

Parentikind

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DATA PROCESSING AGREEMENT

Definitions

In this Data Processing Agreement:

Applicable Law means:

- (a) any law, statute, regulation, byelaw or subordinate legislation in force from time to time to which a party is subject and/or in any jurisdiction that the Services are provided to or in respect of;
- (b) the common law and laws of equity as applicable to the parties from time to time;
- (c) any binding court order, judgment or decree;
- (d) any applicable direction, policy, rule or order that is binding on a party and that is made or given by any regulatory body having jurisdiction over a party or any of that party's assets, resources or business;

Complaint means a complaint or request relating to either party's obligations under Data Protection Laws relevant to this Agreement, including any compensation claim from a Data Subject or any notice, investigation or other action from a Supervisory Authority;

Data Controller has the meaning given to that term (or to the term 'controller') in Data Protection Laws;

Data Processor has the meaning given to that term (or to the term 'processor') in Data Protection Laws;

Data Protection Laws means any Applicable Law relating to the processing, privacy, and use of Personal Data, as applicable to the Client, the Contractor and/or the Services, including:

- (a) in the United Kingdom:
 - (i) the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003, SI 2003/2426, and any laws or regulations implementing Directive 95/46/EC (**Data Protection Directive**) or Directive 2002/58/EC (**ePrivacy Directive**); and/or
 - (ii) the General Data Protection Regulation (EU) 2016/679 (**GDPR**), and/or any corresponding or equivalent national laws or regulations (**Revised UK DP Law**);
- (b) in member states of the European Union: the Data Protection Directive or the GDPR, once applicable, and the ePrivacy Directive, and all

relevant member state laws or regulations giving effect to or corresponding with any of them; and

- (c) any judicial or administrative interpretation of any of the above, any guidance, guidelines, codes of practice, approved codes of conduct or approved certification mechanisms issued by any relevant Supervisory Authority;

Data Subject	has the meaning given to that term in Data Protection Laws;
Data Subject Request	means a request made by a Data Subject to exercise any rights of Data Subjects under Data Protection Laws;
International Organisation	means an organisation and its subordinate bodies governed by public international law, or any other body which is set up by, or on the basis of, an agreement between two or more countries;
International Recipient	has the meaning given to that term in clause 6.1;
Personal Data	has the meaning given to that term in Data Protection Laws;
Personal Data Breach	means any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, any Protected Data;
processing	has the meanings given to that term in Data Protection Laws (and related terms such as process have corresponding meanings);
Processing Instructions	has the meaning given to that term in clause 2.1.1;
Protected Data	means Personal Data received from or on behalf of the Client, or otherwise obtained in connection with the performance of the Contractor's obligations under this Agreement; and
Supervisory Authority	means any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Data Protection Laws.

Specific interpretive provision(s)

In this Agreement:

- (a) references to any Applicable Laws (including to the Data Protection Laws and each of them) and to terms defined in such Applicable Laws shall be replaced with or incorporate (as the case may be) references to any Applicable Laws replacing, amending, extending, re-enacting or consolidating such Applicable Law (including particularly the GDPR and/or the Revised UK DP Law) and the equivalent terms defined in such Applicable Laws, once in force and applicable;
- (b) a reference to a law includes all subordinate legislation made under that law; and

(c) clauses 1 to 10 (inclusive) shall survive termination (for any reason) or expiry of this Agreement (or of any of the Services).

Data processing provisions

1 Data Processor and Data Controller

- 1.1 The parties agree that, for the Protected Data, the Client shall be the Data Controller and the Contractor shall be the Data Processor.
- 1.2 The Contractor shall comply with all Data Protection Laws in connection with the processing of Protected Data, the Services and the exercise and performance of its respective rights and obligations under this Agreement.
- 1.3 The Client shall comply with all Data Protection Laws in respect of the performance of its obligations under this Agreement.

