated and be of no further effect and neither Party hereto shall have any claim against the other hereunder, save for any antecedent breach of these T&C and/or any non-payment of the Term Fees.
- 6.8 In the event a barring letter is sent to the Parent for three (3) consecutive School Terms, the Association shall be entitled to release the child from the Association's school and forfeit the Parent Deposit, and thereafter, these T&C shall, save for the surviving clause(s), be terminated and be of no further effect and neither Party hereto shall have any claim against the other hereunder, save for any antecedent breach of these T&C and/or any non-payment of the Term Fees.

## **7. WITHDRAWAL**

- 7.1 If the Parent is desirous of withdrawing the child from the Association's school, the Parent shall give one (1) full School Term written notice of withdrawal to the principal of the Association's school ("**Notice of Withdrawal**"). For the avoidance of doubt, the Parent shall give the Notice of Withdrawal by the first day of the child's last School Term.
- 7.2 The Notice of Withdrawal shall be delivered and/or sent to the Association's office and acknowledgment of such delivery shall be obtained by the Parent. Alternatively, the Parent may e-mail the Notice of Withdrawal to the principal of the Association's school.
- 7.3 Any request for withdrawal other than in writing shall not be entertained or accepted by the Association. For the avoidance of doubt, the child's successful results in an external examination shall not be recognised as a substitution for the Notice of Withdrawal as hereinbefore provided.
- 7.4 The Parent is required to give the Notice of Withdrawal in accordance with **Clause 7.1**, save and except that the Parent of Year 13 student in the last School Term of the academic year shall not be obligated to give a Notice of Withdrawal as hereinbefore provided.

## **8. PARENT DEPOSIT**

- 8.1 Where the child is due to move into a year level for which the tuition fee is higher, the Parent Deposit shall be increased in line with the tuition fee for that year level. The Parent shall pay to the Association any further or additional Parent Deposit at a revised rate/sum in proportion to any increase in the tuition fee for that year level.
- 8.2 The Parent Deposit shall not be treated or deemed to be treated as payment of the tuition fee, English as Additional Language fee (if any) and/or Special Educational Needs fee (if any), and the Association shall at its absolute discretion, be entitled to deduct whatever sum(s) that may be due and payable from the Parent to the Association in respect of the provision of Services, and to return the balance of such Parent Deposit (if any) to the Parent in accordance with **Clause 8.3** without interest thereon.
- 8.3 The Parent Deposit, less such sums as may then be due and payable to the Association in respect of the provision of Services, shall be refunded to the Parent free of interest within three (3) months from the last day of the child's last School Term, provided that:
- (a) a Notice of Withdrawal has been given in accordance with **Clause 7.1**, save and except that the Parent of Year 13 student in the last School Term of the academic year shall not be obligated to give a Notice of Withdrawal as hereinbefore provided; and
  - (b) all Term Fees have been duly paid,

and thereafter, these T&C shall, save for the surviving clause(s), be terminated and be of no further effect and neither Party hereto shall have any claim against the

other hereunder, save for any antecedent breach of these T&C and/or any non-payment of the Term Fees.

- 8.4 For the avoidance of doubt, in the event the Parent fails to give a Notice of Withdrawal in accordance with **Clause 7.1**, the Association shall be entitled to forfeit the Parent Deposit.
- 8.5 If for any reason whatsoever, the cheque representing the refund of the said Parent Deposit having been sent to the last known address of the Parent shall be unpresented for a period of six (6) months from the date in which the cheque was sent, the amount of the Parent Deposit shall be deemed as school funds and shall be used to fund any school activities, and thereafter, the Parent shall not have any claim whatsoever against the Association in respect of the Parent Deposit.
- 8.6 The Parent Deposit shall be refunded to the Parent unless otherwise expressly specified in writing by the Parent to the Association. The Parent shall promptly notify the Association in writing in the event the Parent Deposit is to be refunded to a party other than the Parent.

