



## **Terms and Conditions for Purchase of ICAS tests**

## 1. BACKGROUND

This Agreement sets out the terms and conditions (**Terms**) for which EduVision Pty Ltd (ABN: 21 639 618 018) of 402/16–18 Cambridge St, Epping NSW 2121 (**EduVision, we, us and our**) will deliver ICAS Assessments™ to you and, where appropriate, the child you have registered (**you, Parent, Child**). In making a purchase of an ICAS test, you acknowledge that you have read, understood and agreed to these Terms to which you agree to be bound. If you have any objections to the Terms herein, you must immediately cease use of all ICAS tests. ICAS tests are purchased via this website, and administered by us. To contact us, please email [info@eduvision.com.au](mailto:info@eduvision.com.au).

## 2. DEFINITIONS

**Administrative Fees** means administrative fees that Janison or EduVision charges in respect of processing refunds or performing other administrative and/or logistics tasks in connection with the supply of the Product or Service.

**Alternative Assessment Session** means an alternative session in which your Child can sit the ICAS test.

**Alternative Sitting Period** means a period of time for Sittings, as permitted by Janison, other than the initial scheduled Sitting Period.

**Assessment** means an assessment associated with the Product.

**Assessment Session** means the Session you have selected for your Child to sit the ICAS test.

**Child** means your child as registered on the EduVision Online Enrolment Platform.

**EduVision Online Enrolment Platform** means the platform provided by EduVision in order to purchase the Product. You have to create an account in order to purchase a Product.

**Intellectual Property Rights** means all forms of intellectual property rights throughout the world including (present and future) but not limited to copyright, database rights, confidential information, know-how, trade secrets, registered patents, designs, trade marks, signs, distinctive marks, devices, models, formulae, graphs, photographs, drawings, business plans, methodologies, inventions, policies, records, memoranda and notes.

**Janison** means Janison Solutions Pty Ltd who are the owners of the Product. EduVision is a reseller of selected Janison products and services.

**Loss** includes claims, actions, proceedings, losses, damages, liabilities and costs (including legal expenses).

**Order** means an order from you for the purchase of the Product and Services from EduVision.

**Parent** means a parent or guardian of, or any person who is responsible for the care of, a Child. The parent is also responsible for the actions of the Child in relation to the Product and Services.

**Payment Receipt Date** means the date on which EduVision receives payment from you for the Product and Services.

**Personal Information** has the meaning given to that term in the Privacy Act.

**Price** means the price for the Product and Services as set out or referred to in the EduVision Online Enrolment Platform, at the time of your Order.

**Privacy Act** means the *Privacy Act 1988* (Cth), including the Australian Privacy Principles.

**Product** means the ICAS Tests that are offered by EduVision on behalf of Janison Solutions Pty Ltd who are the owners of the Product.

**Product Platform** means any online platform on or online format in which Janison makes the Product available.

**Product Site** means the ICAS Assessments website for the Product and/or Services, located at <https://www.icasassessments.com>.

**Refund Request Form** means the form that you must use to request a refund for a Product and/or Service and as provided by EduVision upon request.

**Required Data** means the data that Janison and EduVision require from you in order to set up your access to the Product and Services.

**Services** means the provision of services associated with the delivery of the Products to you.

**Sitting Period** means the period on which Sitzings are permitted by Janison.

**Test Event** means an ICAS test conducted by EduVision at our premises.

### 3. DESCRIPTION OF PRODUCT

ICAS Assessments are designed to recognise and reward academic excellence. Students are assessed on their ability to apply classroom learning to new contexts using higher-order thinking and problem-solving skills. ICAS Assessments are based on the curricula for the relevant school year and delivered exclusively in an online format.

### 4. WARRANTY

4.1 EduVision warrants that:

- 4.1.1 the Products and Services will be provided to you using all reasonable care and skill;
- 4.1.2 the Products and Services will be consistent with any industry best practices as would be expected in the trade; and
- 4.1.3 the delivery of the Products and Services will be undertaken in compliance with all applicable Australian laws, standards and industry regulations.

### 5. METHODS OF PURCHASING & CONTRACT

5.1 There is one method in which ICAS tests can be purchased from Eduvision for a child:

- 5.1.1 Registration and purchase on the EduVision Online Enrolment Platform. Bookings for an Assessment Session are available on a first-come-first-served basis. Once the maximum capacity is reached for a given subject,

additional booking windows may only be opened at Janison's discretion. No registration will be accepted after the registration closing dates advertised on EduVision's website.

