

# General Sales and Delivery Service Notifications Edufax BV

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GENERAL TERMS AND CONDITIONS OF SALE AND SERVICE OF THE PRIVATE COMPANY WITH LIMITED LIABILITY EDUFAX B.V.

### 1. Definitions

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The following definitions apply in these conditions:

- Customer: every business, every institution, every private individual who negotiates as a Client with Edfax as Contracted Party about granting a Contract, or who has entered into a Contract for Services or another Agreement with Edfax;
- Edfax: Edfax B.V. and/or its affiliated companies and businesses;
- Contract: the Contract between the Customer and Edfax as the Contracted Party to provide Services;
- Service/Services: providing consultancy services, whether or not at project level, drafting, producing and/or providing Educational Material, organising Courses, or other services that include the particulars and details concerning the Contract;
- Course/Courses: a Course organised by or under the responsibility of Edfax, whether or not in the context of promoting educational mobility and/or distance education, or another training course, all this in the broadest sense;
- Participant: the Student and/or User, as defined;
- Student: a private person, i.e. registered by the Customer as course participant, or the Customer themselves, who participates in a Course or several Courses organised by or under the responsibility of Edfax;
- Educational Material: all of the course material, instruction material, training material, educational material and teaching material, in the broadest sense, both digital and analogue, which can be used by or under the responsibility of Edfax for the teaching of a Course, and can be provided to a Participant or be used by Edfax for performing a Contract, or must be drafted by Edfax;
- User: a private person, i.e. the Customer themselves or an employee of the Customer, who uses consultancy services, if agreed (also) for the benefit of their partner, family members and/or other relatives, as provided by or under the responsibility of Edfax;
- Service Level Agreement (SLA): an Agreement entered into between Edfax and the Customer concerning the performance of a Contract that includes provisions that, unless explicitly deviated from in the individual Contract, govern the Contract for Services;
- Staff: anyone who, whether or not in the context of an employment relationship, works for the benefit of Edfax, and is engaged by Edfax to perform any Contract or Agreement, which explicitly includes self-employed workers without employees engaged by Edfax and other third parties and their members of staff engaged by Edfax to perform the Contract or Agreement;
- Agreements: all agreements, including but not limited to the Contracts for Services and the SLA, entered into between Edfax and the Customer, as well as all legal acts associated with this;
- Conditions: these General terms and conditions of sale and service of Edfax.

## 2. Applicability

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2.1 These Conditions apply to all requests, quotations, Contracts, order confirmations, Agreements and other legal acts, as well as negotiations, entered into by Edfax, whether or not through the intermediary of an agent, with respect to the performance of Services and execution of other Agreements and the performance of other work by Edfax as the Contracted Party, such to the exclusion of other conditions, unless Edfax has explicitly stated in writing that such other conditions apply. The applicability of such other conditions will in that case only relate to the agreement in question. Stipulations varying from these Conditions may only be agreed on in writing. A Customer who has once concluded an agreement with Edfax to which these Conditions applied is deemed to have again agreed to the applicability of these Conditions to any subsequent negotiations or Contracts or Agreements, regardless of any written confirmation.

2.2 These Conditions must always be interpreted in the light of the SLA and the Contract or other Agreement, if available. To the extent that such an interpretation is not possible and conflicts arise between the text of these Conditions and the stated Agreements, the text of the SLA will at all times prevail in case of a conflict between these Conditions and the SLA. The text of the Contract will at all times prevail in case of such a conflict between these Conditions and the Contract. The text of the Contract will at all times prevail in case of a conflict between the SLA and the Contract.

2.3 Any delay, default, negligence or leniency on the part of Edfax in enforcing any provision of an Agreement or of these Conditions will never be able to be regarded as a declaration of invalidity, will not be able to affect Edfax's rights in any way and cannot be regarded as a waiver of rights.

2.4 Edfax will be authorised to amend these Conditions. The amended Conditions will apply in future to existing requests, quotations and ongoing negotiations, once Edfax has given the Customer written notice of the amended Conditions.

2.5 If the Customer registers a Participant with Edfax for a Service, and a Contract or Agreement is formed in accordance with the content of these Conditions, the Customer undertakes towards Edfax to also communicate these Conditions to the Participant, in which respect the Customer will indemnify Edfax at all times against any potential direct claim from the Participant against Edfax.