## **9. PARENT MEMBERSHIP**

- 9.1 All Parent(s) shall be approved by the Council of Governors to become a Parent Member if he/she wishes to have his/her child admitted to the Association's school as a student. A child may be admitted to the Association's school as a student subject always to the Council of Governors' approval of the Parent's application to become a Parent Member.
- 9.2 The Association shall be entitled to release the child from the Association's school at any time in the event (a) the Parent's application to become a Parent Member is rejected by the Council of Governors; or (b) the Parent is excluded from the Association in accordance with the Constitution of the Association.
- 9.3 Upon the rejection of the Parent's application to become a Parent Member or the exclusion of the Parent from the Association, the Parent Deposit, less such sums as may then be due and payable to the Association in respect of the provision of Services, shall be refunded to the Parent free of interest within three (3) months from the last day of the child's last School Term , and thereafter, these T&C shall, save for the surviving clause(s), be terminated and be of no further effect and neither Party hereto shall have any claim against the other hereunder, save for any antecedent breach of these T&C and/or any non-payment of the Term Fees.

## **10. PARENT'S OBLIGATIONS**

- 10.1 The Association operates in accordance with the timetable of the programme and/or course. The Parent shall be obligated to ensure that the child attends all School Day(s) in a timely manner.
- 10.2 The Parent shall promptly notify the Association in writing of any potential and/or prolonged absence of the child from attending the programme and/or course.

## **11. EXPULSION AND RELEASE OF CHILD**

- 11.1 The Association shall be entitled to suspend or expel any child from the Association's school whose behaviour amounts to a misconduct or a serious breach of discipline as per the Student Exclusion Policy.
- 11.2 The Association shall be entitled to release the child from the Association's school at any time in the event the Association is of the view that the child is unable to fully participate in or benefit from the programme and/or course of the Association.
- 11.3 Upon the expulsion or release of the child from the Association's school, the Parent Deposit, less such sums as may then be due and payable to the Association in respect of the provision of Services, shall be refunded to the Parent free of interest within three (3) months from the last day of the child's last School Term, and thereafter, these T&C shall, save for the surviving clause(s), be terminated and be of no further effect and neither Party hereto shall have any claim against the other hereunder, save for any antecedent breach of these T&C and/or any non-payment of the Term Fees.

## **12. PHOTOGRAPHS, VIDEOS AND CLASSWORK OF CHILD**

- 12.1 The Association and its school may, from time to time, take Photographs and Videos of the child. The Parent hereby agrees and acknowledges that the Association shall be entitled to use, reproduce, copy, publish, distribute, communicate in any form (including electronically and digitally) and broadcast the Photographs and Videos of the child, in whole, in part or in composite, whether altered or enhanced or in conjunction with any other images or text, in still, single, multiple or moving form and using any medium, including but not limited to print, film, video, CD and the Internet, for any lawful purpose in accordance with the Filming and Photography Policy and the PDPA Notice.
- 12.2 In respect of the Class Work of the child, the Parent hereby agrees and acknowledges that the Association shall be entitled to use, reproduce, copy, publish, distribute, communicate in any form (including electronically and digitally) and broadcast the Class Work of the child, in whole, in part or in composite, whether altered or enhanced or in conjunction with any other images or text, in still, single, multiple or moving form and using any medium, including but not limited to print, film, video, CD and the Internet, for any lawful purpose in accordance with the PDPA Notice.
- 12.3 The Parent hereby agrees and acknowledges that the Association shall be entitled to publish or feature the name of the child of the Parent in internal publications only unless parental permission has been granted for external publications.
- 12.4 The permission granted by the Parent to the Association in this **Clause 12** shall remain in force whilst the child attends the Association's school and shall survive any termination, whether herein envisaged in these T&C or otherwise.



- 12.5 The Parent shall promptly notify the Association in writing in the event the Parent is desirous of withdrawing his/her permission granted to the Association in this **Clause 12**.

### **13. INTELLECTUAL PROPERTY RIGHTS**

- 13.1 All Intellectual Property Rights in or arising out of or in connection with the provision of Services shall at all times belong to the Association. All Intellectual Property Rights in the materials provided by the Association in connection with the provision of Services shall remain vested in the Association and shall remain the sole and exclusive property of the Association.
- 13.2 All Intellectual Property Rights in the Photographs, Videos and Class Work of the child and/or any other marketing and promotional materials, shall at all times belong to the Association and shall remain the sole and exclusive property of the Association.

### **14. PROGRAMME AND COURSE**

- 14.1 Details of the programme and/or course of the Association are given to the child and/or Parent in good faith.
- 14.2 The Parent hereby agrees and acknowledges that the Association shall, without prior notice to the Parent, be entitled to amend, modify and vary the content, timetable, learning platform, details and venue of the programme and/or course as it may at its absolute discretion deem fit.

