

TERMS AND CONDITIONS OF PROVISION OF PRIVATE TUITION FOR CHILDREN

1 Introduction

- 1.1 **PHONICS EDUCATION ASSOCIATION LIMITED** (“**PEA**”) is a company incorporated and existing under the laws of Hong Kong, and a provider of private tuition in English to children and training to parents, teachers, and education and other institutions on teaching English, with the use of synthetic phonics.
- 1.2 These terms and conditions apply to all agreements on provision by PEA of private tuition in English to children and regulate the rights and obligations of PEA and its clients.
- 1.3 By making an application to PEA for provision of private tuition in English to children, whether at PEA’s website, via PEA App, or by email or any other means, the applicant (hereinafter referred to as “**Client**”) agrees to these terms and conditions.
- 1.4 PEA reserves the right to amend these terms and conditions from time to time by posting the amendments on PEA’s website but without notifying any Client by other means.

2 Working Day

For the purposes of these terms and conditions, the term “working day” means a day other a Sunday and a public holiday in Hong Kong.

3 Acceptance of Application

- 3.1 In order that PEA may provide a suitable tutor and determine the appropriate content and structure of private tuition for the student(s), the Client shall provide all necessary information to PEA, including but not limited to the number, age and language proficiency of the students, the health condition and any allergic conditions of the students, the Client’s relationship with the student(s), and the venue for private tuition.
- 3.2 After receipt of a Client’s application and subject to the availability of PEA’s tutors (each, a “**Tutor**”), PEA shall assign a Tutor to conduct, free of charge, an assessment of the student’s language proficiency, and a trial session of private tuition for the student. The Client shall, within 2 working days after the trial session, indicate via PEA App, or by email or other means, whether he accepts or rejects the Tutor assigned by PEA. In case of rejection by the Client, PEA shall use reasonable efforts to assign another Tutor to conduct a further trial session. The

Client shall indicate his acceptance or rejection of this other Tutor in the same manner and within the same time limit as aforesaid.

- 3.3 If the Client does not indicate to PEA his acceptance of an assigned Tutor in the manner and within the time limit as mentioned in **Clause 3.2**, or if the Client rejects 2 or more Tutors assigned by PEA for conducting a trial session for the Client, it is deemed that the Client has withdrawn his application for private tuition, and there is no further obligation between PEA and the Client under these terms and conditions.
- 3.4 Upon the Client's acceptance of an assigned Tutor under **Clause 3.2**, a legally binding agreement ("**this Agreement**") is made between PEA and the Client in respect of provision of private tuition in English to children.

4 Private Tuition in English

- 4.1 The private tuition in English to be provided under this Agreement will be for the student(s) named in the Client's application only.
- 4.2 The private tuition will be structured and tailored to suit the individual student's needs, stage of development and language proficiency. The method of teaching children to read and write English using synthetic phonics will be deployed.

5 Tuition Fees, etc.

- 5.1 The tuition fees are at such rates as agreed between PEA and the Client.
- 5.2 If the venue of private tuition is not accessible by public transport (except taxi), the Client shall pay the traveling expenses of the Tutor at such rates or in such amounts that PEA in its reasonable discretion determines.
- 5.3 The Client shall pay to PEA tuition fees and traveling expenses (if applicable) on a monthly basis in advance. Neither the assigned Tutor nor any other Tutor is an agent of PEA to receive any payment from the Client. Payment to any Tutor does not discharge the Client's payment obligations due to PEA.
- 5.4 PEA shall present an invoice to the Client:
 - (a) as soon as after the Client's acceptance of an assigned Tutor under **Clause 3.2**, in respect of the sessions of private tuition to be delivered in the first calendar month; and

(b) thereafter, in the last week of each calendar month, in respect of the sessions of private tuition to be delivered in the following calendar month.

- 5.5 Payment is due on the 5th working day after PEA's presentation of an invoice to the Client. The Client shall make payment in cash, by cheque or credit card, or by deposit into a bank account designated by PEA. An administrative charge at such rate or in such amount that PEA in its reasonable discretion may determine from time to time shall be paid by the Client if the Client makes any payment to PEA by credit card.
- 5.6 No sessions of private tuition will be delivered by PEA unless the Client has fully paid the tuition fees and the travelling expenses (if applicable) in respect of the period or month that such sessions fall in.
- 5.7 All tuition fees, traveling expenses, and administrative charges paid by the Client under this Agreement are not refundable except in accordance with the express provisions of this Agreement.
- 5.8 Time is of the essence in respect of payment of tuition fees, traveling expenses, and administration charges under this Agreement.