- 5.1.2 You must ensure that your Child is available to attend on the date(s) and at the time(s) selected. Due to capacity limitations, an Alternative Assessment Session may not be possible. In such a circumstance, subject to Clause 11, a refund will not be provided.
- 5.2 These Terms and Conditions (Terms) apply when you submit an order for the supply of Products and Services by us on the EduVision Online Enrolment Platform.
- 5.3 This Contract is the entire agreement between EduVision and you in relation to the ICAS Tests. In accepting these Terms, you acknowledge that you have not relied on any warranties, representations or promises that are not set out in this agreement.

## **6. ACCEPTANCE**

- 6.1 Each item listed on our EduVision Online Enrolment Platform is an invitation for you to purchase that item.
- 6.2 When you finalise and submit an order, the placing of your order will be taken as your acceptance of these Terms and your offer for us to deliver the Services associated with your purchase order.
- 6.3 When you receive our confirmation email of your order, a contract will have been formed between you and Janison for the delivery of the Services which are subject to these Terms.

## **7. YOUR OBLIGATIONS**

- 7.1 It is your responsibility to ensure that:
  - 7.1.1 the information provided by you in your order is complete and accurate;
  - 7.1.2 you provide us with any information and materials that are reasonably required by us in order to supply you with the Services.
- 7.2 To use the Product, you must bring your own acceptable device for the Assessment. This includes having a supported internet browser. The technical requirements are provided in Attachment 2.
  - 7.2.1 Smartphones and the iPad mini cannot be used for the Assessment.
  - 7.2.2 For ICAS Writing, the Janison locked-down browser Replay must be installed before the Assessment.
  - 7.2.3 Requirements for setting up the device will be communicated to you via the methods described in Clause 14.
  - 7.2.4 It is your responsibility to bring an acceptable device set up as communicated in Clause 7.2.3 to complete the Assessment. Eduvision will not be responsible if your Child is unable to sit an Assessment because they do not have a compatible device.
- 7.3 If our ability to deliver the Products and perform the Services is prevented or delayed by any failure by you to fulfil the obligations in Clauses 7.1 and 7.2 (Obligation Failures),
  - 7.3.1 we will be entitled to suspend your access to the Product and Services until you remedy your Obligation Failures;
  - 7.3.2 we will not be responsible for any costs or losses you incur directly or indirectly as a result of your Obligation Failures; and
  - 7.3.3 it will be your responsibility to reimburse us on written demand for any costs or losses we sustain or incur arising directly or indirectly from your Obligation Failures.
- 7.4 If the Obligation Failures prevents or significantly delays the delivery of the Products and Services, we will be entitled to terminate the contract.

- 7.5 In the event that your Child requires any specific accessibility arrangement, the request must be made as soon as you are aware such an arrangement is required. Such a request may be made by emailing [info@eduvision.com.au](mailto:info@eduvision.com.au). We do not guarantee that all accessibility requirements can be accommodated and all requests will be considered on a case-by-case basis. All arrangements must comply with the requirements laid down by Janison.

## **8. FEES AND CHARGES**

- 8.1 The consideration for our Services is the price/s for the Products and Services and Administrative Fees set out on the EduVision Online Enrolment Platform and in these Terms.
- 8.2 Where appropriate, the following Fees may be charged:
- 8.2.1 A credit card surcharge of 2.25% if you use a credit card to make a purchase.
- 8.2.2 Fees charged by Janison and passed on by EduVision for Services associated with the test such as reprints of results or re-engraving of ICAS medals (see Attachment 3).
- 8.3 Administrative Fees and Order can be paid by:
- 8.3.1 Electronic Funds Transfer; or
- 8.3.2 Credit Card (Mastercard or Visa)
- 8.4 If you have elected to pay via Electronic Funds Transfer either for Administrative Fees or an Order:
- 8.4.1 EduVision will issue an invoice in respect of the Price; and
- 8.4.2 You must pay each invoice issued by EduVision to you within 5 days of the issuing of the invoice.
- 8.5 By making a purchase, you agree that you have carefully considered the Prices and Administrative Fees and have accepted them.
- 8.6 Janison retains the right to change Prices without notice. If that occurs, EduVision may, at its absolute discretion, pass on any price increase.

