

Data Processing Agreement

This Data Processing Agreement ("**Agreement**") forms part of the Contract for Services ("**Principal Agreement**") between

(the "**Customer**") and

Sing Up, Gateshead International Business Centre, Mulgrave Terrace, Gateshead, NE8 1AN, United Kingdom

(the "**Data Processor**") (together as the "**Parties**")

WHEREAS

- (A) The Customer acts as a Data Controller.
- (B) The Customer wishes to subcontract certain Services, which imply the processing of personal data, to the Data Processor.
- (C) The Parties seek to implement a data processing agreement that complies with the requirements of the current legal framework in relation to data processing and with the UK General Data Protection Regulation (retained Regulation (EU) 2016/679).
- (D) The Parties wish to lay down their rights and obligations.

IT IS AGREED AS FOLLOWS:

1. Definitions and Interpretation

- 1.1 Unless otherwise defined herein, capitalised terms and expressions used in this Agreement shall have the following meaning:
 - 1.1.1 "**Agreement**" means this Data Processing Agreement and all Schedules;
 - 1.1.2 "**Customer Personal Data**" means any Personal Data Processed by a Contracted Processor on behalf of Customer pursuant to or in connection with the Principal Agreement;
 - 1.1.3 "**Contracted Processor**" means a Subprocessor;
 - 1.1.4 "**Data Protection Laws**" means UK Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;
 - 1.1.5 "**EEA**" means the European Economic Area;
 - 1.1.6 "**EU Data Protection Laws**" means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR;
 - 1.1.7 "**UK GDPR**" means UK General Data Protection Regulation.
 - 1.1.8 "**Data Transfer**" means:

- 1.1.8.1 a transfer of Customer Personal Data from the Customer to a Contracted Processor; or
- 1.1.8.2 an onward transfer of Customer Personal Data from a Contracted Processor to a Subcontracted Processor, or between two establishments of a Contracted Processor, in each case, where such transfer would be prohibited by Data Protection Laws (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Data Protection Laws);
- 1.1.9 **"Services"** means student access to the Sing Up platform.
- 1.1.10 **"Subprocessor"** means any person appointed by or on behalf of the Processor to process Personal Data on behalf of the Customer in connection with the Agreement.
- 1.2 The terms, **"Commission"**, **"Controller"**, **"Data Subject"**, **"Member State"**, **"Personal Data"**, **"Personal Data Breach"**, **"Processing"** and **"Supervisory Authority"** shall have the same meaning as in the UK GDPR, and their cognate terms shall be construed accordingly.

2. Processing of Customer Personal Data

- 2.1 Processor shall:
 - 2.1.1 comply with all applicable Data Protection Laws in the Processing of Customer Personal Data; and
 - 2.1.2 not Process Customer Personal Data other than on the relevant Customer's documented instructions.
- 2.2 The Customer instructs Processor to process Customer Personal Data.

3. Processor Personnel

- 3.1 Processor shall take reasonable steps to ensure the reliability of any employee, agent or contractor of any Contracted Processor who may have access to the Customer Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Customer Personal Data, as strictly necessary for the purposes of the Principal Agreement (Sing Up Terms and Conditions), and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

4. Security

- 4.1 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Processor shall in relation to the Customer Personal Data implement appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the UK GDPR.
- 4.2 In assessing the appropriate level of security, Processor shall take account in particular of the risks that are presented by Processing, in particular from a Personal Data Breach.

5. Subprocessing

- 5.1 The Processor may only authorise a third party (subcontractor) to process the personal data if:
 - 5.1.1 the Processor enters a written contract with the subcontractor that contains terms substantially the same as those set out in this Agreement, in particular, in relation to requiring appropriate technical and organisational data security measures, and, upon the Controller's written request, provides the Controller with copies of such contracts; and
 - 5.1.2 the Processor maintains control over all personal data it entrusts to the subcontractor; and
 - 5.1.3 the subcontractor's contract terminates automatically on termination of this Agreement for any reason.

6. Data Subject Rights

- 6.1 Taking into account the nature of the Processing, Processor shall assist the Customer by implementing appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer obligations, as reasonably understood by Customer, to respond to requests to exercise Data Subject rights under the Data Protection Laws.
- 6.2 Processor shall:
 - 6.2.1 promptly notify Customer if it receives a request from a Data Subject under any Data Protection Law in respect of Customer Personal Data; and
 - 6.2.2 ensure that it does not respond to that request except on the documented instructions of Customer or as required by Applicable Laws to which the Processor is subject, in which case Processor shall to the extent permitted by Applicable Laws inform Customer of that legal requirement before the Contracted Processor responds to the request.

7. Personal Data Breach

- 7.1 Processor shall notify Customer without undue delay upon Processor becoming aware of a Personal Data Breach affecting Customer Personal Data, providing Customer with sufficient information to allow the Customer to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the Data Protection Laws.
- 7.2 Processor shall co-operate with the Customer and take reasonable commercial steps as are directed by Customer to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

8. Data Protection Impact Assessment and Prior Consultation

- 8.1 Processor shall provide reasonable assistance to the Customer with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which Customer reasonably considers to be required by article 35 or 36 of the UK GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to Processing of Customer Personal Data by, and taking into account the nature of the Processing and information available to, the Contracted Processors.

9. Deletion or return of Customer Personal Data

9.1 Subject to this section 9 Processor shall promptly and in any event within 6 months of the date of cessation of any Services involving the Processing of Customer Personal Data (the "Cessation Date"), delete and procure the deletion of all copies of those Customer Personal Data.

10. Audit rights

10.1 Subject to this section 10, Processor shall make available to the Customer on request all information necessary to demonstrate compliance with this Agreement, and shall allow for and contribute to audits, including inspections, by the Customer or an auditor mandated by the Customer in relation to the Processing of the Customer Personal Data by the Contracted Processors.

10.2 Information and audit rights of the Customer only arise under section 10.1 to the extent that the Agreement does not otherwise give them information and audit rights meeting the relevant requirements of Data Protection Law.

11. Data Transfer

11.1 The Processor may not transfer or authorise the transfer of Data to countries outside the UK and/or the European Economic Area (EEA) without the prior written consent of the Customer. If personal data processed under this Agreement is transferred from a country within the European Economic Area to a country outside the European Economic Area, the Parties shall ensure that the personal data are adequately protected. To achieve this, the Parties shall, unless agreed otherwise, rely on UK International Data Transfer mechanisms or EU approved standard contractual clauses for the transfer of personal data.

12. General Terms

12.1 **Confidentiality.** Each Party must keep this Agreement and information it receives about the other Party and its business in connection with this Agreement ("**Confidential Information**") confidential and must not use or disclose that Confidential Information without the prior written consent of the other Party except to the extent that:

- (a) disclosure is required by law;
- (b) the relevant information is already in the public domain.

12.2 **Notices.** All notices and communications given under this Agreement must be in writing and will be delivered personally, sent by post to the address set out in the heading of this Agreement at such other address as notified from time to time by the Parties changing address.

13. Governing Law and Jurisdiction

13.1 This Agreement is governed by the laws of the United Kingdom.

13.2 Any dispute arising in connection with this Agreement, which the Parties will not be able to resolve amicably, will be submitted to the exclusive jurisdiction of the courts of the United Kingdom, subject to possible appeal.