## 3. Offers, Contracts and Agreements

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3.1 The offers made and quotations submitted by Edfax, with all the particulars and price estimates contained therein, in any form, are without any obligation whatsoever and will not be binding on Edfax, unless expressly agreed otherwise in writing.

3.2 All particulars provided in or with the quotation about the Services to be performed by Edfax, not exclusively but also relating to the duration, content and structure of the Course, the nature and frequency of the supervision, the scope and form of the didactic materials, are provided to the best of Edfax's knowledge, but this may be deviated from in the performance.

3.3 Edfax may never be deemed to have entered into an Agreement with the Customer without a written order confirmation from Edfax or without Edfax's signing of the Contract or Agreement. Any registration forms, forms to indicate interest, contact forms, etc. sent to Edfax by the Customer or Participant will for Edfax only form a request to Edfax to enter into an Agreement with Edfax, in which respect Edfax explicitly refers to the provisions of the first sentence of this paragraph.

3.4 Edfax cannot be bound by its quotations if the Customer could reasonably have understood that the quotation, or a part thereof, contains an obvious mistake or clerical error.

3.5 All commitments, offers and arrangements that the Customer has entered into or made with third parties engaged by Edufax, expressly including Edufax's members of staff, will only be binding on Edufax if confirmed in writing by Edufax itself.

3.6 The Customer will ensure that Edufax receives all information that it requires to, in the opinion of Edufax, adequately perform the Contract or Agreement in the form, layout and language desired by Edufax and in good time. The Customer guarantees that the data and information provided by or on behalf of the Customer to Edufax is correct, complete, reliable and up to date. Edufax will only be obliged to perform the Contract or Agreement in more detail if the Customer has provided all data and information required by Edufax. In the event of failure to provide such data to Edufax, or failure to do so in good time or in accordance with the agreements made, Edufax will be entitled to charge the Customer for any resultant costs at Edufax's usual rates and to suspend the performance of the Contract or Agreement.

3.7 The Customer will ensure that all necessary directions and instructions from Edufax, including but not limited to the provision of documents, Edufax's holding of preparatory discussions with the Participant, the Participant's taking of entry tests and the Participant's participation in other training formalities and administrative formalities, are followed correctly and in good time by the Customer and the Participant, failing which Edufax will have the right to charge the Customer for any resultant costs at Edufax's usual rates, and to suspend its obligations to perform the Contract or Agreement.

3.8 Should the Customer and Edufax not enter into a written Agreement, an Agreement between Edufax and the Customer will at all times only be formed after Edufax has confirmed in writing the Contract granted to it, which order confirmation from Edufax will be deemed to represent the Agreement correctly and in full, unless the Customer explicitly informs Edufax otherwise in writing within two days of receipt of the order confirmation.

3.9 If the Customer and Edufax agree that services will be performed urgently, Edufax will be entitled to add a surcharge to be agreed upon.

## 4. Performance and amendment

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4.1 In the Agreement or the Contract, Edufax can make arrangements with the Customer about conditions that are set for the purchase of Services by/for the Participant.

4.2 Recommendations and the provision of advice as part of the Services of Edufax with a view to training and education are based on the interests of the child and are aimed at the continuation of their academic schooling.

4.3 If facts or circumstances should occur during the performance of the Contract or Agreement that cause a change in the Customer's needs or that make it problematic for Edufax to perform the Contract or Agreement as agreed, the Customer and Edufax will hold consultations in good time in order to make tailored arrangements to supplement the Contract or Agreement, which is consequently adjusted to the changed situation.

4.4 Edufax will regularly keep the Customer informed of the progress of the Contract or Agreement. The content of the Agreement may include an evaluation of the Contract in accordance with the provisions included in the Agreement, after performance of the Contract.

4.5 Edufax will be entitled to unilaterally amend the Agreement or the Contract for serious reasons communicated to the Customer, in which case the Customer will be entitled to cancel the Agreement at no cost, unless Edufax offers an equivalent alternative. Cancellation must take place in writing by the Customer to Edufax within five working days after Edufax's communication.

