

Terms and conditions for NFER Tests and the NFER Tests Analysis Tool within the NFER Online Hub

Thank you for choosing to use NFER Tests and the NFER Tests Analysis Tool as part of your school's assessment approach. We are committed to providing an excellent service and to handling your data with the utmost care. We have outlined our terms and conditions of use within this document and request that you read these carefully.

This document governs your Agreement with the National Foundation for Educational Research (NFER) or its assignees, of The Mere, Upton Park, Slough, Berkshire, SL1 2DQ and sets forth the terms and conditions under which NFER provides the Products and/or Services to each participating establishment (School).

These terms and conditions constitute a binding Agreement between NFER and the School, constituted under English Law, on ordering NFER Tests and using the NFER Tests Analysis Tool within the NFER Online Hub.

1 Services to be provided:

NFER Tests including:

- Reading, mathematics or grammar and punctuation tests for years 3, 4 or 5 – autumn
- Reading, mathematics or grammar and punctuation tests for years 3, 4 or 5 – spring
- Reading, mathematics or grammar and punctuation tests for years 3, 4 or 5 – summer
- Reading and mathematics test for year 1 – spring
- Reading and mathematics test for year 1 – summer
- Reading and mathematics test for year 2 – autumn
- Reading and mathematics test for year 2 – spring
- Spelling tests for years 3, 4 and 5
- Reading, mathematics or grammar, punctuation, and spelling tests for year 6 – autumn
- Reading, mathematics or grammar, punctuation, and spelling tests for year 6 – spring
- Associated teacher guides for each of the tests as described above.

Access details to the NFER Online Hub will be sent to Schools following despatch of their first order of NFER Tests. Schools can add pupil and staff details to the system. Through the NFER Tests Analysis Tool, staff members can log in and record item or test level data for each pupil. A number of reports can then be generated showing progress and attainment against the national standardisation sample for the benefit of the school.

NFER, a registered charity, reserves the right to use the data held by the NFER Tests Analysis Tool for the purposes of research for the public benefit and the improvement of the assessments and the tool. If the school does not wish for its data to be used in this way, please opt out as directed below. Insights from the research done using data extracted from the NFER Tests Analysis Tool and NFER Online Hub will be shared with the education community.

2 Orders

By placing an order, you accept NFER's Terms and Conditions as they apply to orders and will be subject to those in force at the time of your order acceptance.

Orders are accepted at our discretion. It is your responsibility to ensure that all details provided are accurate. When placing your order, you are accepting these terms and conditions. Please note, NFER Products and Services are not available to non-school customers.

NFER will issue an invoice (or receipt in case of pre-payment by card). This will be our formal acceptance of your order. After this time cancellations will not be accepted and the full invoice amount is payable.

Orders made by Schools where payment for previous orders has not been made may be withheld until full payment of the debt is received.

3 Pricing

Pricing is available on the NFER website and prices are correct at the time of ordering; however we reserve the right to change prices without prior notice.

4 Payment

Unless otherwise stated within these terms and conditions, invoices must be paid within 30 days of the invoice date.

5 Postage and Packaging

Prices quoted exclude postage and packaging costs. These will vary according to your location and size of your order and will be added to the cost of your order.

6 Orders for delivery outside the UK

When ordering goods from NFER for delivery outside the UK you may be subject to import duties and taxes, which are levied once the package reaches the specified destination. Any additional charges for customs clearance must be borne by you; we have no control over these charges and cannot predict what they may be. Customs policies vary widely from country to country, so you should contact your local customs office for further information. Additionally, please note that when ordering from NFER, you are considered the importer of record and must comply with all laws and regulations of the country in which you are receiving the goods. Depending on the requirements of the receiving country, it may be necessary to provide a Certificate of Origin; the additional cost of this can be advised as this varies by country.

We would like our customers ordering goods from the NFER for delivery outside the UK to be aware that cross-border deliveries may be subject to opening and inspection by customs authorities.

Payment for non-UK orders must be received before goods will be dispatched.

7 Returns

We are able to accept returns within 30 days of the original order date. If you wish to return items, these must be in the original untampered packaging. We are unable to accept returns that have been defaced or marked.