## **9. DELIVERY OF SERVICES**

- 9.1 EduVision delivers the Product and/or provides the Service to you on behalf of Janison. The Product and Services will only be delivered after we have received payment from you.
- 9.2 All students who participate will receive printed certificates of achievement. The highest performing students will have an opportunity to win medals, subject to determination by Janison. Students will not be eligible for a medal if the school the student attends offers ICAS assessments in the enrolled subject.

## **10. CANCELLATIONS BY JANISON**

- 10.1 Your order may be cancelled:
- 10.1.1 where the relevant product is not available or is no longer available; or
- 10.1.2 there is an error in the price or description of the product listed.
- 10.2 If your order is cancelled by Janison, a refund will be issued to you.

## **11. CANCELLATIONS, REFUNDS, CREDIT NOTES OR ALTERNATIVE SITTING PERIOD**

- 11.1 EduVision will provide a refund if:
- 11.1.1 we suffer unforeseen circumstances (such as a merger or closure) that render it impractical to conduct an Assessment during a Sitting Period, and no Alternative Sitting Period can practically be held, or we suffer a Force

Majeure Event under Clause 21.3, and

- 11.1.2 Janison accepts our request for a refund and the amount paid to Janison is refunded to EduVision.
- 11.2 If EduVision is unable to deliver an Assessment during a Sitting Period or an Alternative Sitting Period due to reasons within our reasonable control, we will provide a refund.
- 11.3 EduVision will not provide a refund if
  - 11.3.1 you have changed your mind about the purchase or have made an error in your purchase;
  - 11.3.2 you have provided false, inaccurate or unusable information; or
  - 11.3.3 you have breached any of the Terms.
- 11.4 If your Child is sick or is otherwise unable to sit the test at the scheduled Assessment Session, an Alternative Assessment Session will be provided.
  - 11.4.1 If your child cannot attend the Alternative Assessment Session, you may request a refund using the Refund Request Form. Supporting documentation (e.g. a medical certificate) must be provided.
- 11.5 All requests for a refund must be made using the Refund Request Form and submitted no later than 7 days after your Assessment Session.
- 11.6 EduVision will consider, at its absolute discretion, whether to grant a refund if it receives a Refund Request Form from you.

## **12. USE OF JANISON PRODUCTS**

- 12.1 You and your Child must:
  - 12.1.1 only use the Products through the interfaces provided by Janison for the purpose of conducting the Assessments purchased;
  - 12.1.2 use the Product, Product Platform and Services in accordance with any instructions provided to you and your Child;
  - 12.1.3 ensure that your Child meets the relevant Eligibility Criteria to sit the Assessment;
  - 12.1.4 at all times be solely responsible for the activity that occurs on your account and for all liabilities incurred through your account. We are not responsible for any unauthorised activity on the account. We reserve the right to refer fraudulent or abusive or illegal activity to the relevant authorities; and
  - 12.1.5 ensure that all hardware and firewall restrictions on your laptop do not prevent or limit access to the Product, Product Platform and Services in accordance with any instructions provided to you and your Child.
- 12.2 You and your Child must not:
  - 12.2.1 interfere or disrupt any technological protection measures on the Product Platform or in the Product;
  - 12.2.2 combine, integrate or otherwise use the Product or Product Platform with any other application, device, system or thing if this is not contemplated by any instructions provided to you and your Child;
  - 12.2.3 resell, reproduce, decompile or reverse-engineer the Product Platform or Product;
  - 12.2.4 use (or attempt to use) data mining, robots, screen scraping or similar data gathering and extraction tools;
  - 12.2.5 disclose any ID or password to any other person. If such disclosure has, or you believe that such disclosure may have, occurred (whether intentionally or accidentally), then you must immediately inform us; or
  - 12.2.6 make copies, sell, lend, borrow, upload, or distribute any of the tests or past papers, without prior written authorisation from Janison.



- 12.3 The Janison online assessment platform on which ICAS tests are delivered incorporates a number of tools that monitor test conditions. To ensure the integrity of ICAS Assessments, we reserve the right to investigate any fact or matter which we believe may have affected a Child's performance or eligibility for a medal.

### **13. ELIGIBILITY FOR MEDALS**

- 13.1 If the ICAS test subject and/or year level your Child is sitting at EduVision is not offered at your Child's school, the Child will be eligible to compete for a medal when sitting that test at EduVision.
- 13.2 Your Child may participate in ICAS in different locations (in their school and at EduVision). Your Child is eligible to compete for an ICAS medal for both sittings provided that the subjects sat at EduVision are not offered by the school at the Child's year level.
- 13.3 If your Child sat for the same ICAS test subject and year level at his/her school and subsequently at EduVision, only the results obtained from the ICAS test taken at their school will be eligible for a medal, provided that your Child has received a top score.

