Proudly part of Supporting Education Group

THRIVE JOURNEY AGREEMENT – TERMS AND CONDITIONS

Fronting the Challenge Projects Limited (Thrive) has developed and is continuing to develop a system to assist Subscribers and individuals to recognise and provide strategies and interventions that enable children and young people to develop their emotional maturity and resilience and to engage healthily in the learning process (**Approach**).

This Thrive Journey Agreement (the Agreement) is a legal agreement between you (**Subscriber** or **you**) and Thrive (**us**, **we or Thrive**) permitting you access to Thrive-Online (**the Services**) and us providing you with training in the Approach (**Training**) as well as any associated documentation (**Documentation**). These terms exclude any terms imposed or proposed by you

DEFINITIONS, SUBSCRIPTIONS & FEES

1. DEFINITIONS

1.1 The definitions and rules of interpretation in this clause apply in this Agreement:

AUP Thrive's acceptable user policy.

Authorised Users the persons permitted by you to use Thrive-Online.

Child means a child or young person within the setting who is assessed or monitored using Thrive-Online.

Children Total the number of children on roll in your setting at any time.

Confidential Information any information that would be regarded as confidential by a reasonable business person relating to:

(a) the business, affairs, subscribers, members, plans of the disclosing party; and

(b) the contents of the Documentation and the training provided

Data Protection Legislation the UK General Data Protection Regulation 2021 (UK GDPR) and 2018 Data Protection Act and any UK national implementing laws, regulations, and secondary legislation.

Data Subject has the meaning given in the Data Protection Legislation.

Initial Term the period of two years

Member's persons who are members of Thrive.

Personal Data has the meaning given in the Data Protection Legislation.

Services the services provided by Thrive as part of this Agreement described in clauses 4 to 8,

Subscription Fee the amount calculated in accordance with the current fee table, by reference to the Children Total.

Start Date the first day of Training.

Training the training provided by Thrive as part of this Agreement described in clauses 9 to 14.

Year each 12-month period from the Start Date to its anniversary and each 12-month period after that.

The headings in this Agreement do not form part of the Agreement.

The singular includes the plural and the male the female.

2. SUBSCRIPTION

2.1 Subject to the payment of the Thrive Journey Fee in accordance with this Agreement, we grant you a non-exclusive, non-transferable right to permit the Authorised Users to receive the Training and use the Services and the Documentation for the Initial Term.

2.2 After the expiry of the Initial Term this Agreement will continue from Year to Year unless terminated either in accordance with this licence or by telephone with at least 90 days' notice expiring on or on any anniversary of the end of the Initial Term.

2.3 In relation to the Authorised Users, you undertake that you will:

(a) Ensure that your Authorised Users list remains up to date;

(b) ensure that any Authorised User who leaves your setting or organisation is notified to Thrive within 5 days of becoming aware of the fact: and

(c) permit Thrive to audit your use of the Services to establish that it is being used in accordance with this Agreement.

3. FEES

3.1 Thrive Journey Fees are calculated on an annual basis and payable in advance. Invoices are payable in full thirty days after receipt of the invoice.

3.2 The initial Thrive Journey Fee is calculated on the basis of the Children Total as at the Start Date as provided by you. If the Children Total increases, you must inform Thrive and a further Thrive Journey Fee may be payable. There is no refund or reduction if the Children Total reduces during the Initial Term or any subsequent Year.

3.3 If you fail to pay the Thrive Journey Fee for the second year of the Initial Term, on time, then we reserve the right to terminate this Agreement, cancel all Training and Services and will charge a cancellation fee of £750.

3.4 Thrive reserves the right to suspend any part of (or all) the Training and the Services if any payment is overdue. On each renewal, after the initial term, the Thrive Journey Fee will be re-calculated on the basis of the then Children Total on roll and the stage of the Thrive Journey.

3.5 Thrive reserves the right to increase the Thrive Journey Fees (but not during the Initial Term) on not less than 28 days' notice.