Please note that we are unable to accept returns, unless faulty, after this 30 day period. In addition, we will only give refunds for the value of the items ordered and not postage and packaging costs. Courier arrangement and costs will be the customer's responsibility.

8 Cancellations

In certain limited circumstances, cancellations may be permitted at the sole discretion of NFER.

9 Delivery

Tests will be despatched within ten working days of acknowledgement of receipt of order for orders from the UK. Orders placed with NFER within ten working days of Christmas, Easter and Summer English school holidays will be delivered at the start of the following term, unless otherwise arranged between NFER and the school. Tests will also not be despatched during English school half term holidays. Holiday dates are available on NFER's website.

Orders from outside the UK will be despatched from the NFER as above, but the delivery time to the non-UK destination is beyond NFER's control.

10 Copyright

All materials, technical design, content, images and information, know-how, methodologies, and other intellectual property used in providing the Tests, including but not limited to the software design and content of the Online Hub, the Analysis Tool, Tests, administration instructions and letters are all copyright NFER and cannot be reproduced or used for any purpose other than that permitted and/or licenced by a single purchase of that Product or Service.

11 Confidentiality

All NFER staff, both permanent and temporary, are required to agree to conditions of service that include requirements to maintain the confidentiality and security of all data. On joining, NFER staff are provided with our Data Security Policy (available on request) and are directed towards the associated policies and procedures on the NFER intranet. All staff are required to sign and return a statement to HR confirming that they have read and will comply with them. They re-affirm this commitment annually following the update of the policy.

12 Security

All appropriate technical and organisational measures are in place to protect data. NFER is ISO/IEC 27001 certified (GB17/872763) which demonstrates that we have the policies, practices, procedures, organisational structures, and system functions to maintain the confidentiality, integrity, and availability of information. We also hold Cyber Essentials Plus (Certificate number IASME-CEP-004922). Data uploaded to the NFER Online Hub is encrypted at rest and in transit using HTTPS/TLS. Data in NFER products are securely stored within NFER and its hosting provider. We conduct an annual penetration test on our IT systems to ensure that they are secure and protected from malicious attack.

The technical and organisational security arrangements of any third parties who process personal data on NFER's behalf are assessed to ensure they are appropriate.

13 Privacy

NFER takes the privacy and security of your School's data very seriously. Our approach to data protection is set out in the data protection statement on our [website](#). Privacy notices for the sale of [NFER's educational resources](#) and use of the [NFER Online Hub](#) are available.

Your agreement to these terms and conditions is your written authorisation to the use of personal data in accordance with the relevant privacy notices in relation to our Products and Services.

If at any time you wish to access, withdraw, restrict, or object to its processing, or correct errors in it, please see section 9 of the NFER Online Hub Privacy Notice.

If you have a concern about the way personal data is processed as part of any of these services, please see section 11 of the NFER Online Hub Privacy Notice.

13.1 Data processing and the use of the NFER Online Hub

13.1.1 NFER Acting as a Processor

The NFER Online Hub allows Schools that have purchased NFER Tests to use the NFER Tests Analysis Tool to collate pupil and assessment data for the purpose of analysing test results and viewing reports.

Where Schools use the NFER Tests Analysis Tool for this purpose they are the controller and are responsible for data uploaded to the service.

13.1.1.1 Account creation

NFER uses, the name (forename and surname), role and email address of the member of staff receiving the delivery of paper-based tests ("**User Data**") to create and administer the initial School user account for the NFER Tests analysis tool.

The School is responsible for the creation of any additional user accounts required, including the provision of relevant User Data. The School can also suspend, delete, and modify user's accounts.

13.1.1.2 School use of the NFER Online Hub including the NFER Tests Analysis Tool

Any data uploaded to the Online Hub is at the discretion of the School.

The School is responsible for adding pupil data. **Pupil Data** includes for each pupil, pupil name, date of birth, class, unique pupil number (UPN) and gender. Schools can choose how much additional pupil data (for example, free-school meal status, any special education provision and ethnicity which shall be considered as Pupil Data) they upload alongside assessment outcomes. Some of the reporting built into the tool will not provide meaningful reports when this data is excluded. Schools must have the appropriate permissions in place before uploading any sensitive data to the Online Hub in accordance with data protection legislation.