### **15. FORCE MAJEURE**

- 15.1 The Association shall not be deemed to be in breach of these T&C or otherwise liable to the Parent for any delay in performance or any non-performance of any obligations under these T&C, if and to the extent that the delay or non-performance is due to a Force Majeure Event, nor shall the Association be liable for any costs incurred by or on behalf of the Parent and/or child as a result of a Force Majeure Event.
- 15.2 In the event of a Force Majeure Event, changes to the programme and/or course due to a Change of Law or a situation beyond the reasonable control of the Association or education needs of the child, the Parent hereby agrees and acknowledges that there shall be no changes to the amount of Term Fees due and payable to the Association, and no portion of the Term Fees previously paid to the Association hereunder shall be refunded to the Parent.

### **16. NOTICES**

- 16.1 Any notice, demand or other communication given or made under or in connection with the matters contemplated by these T&C shall be in writing and shall be delivered personally or sent by e-mail or prepaid first class post (air mail if posted to or from a place outside Malaysia) to the other Party at the e-mail or address stated in the Application for Admission Form, and shall be deemed to have been duly given or made as follows:

- (a) if personally delivered, upon delivery at the address of the other Party;
- (b) if sent by first class post, two (2) Business Days after the date of posting;
- (c) if sent by e-mail, when transmitted;

provided that if, in accordance with the above provision, any such notice, demand or other communication would otherwise be deemed to be given or made after 5.00 p.m. (Malaysia time) such notice, demand or other communication shall be deemed to be given or made at 9.00 a.m. (Malaysia time) on the next Business Day.

16.2 A Party may notify the other Party to these T&C of a change to its address or e-mail for the purposes of **Clause 16.1** provided that such notification shall only be effective on:

- (a) the date specified in the notification as the date on which the change is to take place; or
- (b) if no date is specified or the date specified is less than five (5) Business Days after the date on which notice is given, the date falling five (5) Business Days after notice of any such change has been given.

16.3 If a Party changes address and fails to notify the other Party of this change and the new address, delivery of notices to the Party at the e-mail or address specified by the Party is deemed compliant with the notice obligations under this **Clause 16**.

## **17. AMENDMENT**

17.1 The Association shall be entitled to amend, modify and vary these T&C and/or adopt a new set of terms and conditions at any time as it may at its absolute discretion deem fit. The provisions in respect of such amendment, modification and variation thereof shall be supplemental to and be read as integral part of these T&C which shall remain in full force and effect as between both Parties.

17.2 The Association shall adopt such means as it deems sufficient to notify the Parent on such amendment, modification and variation to these T&C. The Parent shall be bound by such amendment, modification and variation or new set of terms and conditions from the effective date of such amendment, modification and variation or new set of terms and conditions, whether or not the Parent shall have received actual notice of the same.

## **18. GENERAL**

18.1 Save as otherwise expressly provided, time wherever referred to in these T&C shall be of the essence.

18.2 These T&C shall be binding on and shall inure for the benefit of the Parties and their respective successors and permitted assigns. A Party shall not transfer or assign all or

any of its rights, obligations or benefits under these T&C to any third party except with the prior written consent of the other Party.

- 18.3 Nothing in these T&C shall constitute or deemed to constitute a partnership between the Parties and no Party shall have any authority to bind the other Party in any way nor shall these T&C be construed to constitute any Party as the agent of the other Party hereto.
- 18.4 If any provision of these T&C shall be held to be void or declared illegal, invalid or unenforceable for any reason whatsoever, such provision shall be divisible from these T&C and shall be deemed to be deleted from these T&C and the validity of the remaining provisions shall not be affected.
- 18.5 No failure or delay on the part of any Party in exercising any right or remedies under these T&C at any time or for any period of time, nor any knowledge or acquiescence by a Party of, or in breach of, any provision of these T&C shall operate as or be deemed to be a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy.
- 18.6 These T&C, the Letter of Offer or Conditional Letter of Offer, and all bye-laws, rules, regulations, guidelines, terms and conditions, procedures, notices and/or any other policies made by the Association (including all amendments, modifications and variations made thereto from time to time) supersede all prior representations, arrangements, understandings and agreements between the Parties (whether written or oral) and shall constitute the entire agreement and understanding between the Parties.
- 18.7 The termination of these T&C howsoever arising shall not affect such of the provisions hereof as are expressed to survive, operate or have effect thereafter.

## **19. GOVERNING LAW AND JURISDICTION**

These T&C shall be governed by and construed in accordance with the laws of Malaysia. The courts of Malaysia shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with these T&C.

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