6 Cancellation of Tuition Sessions

- 6.1 The Client acknowledges that delivery of private tuition involves considerable time and efforts in preparation by PEA and the Tutor, including but not limited to the traveling time and expenses of the Tutor.
- 6.2 If the Client cancels a scheduled session of private tuition, he shall inform PEA via PEA App, by email, or by other means, as soon as possible and not later than:
- (a) 6 hours before the starting time of the scheduled session, if the cancellation is due to the sickness of a student; or
 - (b) 24 hours before the starting time of the scheduled session, in all other cases.
- 6.3 Subject to the availability of the assigned Tutor, PEA may (but is not obliged to):
- (a) deliver a substitute session at such time that is suitable to both the assigned Tutor and the student, in respect of a scheduled session that was cancelled:
 - (i) by the Client due to the sickness of a student, if the Client has provided with PEA a doctor's certificate of the sickness within 2 working days of cancellation; or

- (ii) by PEA due to circumstances beyond the reasonable control of PEA, such as severe weather conditions, breakdown or suspension of the public transportation system, and riot; or
 - (b) deliver no more than one substitute session in each calendar month, in respect of any and all sessions scheduled for that month but cancelled by the Client for any reason other than sickness of a student.
- 6.4 If a scheduled session is cancelled by the Tutor or PEA for any reason other than circumstances beyond the reasonable control of PEA, PEA shall arrange delivery of a substitute session by the assigned Tutor, or if the assigned Tutor is not available, another Tutor with similar qualifications.

7 Lateness, etc.

- 7.1 If a student is late for a session of private tuition, the session will end at the scheduled finishing time and there will be no extension of the session for the time lost.
- 7.2 If a Tutor is late for a session, the session will finish beyond the scheduled finishing time to make up for the time lost.
- 7.3 If the Client or a student leaves or terminates a session before the scheduled finishing time, there will not be any extension of the time allocated for other sessions to make up for the time lost.

8 Venue for Private Tuition

- 8.1 Sessions of private tuition will be held at the Client's home or other venue agreed by PEA. It is the Client's responsibility to ensure the venue is available, safe and suitable for conducting any and all sessions of private tuition. PEA may not agree to a venue for private tuition unless PEA has inspected and satisfied with such venue.
- 8.2 The Client or another adult designated by the Client shall be present at the venue of private tuition at all times when a tuition session is conducted. If the Client or the designated adult is not so present, the relevant session will not start or will be terminated. No refund of tuition fees or travelling expenses will be made to the Client in respect of such session.

9 Code of Conduct

- 9.1 The Client, his designated adult and the student shall treat the assigned Tutor or a substitute

Tutor (as the case may be) with respect and honesty, refrain from using inappropriate, disrespectful or aggressive language and/or behavior during, before and after any tuition session.

10 Limitation of Liability

10.1 While PEA and its Tutor will endeavor to improve the student's English proficiency, this cannot be guaranteed. Neither PEA nor its Tutor shall be liable for the academic or examination results of the student.

11 Rights to Use Image and Likeness

11.1 The Client, for himself and in his capacity as the parent or guardian of the student on behalf of the student, grants PEA and its sponsors (if any) the right, in perpetuity, for the purposes of promotion or marketing of the business of PEA or its sponsors, to make, use, and show, at their absolute discretion, any images, likeness, photographs, audio and video recordings of the Client and/or the student, whether or not made at the venue of private tuition, and other reproduction of them.

12 Termination

12.1 Either of the parties may terminate this Agreement at any time by serving one month's written notice in advance on the other party.

12.2 PEA may terminate this Agreement forthwith by notice in writing upon the occurrence of any of the following events:

- (a) the Client fails to pay any amount under **Clause 5** when the same is due; or
- (b) the Client is in material breach of any provision of this Agreement; or
- (c) the Client is unable to pay its debts when due or bankrupt, or proposes any arrangement or composition with, or any assignment for the benefit of, its credits; or
- (d) any step is taken to appoint a manager, receiver, trustee or similar officer in respect of any assets of the Client; or
- (e) a petition is filed with, or an order is made by, a court of competent jurisdiction for the bankruptcy of the Client; or
- (f) the Client dies or is of mental incapacity.

12.3 The termination of this Agreement for whatever cause shall not affect any rights or remedies which may have accrued to the parties up to the termination.

13 No Private Dealing with Tutor

13.1 The Client agrees and undertakes, at all times during the term of this Agreement, not to:

- (a) have any private dealings, agreements or arrangements with a Tutor in respect of provision of services similar to the tutoring services contemplated by this Agreement; or
- (b) give any money, gifts or benefits of any kind to a Tutor without the prior written consent of PEA; or
- (c) assist, procure or enable any person to do any activity which if done by the Client himself would have been in contravention of this Clause.