2 Instructions and details of processing

- 2.1 Insofar as the Contractor processes Protected Data on behalf of the Client, the Contractor:
 - 2.1.1 unless required to do otherwise by Applicable Law, shall (and shall ensure each person acting under its authority shall) process the Protected Data only on and in accordance with the Client's documented instructions as set out in this clause 2 and the Schedule (Data Processing Details), and as updated from time to time by the written agreement of the parties (**Processing Instructions**); and
 - 2.1.2 if Applicable Law requires it to process Protected Data other than in accordance with the Processing Instructions, shall notify the Client of any such requirement before processing the Protected Data (unless Applicable Law prohibits such information on important grounds of public interest).
- 2.2 The Contractor shall immediately inform the Client in writing if, in the Contractor's opinion, a Processing Instruction infringes the Data Protection Laws or any other Applicable Laws relating to data protection and explain the reasons for its opinion, provided that this shall be without prejudice to clause 1.2.
- 2.3 The processing to be carried out by the Contractor under this Agreement shall comprise the processing set out in the Schedule (Data Processing Details), and such other processing as agreed by the parties in writing from time to time.

3 Technical and organisational measures

- 3.1 The Contractor shall implement and maintain, at its cost and expense, appropriate technical and organisational measures in relation to the processing of Protected Data by the Contractor:
 - 3.1.1 such that the processing will meet the requirements of Data Protection Laws and ensure the protection of the rights of Data Subjects;
 - 3.1.2 so as to ensure a level of security in respect of Protected Data processed by it that is appropriate to the risks that are presented by the processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise processed; and

- 3.1.3 without prejudice to clause 5.1, insofar as is possible, to assist the Client in the fulfilment of the Client's obligations to respond to Data Subject Requests relating to Protected Data.
- 3.2 Without prejudice to clause 3.1, the Contractor shall, in respect of the Protected Data processed by it under this Agreement comply with the requirements regarding security of processing set out in Data Protection Laws (as applicable to Data Processors) and in this Agreement.

4 Using staff and other processors

- 4.1 The Contractor shall not engage another Data Processor (or any replacement) for carrying out any processing activities in respect of the Protected Data without the Client's prior written consent.
- 4.2 The Contractor shall ensure that the Contractor Personnel and all other persons authorised by it, or by any person acting on its behalf (including by any Data Processor pursuant to clause 4.1), to process Protected Data are subject to a binding written contractual obligation with the Contractor to keep the Protected Data confidential (except where disclosure is required in accordance with Applicable Law, in which case the Contractor shall, where practicable and not prohibited by Applicable Law, notify the Client of any such requirement before such disclosure).
- 4.3 Without prejudice to any other provision of clauses 1 to 10 (inclusive), the Contractor shall ensure that the Contractor Personnel processing Protected Data are reliable and have received adequate training on compliance with clauses 1 to 10 (inclusive) and the Data Protection Laws applicable to the processing.
- 4.4 The Contractor shall ensure that access to Protected Data is limited to the authorised persons who need access to it to supply the Services.

5 Assistance with the Client's compliance and Data Subject rights

- 5.1 The Contractor shall (at no cost to the Client):
 - 5.1.1 promptly record and then refer all Data Subject Requests it receives to the Client within three days Business Days of receipt of the request;
 - 5.1.2 provide such information and cooperation and take such action as the Client reasonably requests in relation to each Data Subject Request, within the timescales reasonably required by the Client; and
 - 5.1.3 not respond to any Data Subject Request or Complaint without the Client's prior written approval.
- 5.2 Without prejudice to clause 2.1, the Contractor shall, at its cost and expense, provide such information, co-operation and other assistance to the Client as the Client reasonably requires (taking into account the nature of processing and the information available to the Contractor) to ensure compliance with the Client's obligations under Data Protection Laws, including with respect to:
 - 5.2.1 security of processing;
 - 5.2.2 data protection impact assessments (as such term is defined in Data Protection Laws);
 - 5.2.3 prior consultation with a Supervisory Authority regarding high risk processing; and

- 5.2.4 any remedial action and/or notifications to be taken in response to any Personal Data Breach and/or Complaint, including (subject in each case to the Client's prior written authorisation) regarding any notification of the Personal Data Breach to Supervisory Authorities and/or communication to any affected Data Subjects.

6 International data transfers

- 6.1 The Contractor shall not transfer any Protected Data to any country outside the European Economic Area or to any International Organisation (an **International Recipient**) without the Client's prior written consent.