4.6 Changes and additions to Agreements that have been concluded will furthermore only be effective if they have been explicitly agreed on by Edufax and the Customer in writing. After the Agreement has been entered into, any amendments proposed by the Customer will only be implemented and accepted by Edufax if Edufax has confirmed them in writing. The Customer will not be entitled to terminate the Agreement if Edufax decides, for reasons of its own, not to implement the stated amendments.

4.7 Any amendment from the Customer that Edufax has accepted may lead to a change of the originally agreed delivery periods and the price payable by the Customer. Edufax will be entitled to charge the Customer for any additional work resulting from the accepted amendments.

4.8 Edufax will report to the Customer any established impediments or bottlenecks that may hinder or prevent the correct performance and/or performance in good time of the Contract or Agreement, and the Customer must endeavour to remedy those if they are the Customer's responsibility.

## 5. Cancellation

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5.1 The Customer will be entitled to terminate a Contract with Edufax early in writing, in which case the Customer will owe Edufax cancellation charges in accordance with the specifications represented in the Agreement.

5.2 If the Customer or Participant fails to turn up in the context of a Course or a consultancy or research appointment, this will not entitle the Customer to any (partial) refund of the amount due for the Contract.

## 6. Term, possible notice of termination and termination by Edufax

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6.1 Contracts for services by Edufax will end, for example, upon completion of the Course, provision of the consultancy advice or another Service provided by Edufax, or at the time specifically determined by the Customer and Edufax.

6.2 The Customer may not terminate a Contract with Edufax early other than in accordance with Article 5. Edufax may end a Contract early, without a notice period, if Edufax cannot reasonably be expected to continue with the Contract. If Edufax is entitled to proceed with termination, Edufax will also be entitled to terminate a Contract early, without observing any notice period, without Edufax owing any compensation, in which case the Customer will be liable for the damage or loss that Edufax suffers as a result of termination of the Contract.

6.3 Edufax has the right to exclude from further participation the Customer and/or Students and/or Users and/or the partner, family members, relatives of Users, who with their behaviour or otherwise frustrate or hinder the normal performance of the Contract by Edufax, and to suspend the further performance of the Services as well as to terminate the Agreement wholly or partially, in which case the Customer will remain obliged to pay Edufax the agreed amount for the Services.

6.4 In the event that the Customer applies for a suspension of payment, or is declared insolvent or bankrupt either at their own request or pursuant to a third-party application to that effect, or is allowed to participate in the Debt Restructuring Scheme for Natural Persons, or if their movable and/or immovable property or other goods are in any way attached, as well as if the Customer discontinues or threatens to discontinue their business, or approaches their creditors for the purpose of a debt restructuring scheme/repayment arrangement, or if Edufax may reasonably assume that any of the foregoing situations will occur in the very near future and gives the Customer written notice to that effect, Edufax will have the right to suspend the Agreement without any notice of default and without any further performance of the services, and to terminate all or part of any agreement concluded with the Customer, without prejudice to Edufax's right to full compensation.

6.5 In case of late and/or improper fulfilment of the Customer's obligations, including payment obligations, Edufax will furthermore be entitled to suspend its obligation to perform the Contract or Agreement, and to terminate all or part of the Contract or Agreement by mere written notice to the Customer, without prejudice to Edufax's other rights, such as the right to full compensation.

## 7. Prices and payment

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7.1 Unless explicitly stated otherwise, all prices are in euros and exclusive of VAT and costs, including but not limited to administrative costs, currency costs, exchange differences, all government levies, travel and accommodation expenses, licence fees, costs arising from or associated with the exercise of intellectual property rights, all this in the broadest sense. If the work does not take place at the offices of Edufax, the cost per kilometre will be charged on in accordance with the usual standard rate.

7.2 If one or more cost-determining factors, such as prices of educational materials, wage costs, costs of engaging third parties, taxes, social insurance contributions, government levies, insurance premiums, etc. increase after the formation of the Agreement, but before performance has started, Edufax will have the right to adjust its prices accordingly. Edufax will notify the Customer of the price adjustment as soon as possible. In the event of a price increase of more than 20% of the original price, the Customer will have the right, within a period of five working days after notification, to terminate the Agreement by written notice to Edufax, unless this would be manifestly unreasonable under the specific circumstances. Termination pursuant to this article will not entitle the Customer to any form of compensation. In the event of termination as referred to in the foregoing sentence, Edufax will be entitled to compensation if the Agreement has already partially been performed.