### **14. COMMUNICATION**

- 14.1 All our communication with you, including where notice is provided in relation to these Terms, will be done through the email address nominated by you upon registration.
- 14.2 Once you register to make purchases on the EduVision Online Enrolment Platform, EduVision may email or otherwise contact you from time to time in order to:
- 14.2.1 share information about our products and services; and
  - 14.2.2 invite you to participate in research, marketing and promotional activities we undertake.
- 14.3 You may opt out of receiving the communications referred to in Clause 14.2 at any time by emailing us at [info@eduvision.com.au](mailto:info@eduvision.com.au).

### **15. LIABILITY AND INDEMNITY**

#### **15.1 Disclaimer of Warranty**

To the maximum extent permitted by law but subject to Clause 15.2, EduVision excludes all implied representations, warranties, terms and conditions of any kind whatsoever (whether implied by common law, statute or otherwise) and the application or availability of any statutory rights (including any implied representations, warranties, terms or conditions or any statutory guarantees that the Products or Services are of satisfactory quality or fit for their purpose).

#### **15.2 Limitation of Liability**

- 15.2.1 Subject to Clause 15.3, neither party will be liable to the other party under or in respect of this Agreement for any consequential, indirect or special damages, regardless of whether that liability arises in contract, tort (including negligence), at common law, in equity, under statute, under an indemnity or otherwise howsoever arising.
- 15.2.2 To the maximum extent permitted by law, EduVision's total liability of any kind to you arising out of or related to this Agreement (including but not limited to warranty claims), regardless of the forum and regardless of whether any action or claim is based on contract, tort (including negligence or consequential loss), breach of statute or otherwise, will not exceed the total Price paid by you in respect of the Products and Services in the

immediately preceding 12 month period (determined as of the date of any final judgment in an action).

- 15.3 Nothing in this Contract is intended to have the effect of excluding, restricting or modifying the application of all or any of the provisions of the Australian Consumer Law (ACL) in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (ACL), or the exercise of a right conferred by such a provision, in relation to a failure by us to comply with a guarantee that applies under the ACL.

## **16. CONFIDENTIALITY & PRIVACY**

- 16.1 Janison will collect Personal Information from you for the purposes of:
- 16.1.1 delivering the Products and Services to you; and
  - 16.1.2 generating reports, conducting research and analysis and improving its Products and Services.
- 16.2 With respect to each Child who will sit an Assessment, we will need to collect the Personal Information of the Child and disclose such Personal Information to Janison for the purposes set out in Clause 16.1. Personal information includes the full name, date of birth and school year of your Child, your Child's school name and address, and your address, email and mobile phone number.
- 16.3 By completing the purchase, you agree that
- 16.3.1 you accept Janison's privacy collection statement as set out in Attachment 1 and
  - 16.3.2 you allow EduVision to provide your Child's Personal Information to Janison for the purposes set out in Clause 16.1.
- 16.4 Janison and EduVision will only collect, use and disclose Personal Information in accordance with the *Privacy Act* and *Australian Privacy Principles*.

## **17. INTELLECTUAL PROPERTY**

- 17.1 Janison owns, or is entitled to the use of, all copyright and other Intellectual Property Rights in the online and printed versions of the Product and the Product Platform.
- 17.2 You and your Child must not produce, transmit, communicate, adapt, distribute, license, sell, modify or publish or otherwise use, any part of the Product or Product Platform without our permission. This material includes, but is not limited to, the design, layout, look, text, appearance, images and the underlying computer code, whether the source code or object code.
- 17.3 You and your Child are prohibited from taking photographs, screen shots or otherwise copy the text/images of any test items (questions) that appear on the screen.
- 17.4 Unauthorised use of the Product or Product Platform or any materials in which intellectual property rights subsist may give rise to a claim for damages or criminal action.

## **18. TERMINATION**

- 18.1 In the event that you fail to pay the Price and other fees and charges 5 days after your order, EduVision shall be entitled to terminate this Agreement and to cancel your order. In such circumstances, you will be required to make a new order and complete the purchase in order to secure a place at an Assessment Session.
- 18.2 Termination of this Agreement does not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages for any breach of the Agreement that existed at or before the date of termination.