In anticipation of continued use of this service by the School, data will be stored securely to allow progress measures to be shown. If a School's account is inactive for 12 months, it will be prompted to review any data uploaded to the hub. If the School no longer intends to use the hub and informs NFER, its account will be deleted by NFER 45 days after this point in time. Retention of pupil personal data extracted from the Tool for research purposes is covered in section 7 of the NFER Online Hub Privacy Notice.

When a school is the Controller and NFER the Processor, the following apply:

- NFER will only process personal data on a School's instruction unless that use is subject to clause 13.1.2, or otherwise required by law to act without such instruction.
- All NFER's staff are subject to a duty of confidentiality (see section 11).

- NFER has taken appropriate measures to ensure the security of relevant personal data (see section 12).
- The School provides NFER with a general authority to appoint sub-processors to process personal data on NFER's behalf. If NFER engage any new sub-processors, NFER will provide reasonable notice of the new sub-contractor prior to their appointment.
- All sub-processors have a written contract containing appropriate terms that are equivalent to the terms set out in this Agreement;
- NFER will provide the School with reasonable assistance:
 - to respond to requests from data subjects to exercise their rights under applicable data protection legislation
 - to meet the School's UK GDPR obligations in relation to the security of processing its personal data, the notification of personal data breaches and carrying out data protection impact assessments.
- NFER will make available, on request, to Schools purchasing Tests and using the NFER Tests Analysis Tool, any information that is necessary to demonstrate our compliance with the obligations in this Agreement. If a School wants to conduct an audit or inspection, we are happy for this to happen provided (1) the School gives NFER reasonable advance written notice, (2) such audit or inspection occurs on a normal business day during NFER's normal working hours and not more than once per 12 month period, and (3) any School personnel or representatives participating are subject to an appropriate contractual duty of confidentiality. NFER will also inform you, when you are the Controller, of any instructions we receive in relation to NFER's processing of your personal data, which do not comply with data protection legislation.

13.1.2 NFER Acting as a Controller

13.1.2.1 Sales and marketing of NFER Tests

NFER is the Controller in relation to personal data exchanged in relation to the sales and marketing of the NFER Tests and the NFER Online Hub. School contact details including contact names, email addresses and phone numbers provided by the School will be held on an NFER database and may be used to inform the School about related NFER research projects, Products and Services for sales and marketing purposes.

For the avoidance of doubt, please note that Pupil Data is not exchanged when purchasing NFER Tests.

Further details are provided in the Privacy notices for the sale of NFER educational resources.

13.1.2.2 NFER Research and Assessment Improvement Purposes:

NFER is the controller in relation to its processing of User Data and Pupil Data extracted from the NFER Online Hub to allow NFER to undertake its own research and assessment improvement purposes as described in the NFER Online Hub Privacy Notice

Any User Data and Pupil Data which is personal data will not be shared for the purpose of school accountability or for commercial usage. It will never be sold.

If you wish to opt out of sharing personal data for NFER's research and assessment improvement purposes, you may opt out of future extractions by writing to NFER at: National Foundation for Educational Research, Research Operations, The Mere, Upton Park, Slough, Berkshire, SL1 2DQ.

If an individual, or the School acting on their behalf, wishes to make a data subject access request, or to exercise an individual's rights under UK data protection legislation, see section 9 of the NFER Online Hub Privacy Notice for information about how to exercise those rights.

14 Licencing

Subject to the payment of the applicable NFER Tests invoice, NFER grants to the School a non-exclusive and non-transferable licence to the NFER Tests Analysis Tool within the NFER Online Hub in accordance with these Terms and Conditions. The licence is granted on an on-going basis and can be used by all School employees, once registered as a user. The licence can be terminated at any point by the School by contacting NFER. NFER can terminate the licence at any time by giving the School 3 months' notice or with immediate notice if there has been a serious breach of the terms of this Agreement

15 Permitted use

The School may use the NFER Tests Analysis Tool only for its own internal purposes. The School shall not use or permit a third party to use the web application or its content for any other purpose, including distribution or selling.