7.3 The price is based on a pre-agreed hourly rate and number of hours or is based on a pre-agreed amount.

7.4 Edufax will provide the Customer with an itemised invoice.

7.5 Unless expressly agreed otherwise in writing, payment must be made within 30 days of the invoice date by transfer to Edufax's bank account. In principle, Edufax will invoice on a monthly basis, but will immediately charge on any disbursements. Edufax will at all times be entitled, before performing the Agreement, to require that the Customer pay the agreed consideration in advance. If the Customer does not comply with Edufax's request to that effect, the Customer will be in default by operation of law.

7.6 The Customer must ensure payment of the amount due to Edufax without any reduction or setoff. The Customer will be in default by operation of law after the agreed payment term has expired, without any notice or notice of default by Edufax being required to that end. If the Customer does not make payment within the stipulated term of payment, the Customer must pay Edufax contractual interest of 1.5% per month on the outstanding amount, for which purpose part of a month will be regarded as a full month.

7.7 Edufax will be entitled to immediately hand over its claim with respect to an outstanding invoice to a third party for collection. All judicial and extrajudicial costs for the collection of Edufax's claim are expressly payable in full by the Customer. The extrajudicial costs are set at no less than 15% of the amount due, including interest, subject to a minimum of €300.

7.8 Edufax will be entitled to suspend the fulfilment of its obligations pursuant to concluded Agreements until such time as the Customer has arranged payment of all amounts due to Edufax.

7.9 Failure to pay an invoice amount on the due date will render all Edufax's claims against the Customer immediately due and payable in full, expressly also including the claims that would otherwise not yet be due and payable at that time, without requiring any communication or notice of default by Edufax.

7.10 Edufax will not grant any discounts or commissions, unless agreed in writing with the Customer.

7.11 If the policy for education-related costs of the Customer does not reimburse certain services that the Participant has requested Edufax to provide, Edufax will inform the Participant about this.

7.12 Each year, Edufax will index its rates on 1 January in accordance with the Commercial Services Index, and will communicate the new indexed rates to the Customer.

## 8. Delivery period

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8.1 All delivery periods and completion times stated by Edufax will only take effect after the Agreement has been formed. The stated completion times and delivery periods are merely an indication, although Edufax will do its utmost to meet those periods. Edufax has set those periods to the best of its knowledge on the basis of the data and facts known to Edufax before entering into the Agreement. Edufax cannot be held liable if a completion or delivery cannot take place within the agreed period. If the period is exceeded, this will never entitle the Customer to fully or partially default in the performance of any obligation, which includes payment obligations, or to claim any compensation whatsoever, save in the event of an intentional act or gross negligence on the part of Edufax, which expressly excludes errors on the part of the non-executive staff members of Edufax.

8.2 Completion times or delivery periods may be postponed at the Customer's or Participant's request only with Edufax's express written consent, subject to the condition that the Customer pays the amount due to Edufax before the agreed date and that the costs and losses connected with such postponement are fully paid by the Customer, for which purpose Edufax's cost specification to be provided to the Customer will be binding on the Customer.

## 9. Service

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9.1 The Customer and the Participant are deemed to check the Agreement performed by Edufax immediately upon performance. Provided that Article 9.2 has been complied with, Edufax will do its utmost to replace any incorrect or damaged analogous Educational Material at no cost and to remedy any incorrect or damaged digital Educational Material, to the extent reasonably possible.

9.2 Complaints concerning defects in delivered Educational Materials and defective performance of Services must be brought to the attention of the Complaints Coordinator of Edufax in writing within 10 days of receipt or completion thereof respectively in accordance with the Edufax Complaints Procedure.

9.3 Complaints only need to be dealt with if they have been provided with the name and address of the person submitting the complaint, have been dated, have been signed and contain a concrete description of the complaint. Anonymous complaints will not be dealt with either.

9.4 Edufax's Complaints Coordinator will handle the complaint in accordance with Edufax's Complaints Procedure, and will communicate with the Customer or Participant about this.

9.5 Edufax will not deal with a complaint that is similar to a previous complaint from the same Customer that has been handled.

9.6 Any honouring of a complaint will never have consequences for the exclusion from or limitation of the liability of Edufax as laid down in Article 11.