## **19. RESTRICTING YOUR ACCESS**

- 19.1 Janison may restrict your access to their site and EduVision may restrict your access to our site if:
- 19.1.1 there is a breach of the Terms listed here; or
  - 19.1.2 there is an emergency, and the site or sites need to be restricted as a response.

## **20. SURVIVAL OF TERMS**

- 20.1 Even after the Contract is completed and we have delivered the Services, Clauses 15–18 continue to apply.

## **21. MISCELLANEOUS**

### **21.1 Governing Law**

This Agreement is governed by the laws of New South Wales, Australia. The parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

### **21.2 Assignment**

You may not assign, transfer, novate or otherwise dispose of any or all of its rights and/or obligations under this Agreement without prior written consent from EduVision (which must not be unreasonably withheld).

### **21.3 Force Majeure**

- 21.3.1 We will not be liable or responsible for any failure to perform, or delay in the performance of, any of our obligations under the Contract that is caused by any act or event beyond our reasonable control (Force Majeure Event).
- 21.3.2 If a Force Majeure Event occurs that affects our obligations or performance, we will contact you as soon as reasonably possible to notify you of possible Alternative Assessment Sessions or to provide you with a refund, subject to Clause 11.1.

### **21.4 Changes to T&Cs**

We reserve the right to update and change these Terms as determined by us.

**ATTACHMENT 1 – Janison’s Privacy collection statement**

We are aware of our responsibility to protect the identity of, and all information relating to, children, and students in general, from disclosure and consequently Janison does not:

- collect any personal information or data of children other than as required for the purposes of completion of the assessment, test or exam;
- transfer any personal information or data obtained during the delivery of assessments, tests or exams conducted in Australia to any jurisdiction outside of Australia other than with the specific consent of the person, or his or her parent or guardian;
- transfer any personal information or data obtained during the delivery of assessments, tests or exams conducted in other international regions out of the child’s jurisdiction other than with the specific consent of the person, or his or her parent or guardian;
- share any personal information or data relating to children or students with any third parties (other than a third party whose services are necessary for servicing our products e.g. print/distribution companies, medal engraving, etc.) except with the specific consent of the person, or his or her parent or guardian;
- use any personal information or data relating to children or students for marketing purposes.

We may retain personal information and data relevant to a child for their future purposes or for research purposes by Janison for the duration of the school life-cycle of the child.

However, if you or your child at any time wish to have their personal information or data removed from our systems, they or you may opt out by simply contacting our Privacy Officer at [privacy@janison.com](mailto:privacy@janison.com).

## **ATTACHMENT 2 – Technical requirements**

To use the Product, you must bring your own acceptable device for the Assessment. This includes having a supported internet browser.

The following technical requirements have been provided by Janison to ensure that your Child has the best possible experience of the Assessment.

The following are acceptable devices:

- a laptop
- an Android tablet
- an iPad (but not an iPad Mini)
- a Chromebook (Chromebooks must be running as Managed Devices in Kiosk mode for assessments requiring the locked-down browser application i.e. ICAS Writing).

In order of preference, the following are supported internet browsers (with compatible OS):

- Chrome 28+ (Windows 7, 8, 10, Mac OSX, Chrome OS)
- Firefox 20+ (Windows 7, 8, 10, Mac OSX)
- Internet Explorer 11+ (Windows 7, 8, 10, Mac OSX)
- Safari 6+ (Mac OSX).

Note: An external keyboard or mouse is not necessary for students using a tablet.

### For ICAS Writing

- The latest version of the Janison Replay app (locked-down browser) must be installed.
- EduVision does not recommend using a tablet or iPad for ICAS Writing.

Requirements for setting up the device will be communicated to you closer to the Assessment Session via the methods described in Clause 14. You can also check the technical requirements at <https://www.icasassessments.com/support-technical-requirements/>.

**ATTACHMENT 3 – Schedule of Janison’s fees**

Fees charged by Janison and passed on by EduVision for Services associated with the test:

- There is a fee of \$40 for each reprinted document such as a reprint of the ICAS test results. Reprints may be requested for name corrections or if a certificate/report is damaged. Janison reserves the right to waive this fee. If the fee is waived by Janison, EduVision will similarly waive the fee.
- Medal re-issue due to errors with the name supplied to EduVision will incur a fee of \$200 (GST excl) for each medal plus a courier fee.