14 Data Privacy

14.1 All personal data of the Client and the student provided by the Client to PEA will be kept properly by PEA, and may be used or disclosed by PEA, its directors, officers and employees for any of the following purposes:

- (a) implementation or enforcement of this Agreement;
- (b) introduction to the Client of a Tutor, or connecting the Clients with a Tutor for provision of private tuition;
- (c) promotion or marketing of PEA or its business; and
- (d) comply with any legal, governmental or regulatory requirements including any disclosure or notification requirements.

14.2 The Client acknowledges and consents, for himself and on behalf of the student, that the personal data of the Client and the student may be disclosed to other persons for the purposes mentioned in **Clause 14.1**.

14.3 Each of the Client and the student has the right of access and correction with respect of the personal data of the Client and the student as provided for in the Personal Data (Privacy) Ordinance, Chapter 486 of the laws of Hong Kong.

15 PEA App

15.1 PEA App is the electronic platform launched by PEA for use by the Tutors, the Client and other persons on a mobile device for receiving information about PEA and its services and activities, and communication amongst the users and PEA.

- 15.2 To the maximum extent permitted by applicable law, the PEA App is provided to the Client on an “as is” and “as available” basis, and without warranty, condition, term, undertaking or representation of any kind, express or implied, statutory or otherwise relating to the PEA App, including without limitation as to the condition, quality, performance, merchantability or fitness for a particular purpose and non-infringement.
- 15.3 The Client agrees that the use of PEA App is at his own risk. PEA makes no warranty that PEA App or its services will meet the Client’s requirements or expectation, or will be uninterrupted, timely, secure, or error free.
- 15.4 Neither PEA nor any of its directors, officers, employees, contractors and agents shall be liable for any direct, indirect, incidental, special, consequential or exemplary damages, resulting from the Client’s use or the inability to use PEA App and its services, including but without limitation to loss of opportunity, income or profits.

16 Force Majeure

- 16.1 Neither party will be liable for any delay in performing or failure to perform its obligations (other than a payment obligation) under this Agreement due to any cause outside its reasonable control. Such delay or failure will not constitute a breach of this Agreement and the times for performance of the affected obligation will be extended by such period as is reasonable.

17 Assignment

- 17.1 This Agreement is personal to the parties and neither of the parties may assign or otherwise transfer its rights or obligations under this Agreement without the prior written consent of the other party.

18 Severability

- 18.1 If any provisions of this Agreement are found by a court of competent jurisdiction or other competent authority to be invalid, unlawful or unenforceable then such provisions will be severed from the remainder of this Agreement which will continue to be valid and enforceable to the fullest extent permitted by law.

19 Waiver

- 19.1 No delay or failure by either party to exercise any of its powers, rights or remedies under this Agreement will operate as a waiver of them nor will any single or partial exercise of any such

powers, rights or remedies preclude any other or further exercise of them. Any waiver to be effective must be in writing. The remedies provided in this Agreement are cumulative and not exclusive of any remedies provided by law.

20 Notice

20.1 Any notice to be given under this Agreement to a party shall be given in writing and delivered by courier or sent by pre-paid post or by facsimile or electronic transmission to the last known address or facsimile number or email address of such party. A notice shall be deemed to have been received by such party upon delivery if delivered by courier, or on the second working day after posting if sent by pre-paid post, or upon dispatch if sent by facsimile or electronic transmission.

21 Relationship

21.1 Nothing in this Agreement shall be deemed to constitute employment or a partnership between the parties or any party the agent of the other party.

22 Third Party Rights

22.1 This Agreement shall be binding upon and inure to the benefit of PEA, the Client and their respective successors and assigns. Save as expressly provided in this Agreement, a person who is not a party to this Agreement may not, under the Contracts (Rights of Third Parties) Ordinance, Cap 623 of the laws of Hong Kong, enforce any provision of, or enjoy any benefit under, this Agreement, nor does the termination or variation of this Agreement require the consent of any person who is not a party to this Agreement.

23 Joint and Several Liability

23.1 If the Client consists of more than one person, the liability of each of such persons under this Agreement is joint and several.

24 Governing Law

24.1 This Agreement shall be governed by the laws of Hong Kong. The parties hereby submit to the non-exclusive jurisdiction of the courts of Hong Kong.

25 Chinese Translation

25.1 The Chinese translation of this Agreement is for reference only. In the event of any conflicts or inconsistency between the English text and the Chinese translation, the English text shall prevail.