9.7 Edufax will never be under any obligation to handle a complaint as long as the Customer fails to pay any invoice from Edufax. A complaint will never discharge the Customer from the assumed payment obligations.

## 10. Outsourcing and transfer

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10.1 Edufax is at liberty to fully or partially outsource to third parties, including but not limited to self-employed workers without employees, the delivery to be carried out or the Services to be performed, but only if special expertise is necessary.

10.2 Edufax is at liberty to transfer its rights and obligations under the Agreement or part thereof to a third party.

10.3 The Customer will not be allowed to transfer their rights and obligations to third parties, except with the prior written permission of Edufax.

## 11. Liability

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11.1 In the event of a manifest attributable failure or unlawful act on the part of Edufax, Edufax will be obliged only to pay compensation up to the VAT-exclusive amounts invoiced by Edufax of the supplied goods and/or provided services as a result of which, or in connection with which the damage or loss occurred. The provisions of the previous sentence will not apply in the event of intent or deliberate recklessness on the part of Edufax itself in the performance of the Agreement, not including its non-executive employees.

11.2 Edufax will not be liable for indirect damage or loss, such as trading loss, lost profit, unforeseen expenses, lost savings, consequential loss and/or damage (also if sustained by third parties), including full extrajudicial collection costs and court costs, and all possible claims from third parties, in the broadest sense, including but not limited to the Customer's and Participant's members of staff, and Edufax will likewise not be liable for the loss of any added value due to recklessness on the part of Edufax, not including its non-executive employees.

11.3 Liability for damage and/or loss, in the broadest sense, arising from an intentional act or gross negligence or otherwise on the part of non-executive employees and third parties engaged by Edufax in the performance of the Contracts granted to it and other Agreements, is fully excluded.

11.4 The Customer will be obliged to explicitly indemnify Edufax against any claims from third parties, explicitly including but not limited to the Customer's and Participant's own members of staff, in respect of all possible damage and/or loss of whatever nature, in the broadest sense, caused by or in connection with the provided services, unless the damage and/or loss is due to an intentional act or gross negligence on the part of Edufax itself in the performance of the Agreement, not including its non-executive employees.

11.5 The indemnity included in the foregoing paragraph also entails that the Customer must compensate Edufax for all costs of legal and other assistance that Edufax must incur in order to defend itself against a claim for compensation from such a third party.

11.6 Edufax will not in any way be liable for damage or loss, of any nature whatsoever, which is the result of possible incomplete or incorrect advice or recommendations, provided in connection with the work to be performed by Edfax. This also includes recommendations or advice provided by a teacher who is engaged or information derived from the Educational Material made available by Edfax or any other brochure, except in case of an intentional act or gross negligence on the part of Edfax itself.

11.7 If the Customer does not participate in a Course or is not the User of the Services, the Customer guarantees that the Participant for whom the Course or Service was purchased, their partner, family members and other relatives has/have fully accepted the limitations of liability stated above.

11.8 Admission of a Student to a Course does not constitute any guarantee that the Student will complete the course successfully.

11.9 At the risk of forfeiting all rights, any claims with respect to the alleged liability of Edfax must have been instituted at law within one year after the damage or loss has become known.

## 12. Force majeure

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12.1 In the event of force majeure, however arising, which in any event expressly includes a lack of, strikes by or illness of the staff of Edfax or a lack of, strikes or illness or impediment at the third parties engaged by it, business interruptions at Edfax and third parties, as well as any other circumstance not exclusively under Edfax's control, Edfax will be entitled, at its discretion, to either exceed the delivery period or period for the performance of the Services, or to terminate the Agreement entered into with the Customer, without Edfax being liable to pay any compensation with regard thereto.

12.2 Should the situation of force majeure continue for more than three months, either party may terminate the Agreement or Contract by notice to that effect, in which event Edfax will never be liable to pay compensation. If at the time of termination pursuant to this article, Edfax has already performed part of the Agreement or Contract, the Customer will be obliged to pay the delivered part, with due observance of the agreed price, plus any costs already incurred by Edfax.

12.3 In the event of illness and/or impediment or inability to act of a third party engaged by Edfax, including a teacher, educationalist or consultant for example, Edfax will to the extent reasonably possible try to arrange a similar replacement or, if such is not reasonably possible, propose alternatives to the Customer.