SERVICES

4. THRIVE-ONLINE ACTIVATION

4.1 You will be issued with login details which will allow you access to Thrive-Online.

4.2 You are responsible for ensuring that the Thrive-Online Usernames and passwords are kept confidential and are not shared with anyone else. You will inform all Authorised Users that their Usernames and passwords must be kept confidential and must not be shared with anyone else.

4.3 Subscription start is when Thrive-Online is activated, triggered by either the start of Licensed Practitioner Training or Leading Emotionally Healthy Settings Training, whichever comes first.

5. ORGANISATION ADMINISTRATOR

5.1 Your Organisation Administrator is the person responsible for setting up your Authorised Users and carrying out other administrative tasks.

5.2 The Organisation Administrator is to be our first point of contact and will liaise with us in all matters relating to this Agreement. You shall notify us immediately if there is any change of the Organisation Administrator.

6. SUPPORT

6.1 Technical support will be provided by email and telephone during the times shown in Thrive-Online. Technical support relates solely to the operation of Thrive-Online and not to the Approach itself. Thrive reserves the right to raise a charge in respect of all calls that are not of a technical nature, with a minimum charge of 15 minutes.

7. UNDERTAKINGS

7.1 Except as expressly set out in this Agreement or as permitted by law, you undertake:

(a) not to rent, lease, sub-license or loan access to Thrive-Online.

(b) permit to be Authorised Users, only those who (i) require access to Thrive-Online for the performance of their duties and (ii) are appropriately trained and/or supervised.

(c) not to copy, adapt, vary or modify any part of the Documentation.

(d) not to reverse engineer or create derivative works based on, the whole or any part of Thrive-Online.

(e) to supervise and control use of Thrive-Online and ensure that Thrive-Online is used in accordance with the terms of this Agreement; and

(f) to enforce adherence to the AUP by your Authorised Users.

8. WARRANTY

8.1 Thrive warrants that:

(a) it will carry out its duties under this Agreement with reasonable care and skill.

(b) Thrive-Online will, when properly used, perform substantially in accordance with the description contained in Thrive's current marketing documentation;

(c) it will use all reasonable endeavours to ensure that Thrive-Online is available for use between the hours of 8am to 8pm Monday to Friday; and

(d) it will provide you with reasonable advance notice in writing of any major scheduled updates to Thrive-Online or updates that may interrupt the availability of Thrive-Online and shall provide reasonable endeavours to carry out such updates during the hours of midnight to 6am.

TRAINING

9. TRAINING INCLUDED IN THE THRIVE JOURNEY

9.1 You are entitled to the following Training in the Approach:

(a) First year:

(i) One place on a Leading Emotionally Healthy Settings course (two places for larger Secondary settings)

(ii) One place on a Licensed Practitioner course.

(b) Second Year: One place on a Licensed Practitioner course.

(c) At any time: One induction course.

9.2 Courses may not be substituted and must be taken in the Year of entitlement. If paying for year one and two upfront, then Training may be taken any time during the two-year period.

10. PREPARATION FOR A COURSE

10.1 You accept that it is your responsibility to verify that each of your delegates have the necessary level of competence to be able to achieve the objectives of the course.

10.2 You are responsible for ensuring that all your delegates have an adequate internet connection to support video conferencing and that their access to a Zoom or any other conference facility is not restricted by a firewall or port settings.

11. COURSE CHANGES

11.1 The location and date of a course will normally be as advised at the time of booking. Thrive reserves the right to:

(a) improve the specification and format of its courses without notice.

(b) change the Trainers assigned to a course without notice.

(c) change the location of the course but will advise the delegates as soon as possible; and

(d) cancel or reschedule any course and will advise the delegates as soon as possible. Thrive will use all reasonable endeavours to avoid cancellation or rescheduling. When cancellation is unavoidable, Thrive will refund, in full, all monies paid, or at your option, apply all monies to a rescheduled or alternative course.

12. DELEGATE CHANGES AND ABSENCES

12.1 There are no refunds for delegates who fail to attend.

12.2 Delegates may be substituted at any time prior to the Course Start Date. Delegates substituted after the start of a course will incur an administration and additional Training fee.

12.3 If delegates miss one or more days of Training and require the scheduling of additional sessions, an administration and additional Training fee will be charged.