7 Records, information and audit

- 7.1 The Contractor shall maintain complete, accurate and up to date written records of all categories of processing activities carried out on behalf of the Client, containing such information as the Client may reasonably require, including:
- 7.1.1 the name and contact details of the Data Processor(s) and of each Data Controller on behalf of which the Data Processor is acting, and of the Contractor's representative and data protection officer (if any);
 - 7.1.2 the categories of processing carried out on behalf of each Data Controller;
 - 7.1.3 where applicable, details of transfers of Protected Data to an International Recipient; and
 - 7.1.4 a general description of the technical and organisational security measures referred to in clause 3.1.
- 7.2 The Contractor shall make available to the Client on request in a timely manner:
- 7.2.1 copies of the records under clause 7.1; and
 - 7.2.2 such other information as the Client reasonably requires to demonstrate the Contractor's and the Client's compliance with their respective obligations under Data Protection Laws and this Agreement.
- 7.3 The Contractor shall at no cost to the Client:
- 7.3.1 allow for and contribute to audits, including inspections, conducted by the Client or another auditor mandated by the Client for the purpose of demonstrating compliance by the Contractor and the Client with their respective obligations under Data Protection Laws and under clauses 1 to 10 (inclusive); and
 - 7.3.2 provide (and procure) reasonable access for the Client or such other auditor (where practicable, during normal business hours) to:
 - (a) the facilities, equipment, premises and sites on which Protected Data and/or the records referred to in clause 7.1 are held, and to any other equipment or facilities used in the provision of the Services (in each case whether or not owned or controlled by the Contractor); and
 - (b) to the Contractor Personnel,
provided that the Client gives the Contractor reasonable prior notice of such audit and/or inspection.
- 7.4 If any audit or inspection reveals a material non-compliance by the Contractor with its obligations under Data Protection Laws or a breach by the Contractor of any of clauses 1 to

10 (inclusive), the Contractor shall pay the reasonable costs of the Client or its mandated auditors, of the audit or inspection.

7.5 The Contractor shall promptly resolve, at its own cost and expense, all data protection and security issues discovered by the Client and reported to the Contractor that reveal a breach or potential breach by the Contractor of its obligations under any of clauses 1 to 10 (inclusive).

7.6 The Client shall be entitled to share any notification, details, records or information provided by or on behalf of the Contractor under any of clauses 1 to 10 (inclusive) (including under clauses 7 or 8) with its professional advisors and/or the Supervisory Authority.

8 Breach notification

8.1 In respect of any Personal Data Breach, the Contractor shall:

8.1.1 notify the Client of the Personal Data Breach without undue delay; and

8.1.2 provide the Client without undue delay with such details as the Client reasonably requires regarding:

- (a) the nature of the Personal Data Breach, including the categories and approximate numbers of Data Subjects and Protected Data records concerned;
- (b) any investigations into such Personal Data Breach;
- (c) the likely consequences of the Personal Data Breach; and
- (d) any measures taken, or that the Contractor recommends, to address the Personal Data Breach, including to mitigate its possible adverse effects.

9 Deletion or return of Protected Data and copies

9.1 The Contractor shall (and shall ensure that all persons acting on its behalf and all Contractor Personnel shall) without delay, at the Client's written request, either securely delete or securely return all the Protected Data to the Client in such form as the Client reasonably requests after the earlier of:

9.1.1 the end of the provision of the relevant Services related to processing of such Protected Data; or

9.1.2 once processing by the Contractor of any Protected Data is no longer required for the purpose of the Contractor's performance of its relevant obligations under this Agreement,

and securely delete existing copies (unless storage of any data is required by Applicable Law and, if so, the Contractor shall inform the Client of any such requirement).

THE SCHEDULE
DATA PROCESSING DETAILS

1 Subject-matter of processing:

Personal Data stored by Data Controller and its members in the Parentkind document storage area of the member area

2 Duration of the processing

Until the Data Controller deletes the data

3 Nature and purpose of the processing

File Storage Only

4 Type of Personal Data

Any provided by the controller at their discretion within the terms and conditions of the site

5 Categories of Data Subjects

Not Applicable

6 Processing Instructions

To Store Documents on the Controllers behalf

ACKNOWLEDGED AND AGREED

PTA/Association Name _____

Membership Number _____

School Post Code _____

Signed: _____

Print Name: _____

Title _____

Date _____

Parentkind

Signed: _____

Print Name: GDJ Stone

Title: Finance & Operations Director

Date: 19/04/2018