Any research reports shared with schools should be used in line with the terms set out [here](#).

16 Warranties

The NFER Tests Analysis Tool and NFER Online Hub cannot be tested in every possible combination and operating environment. The software may not operate in an uninterrupted manner on operating systems or browsers that do not meet the minimum technical requirement (Windows 8.1 and above, iOS11, IE11, Microsoft Edge and the latest versions of Google Chrome, Firefox, and Safari web browsers).

17 Products and Services Purchased

All materials, technical information, know-how, methodologies, and other intellectual property used in providing the Products and Services purchased by you are all copyright NFER and cannot be reproduced or used for any purpose other than that permitted by a single purchase of that product or service.

See above for more specific copyright information. If you are in any doubt on the permitted use, please contact us: enquires@nfer.ac.uk

18 Website Materials and Publications

For usage of NFER copyright protected material (re-use, distribution, or publication etc.), written permission is required. You can apply for permission via the NFER enquiries team (details below).

Some visual media on this website are licensed from third parties; others are the property of NFER. Any visual media that is the property of NFER may be reproduced in certain instances, but not without prior approval. If you wish to copy or use logos from this site, you must also contact us by email at enquiries@nfer.ac.uk, or in writing to: Enquiries, National Foundation for Educational Research, The Mere, Upton Park, Slough, Berkshire, SL1 2DQ

19 Force majeure

Where there is a delay or failure to deliver goods or services, or where damage or defect has occurred to goods that is due to circumstances beyond our control, NFER shall not be liable. This condition does not affect your statutory rights.

20 Law

This Agreement is governed by English law. You hereby irrevocably submit to the exclusive jurisdiction of the English courts, notwithstanding the jurisdiction where you are based.

21 Limitation of Liability

Subject to any relevant consumer protection legislation including our obligation under the Consumer Contracts Regulations (formerly Distance Selling Regulations) to give you a refund, if you cancel your contract, if we do not perform the contract within 30 days or to the agreed timescale, our liability for any breach of these terms and conditions shall be limited to the value of the goods ordered by you in the relevant transaction. The liability of NFER to the School whether in contract or in tort, arising from this Agreement shall be limited to the amount of the fees paid in the twelve months prior to the claim under this Agreement.

NFER shall have no liability to the School for any consequential, indirect loss, loss of profit, data, reputation, revenue, or goodwill whether in contract or in tort. To the fullest extent permissible by law, NFER excludes any implied conditions as to satisfactory quality and fitness for purpose and quality of Services or Products. The School warrants that it will not infringe the Copyright, intellectual property rights or the legal rights of NFER or any third party and where it does it shall fully indemnify NFER from all loss and liability arising from such breach of warranty including, without limitation, legal fees on an indemnity basis. No cap or limit of liability shall apply to this indemnity notwithstanding any other provision of this Agreement. Nothing in this Agreement shall exclude or limit the liability of one party to the other for death or personal

injury caused by its negligence or for fraudulent misrepresentation. The provisions of this clause shall survive termination of this Agreement from any cause.

22 Changes to Terms and Conditions and website

NFER reserves the right to make changes to their Terms and Conditions and their website.

On first accessing the NFER Online Hub you will be presented with and asked to accept NFER's Terms and Conditions in force at the time.

NFER may need to change these Terms and Conditions to reflect changes in the law or best practice or introduce or supplement them with specific terms that apply to how we provide our Products and Services.

We will give you at least 30 days' notice of any changes to the Terms and Conditions by sending you an email with details of the change or notifying you of a change when you next access the NFER Online Hub. Details of any changes will also be flagged within the tool itself.

If you do not accept the notified changes, you can contact NFER at products@nfer.ac.uk

Should the Terms and Conditions change after you have started using the NFER Tests Analysis Tool, NFER will notify your school of the change by email and/or within the tool.

If, for any reason, any of these Terms and Conditions is deemed invalid, void, or unenforceable, the validity and enforceability of any remaining condition shall not be affected.

23 Validity

By ordering this Product, you accept the terms and conditions. The terms and conditions are subject to change at any time and it is your responsibility to check these terms and conditions before ordering.