12.4 Thrive reserves the right to exclude a delegate from Training, at any stage, if the preparation, behaviour, or condition of the delegate, in the opinion of the trainer in charge, is not appropriate or conducive to the Training concerned. The delegate concerned may appeal the decision through the complaints process.

13. CANCELLATIONS

13.1 Course places, once allocated, may only be moved as stated within our standard Training Terms and Conditions, they will not be refunded or credited.

14. MODERATION

14.1 In line with our quality assurance processes, we moderate assessments completed during Thrive training courses to ensure that the appropriate standards are maintained. It may be, as a result, that particular delegates are asked, over a reasonable period, to complete some blended learning, carry out an exercise on Thrive-Online or some other activity.

15. COPYRIGHT & CONFIDENTIALITY

15.1 You acknowledge that the copyright and all other intellectual property rights in all Documentation shall remain the sole and exclusive property of Thrive. You undertake that you will not (i) copy or permit the copying of course materials, whether by photocopying or otherwise, (ii) disclose, permit the disclosure, sell or hire the same to third parties, or (iii) use the same for running your courses, except those licensed by Thrive.

15.2 You agree that neither you or your delegates will share any links that are provided for the purposes of the course.

15.3 You acknowledge that (and will inform your delegates) that the audio or video recording of any part of the Training is not permitted.

DATA PROTECTION

16. GDPR

16.1 We provide the Services and Training via secure cloud-based platform. The Personal Data processed by us will consist of information relating to children in your setting, Members, and your Account Manager and, less frequently, information relating to the families of Children and individuals from support services who may be involved with the Children. The personal information may consist of information relating to the education and home life of the Children, how they have interacted with Members whilst engaging with the Approach, such as behaviour, emotional development, and relationships with others. Information will also be held relating to the contact details, employment, and training of Members.

16.2 Both parties will comply with the applicable requirements of the Data Protection Legislation.

16.3 Both parties acknowledge that you are the controller and that Thrive is the processor (as defined by the Data Protection Legislation) in respect of all data relating to each Child. Thrive is the controller in respect of information relating to you or Members.

16.4 You warrant that you have all necessary consents in place (or have complied with another processing condition) and have the appropriate notices and privacy policies to enable the lawful transfer of Personal Data to Thrive for the duration and for the purposes of this Agreement.

16.5 Thrive shall, as a processor:

(a) act only on your written instructions.

(b) have in place appropriate technical and organisational security measures (which may be subject to approval by you) against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data. Such measures shall be appropriate to the harm that might result from the unauthorised or unlawful processing.

(c) ensure all staff who have access to the Personal Data are obliged to keep it confidential.

(d) assist you to respond to an individual's request to enforce their rights of subject access, rectification, erasure and any other rights conferred by the Data Protection Legislation.

(e) assist you if requested with respect to security, breach notifications, impact assessments and any investigations by a supervisory authority.

(f) notify you without undue delay in the event of a data security breach and assist you with any investigations;

(g) maintain and keep up to date the data processing register referred to above;

(h) retain the information in accordance with clause 16.11 below and then destroy it; and

(i) submit to audits and inspections and provide you with whatever information needed to ensure that the controller is both complying with their obligations under the Data Protection Legislation and inform the Subscriber immediately if they are asked if do something infringing the Data Protection Legislation or other law of the EU or a member state.

16.6 Thrive shall not appoint a third-party processor without your prior written consent. Thrive shall ensure that any third-party processor will enter into an agreement with the same or substantially similar terms in relation to the Data Protection Legislation.

16.7 Thrive shall assist you if you receive a request under the Education (Pupil Information) (England) Regulations 2005. Thrive will endeavour to produce data within 5 days of receipt of a written request from you.

16.8 You shall ensure that you have the necessary consents in place to allow Thrive to produce anonymous data from your data for training, marketing, and statistical purposes.

16.9 Thrive will assist with any transfer of the details of a child from you to another Thrive setting, this needs to be made in writing, with appropriate consent from both the sender and intended receiver.