12.4 Edfax will not charge any extra costs for arranging teaching programmes to catch up on lessons that did not take place due to illness, impediment or inability to act on a teacher's part.

## 13. Intellectual property rights

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13.1 All intellectual property rights relating to teaching materials and educational materials originating from Edfax or developed or used by Edfax, computer programs, drafts, methods, data, information, know-how, technology, images, texts, digital files, working methods, advice, drawings, printed matter, publicity materials, websites, etc. become and will remain the explicit and exclusive property of Edfax. Exercising these rights - including disclosure, transfer, reproduction and distribution of data, all in the broadest sense - will be explicitly and exclusively reserved to Edfax both during and after performance of the Agreement.

13.2 To the extent that the result realised by Edfax on the Customer's instructions is a work, it will be stated in or on the work that the copyright is exclusively vested in Edfax, in which respect is noted that all rights are reserved, nothing in the publication may be reproduced, stored in a (computerised) data file or disclosed in any form or any manner whatsoever, without the prior written permission of Edfax as the exclusive copyright owner.

13.3 Edfax will not transfer its intellectual property rights to the Customer, and such a transfer has not been included in the agreed amount payable by the Customer to Edfax.

13.4 The Customer and the Participant may use all that the Contracted Party has produced and/or made available in Educational Material for personal use only, and it will not be allowed to reproduce and/or disclose such or to allow third parties to use it or to sell it to third parties.

13.5 If the Customer has made data available to Edfax for the development and/or the drafting of Educational Material, the Customer must guarantee that the production of that Educational Material will not infringe any intellectual property rights of third parties, in which respect the Customer will indemnify Edfax against such third-party claims.

## 14. Non-recruitment clause

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14.1 During the term of the Contract or other Agreement, the Customer and Participant will not employ any members of staff of Edfax or third parties that Edfax has engaged for the performance of the Contract or the other Agreement for the Customer and/or the Participant, and will not enter into a similar Contract or other Agreement with those current or former members of staff or third parties either directly or indirectly, subject to an immediately due and payable penalty of €50,000.

14.2 The prohibition laid down in the first paragraph also applies up to 1 year after the Contract/Agreement has been performed.

## 15. Confidentiality and personal data

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15.1. Edfax and the third parties and members of staff that work for Edfax will treat confidentially any information provided by the Customer and the Participant, and will only use such information to perform the Contract and the Agreement, and to the extent necessary for registration purposes for the benefit of participation in distance education in accordance with the privacy regulations.

15.2. Edfax registers and processes the personal data provided by the Customer and the Participant in accordance with the privacy policy of Edfax, which respects the European General Data Protection Regulation (GDPR) and implementing legislation.

15.3. Without the Customer's permission, Edfax will not refer to Contracts or Agreements entered into with the Customer in publications, advertisements or otherwise.

15.4. After the end of the Contract or Agreement, at the Customer's request Edfax will return and/or delete all information that the Customer provided to Edfax for the performance of the Contract or Agreement.

## 16. Disputes and applicable law

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16.1 Dutch law applies exclusively to Contracts and other Agreements governed by these Conditions, and this also applies in full to all negotiations entered into and other legal relationships, including quotations, orders and order confirmations.

16.2 All disputes that should arise between Edufax and the Customer and/or Participant concerning the formation or in connection with the performance of the Contracts and other Agreements governed by these Conditions, negotiations entered into, other legal relationships, including quotations, orders and order confirmations, will be settled exclusively by the Court of Oost-Brabant.

## 17. Concluding provision

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17.1 The Dutch version is the only authentic text of these Conditions. In case of a difference between this Dutch text and any translation into another language, the Dutch version and the corresponding (legal) interpretation and explanation will at all times prevail.

17.2 If any provision laid down in any Agreement or in these Conditions should turn out to be void or invalid, or according to the standards of reasonableness and fairness should be deemed unacceptable under the given circumstances, such will not affect the validity of the other provisions of the Contract and other Agreements and of these Conditions. In that case, the invalid or void provision will be replaced with a provision that approximates the original intention of the invalid or void provision as closely as possible and, taking all circumstances into account, is reasonable and acceptable.

These general terms and conditions have been placed on the website of [www.edufax.nl](http://www.edufax.nl). Furthermore, they were filed with the Chamber of Commerce under number 17074218, on 20-05-2019.