16.10 If this agreement will involve or require a transfer of any Personal Data from one country to a country outside the country of origin, then, if required by applicable law, you and Thrive will enter into an appropriate data transfer agreement.

16.11 Thrive will retain the Personal Data for a period of twelve years from the last record being created unless otherwise instructed by you or as required by law.

16.12 The obligations in relation to the Data Protection Legislation set out in this clause shall not be affected by the expiry or termination of this agreement.

GENERAL

17. CONFIDENTIALITY AND FREEDOM OF INFORMATION

17.1 Except where clause 17.3 below applies, you will treat the Confidential Information disclosed by Thrive and will require all employees, agents or sub-contractors to also treat it as confidential and not disclose the Information to any third party or use it in any way other than in connection with this Agreement. You agree to use all reasonable efforts to preserve the secrecy and confidentiality of the Confidential Information.

17.2 The provisions of this clause do not apply where the information is generally available to the public (other than as a result of a breach of this clause), where it was already known or becomes available to you on a non-confidential basis or was created by you independently of the Confidential Information.

17.3 Thrive acknowledges that you are subject to the requirements of the Freedom of Information Act 2000 (FOIA) and shall assist and co-operate with you (at your expense) to enable you to comply with the requirements of the FOIA.

17.4 Where Thrive holds Information on your behalf, which is the subject of a request under FOIA, Thrive shall be permitted to discuss and agree with you the application of appropriate exemptions under FOIA. In the event that Thrive is required to assist you to comply with a request, Thrive shall have 5 working days to comply and shall be permitted to levy a reasonable charge.

18. INTELLECTUAL PROPERTY RIGHTS

You acknowledge that all intellectual property rights in Thrive-Online and the Documentation, including any trademark belonging to Thrive, and that you have no rights in, or to, any of them, other than the right to use them in accordance with the terms of this Agreement.

19. THRIVE'S REMEDIES

19.1 This Agreement sets out the full extent of Thrive's obligations and liabilities in respect of the supply of Thrive-Online and the Training to you in particular, there are no conditions, warranties, representations or other terms, express or implied, that are binding on Thrive except as specifically stated in this Agreement. Any condition, warranty, representation, or other term concerning the supply of Thrive-Online or the Training which might otherwise be implied or incorporated into this Agreement, whether by statute, common law or otherwise, is hereby excluded to the fullest extent permitted by law.

19.2 In no event shall Thrive or its suppliers be liable for any damages whatsoever including, without limitation, loss of income; loss of business profits or contracts; business interruption; loss of the use of money or anticipated savings; loss of information; loss of opportunity, goodwill or reputation; loss of, damage to or corruption of data; or any indirect or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise.

19.3 Nothing in this Agreement shall limit or exclude the liability of Thrive for death or personal injury resulting from negligence, fraud, fraudulent misrepresentation.

19.4 Subject to clauses 19.2 and 19.3, Thrive's entire liability and your exclusive remedy for:

(a) any breach of clauses 8.1(b) to 8.1(d) shall be repair or replacement of Thrive-Online; and

(b) any other breach of this Agreement is limited to the sum of £25,000.

20. Termination

20.1 Thrive may terminate this Agreement immediately by written notice to you if you or your Authorised Users:

(a) commit a material or persistent breach of this Agreement which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so; or

(b) become insolvent, bankrupt, or unable to pay your debts when they fall due; or

(c) you undergo any change in legal or beneficial ownership or control, other than conversion to Academy status or changes in the composition of (in the case of a school) the Board of Trustees or (in the case of a Local Authority) its elected members.

20.2 Upon termination for any reason all rights granted to you under this Agreement shall cease.

21. Transfer of rights and obligations

You may not transfer, assign, charge or otherwise dispose of this Agreement, or any of your rights or obligations arising under it, without our prior written consent, such consent not to be unreasonably withheld or delayed.

22. Notices

All notices given by you to us must be given to Fronting the Challenge Projects Limited either at our postal address or at subscriptions@thriveapproach.com. We may give notice to you at either the e-mail or postal address you provided to us when purchasing this Subscription Bundle. Either party may change their addresses in this manner.