Applicaa Ltd Terms and Conditions

1. Definitions

"**Agreement**" means the contract of supply between Applicaa and Customer relating to the Products subject to these conditions.

"**Assignee**" means a party to which Applicaa may assign its rights, title and interest in and to the Products and all payments due under the Agreement which shall include the right to enforce the cost of all the sums due under this Agreement.

"**Authorised Users**" means those users authorised by the Customer to use the Applicaa software.

"**Applicaa Software**" see "**Software**"

"**Applicaa**" or "**Company**" means Applicaa Ltd

"**Content**" means any content or material, whether of an audio or visual nature, which is accessible to a User, Users or Third Party via the System, which may include but is not limited to words, pictures, blogs, comments, reports, case studies, lesson plans, home work, programmes and podcasts;

"**Contract Start Date**" or "**Renewal start date**" means the date that Applicaa commits resources to the contract and is the same as the Customer's purchase order date;

"**Contract**" means each Order Form entered into between the parties relating to the provision of Service(s) by Applicaa to the Institution (which shall be deemed made subject to the Conditions) and the Supplemental Terms (if any) including for the Initial Licence Period;

"**Controller**" refers to the Data Controller which for the purpose of this document means the school, or Multi Academy Trust.

"**Customer**" **or "Institution"** means the school, academy, dealer, distributor or other entity that is a party to this contract with Applicaa.

"**Data Protection Legislation**" all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended;

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"**Delivery Date**" means the date specified in the Order Acknowledgement for delivery of any Products. This data may be varied from time to time in respect of any Product by Applicaa giving notice to Customer.

"**Help Desk**" is the Applicaa Help Desk which provides help and guidance by telephone, email or other means to the Customer subscribing to the Help Desk service. Applicaa Help Desk provides help and guidance in the understanding of the Software, in the use of the Software and with any problems experienced using the Software such help and guidance includes the examination of and the provision of a solution to any reported problems with the Software.

"**Order Acknowledgement**" or "Invoice" means Applicaa's Order Acknowledgement or Invoice acknowledging and accepting a purchase order from a Customer subject to these terms.

"**Other Software**" means any platforms and products from which you import, or export data to such as MIS, or analytics layers.

"**Products**" and or **"Website"** means the Applicaa Software and services provided in the Agreement

"**SaaS**" means Software provided to the Customer as a Service in the form of "Software as a Service". The Software is hosted and maintained on behalf of Applicaa and made available for use by the Customer from a Web Site Address that shall be notified to the Customer.

"**Software**" or "Applicaa Software" means the computer programmes created by Applicaa or on its behalf and accompanying documentation specified in the Order Acknowledgement together with any subsequent releases or updates of those programmes (contracted for by the Customer) or documentation from time to time supplied or licenced by Applicaa to Customers. Software is a licenced instalment to use as SaaS.

"**Warranty Period**" and "Warrant Claim Amount" means in relation to each item of Applicaa Software the period of the contract term and any warranty claim amount is limited to the purchase price paid by the software's customer.

2. The Contract

2.1 The contract is considered initiated either upon the signature of the relevant Order Form by the Institution or when Applicaa makes the related service available to the Institution, whichever comes first.

2.1.1 In the event of payments being missed or delayed, Applicaa reserves the right to suspend training and/or suspend the platform.

2.1.2 You must agree to begin your setup within 30 days of the subscription commencement other than by prior, written agreement of the Customer Team leader.

2.1.3 You must agree to engage with the recommended training.

2.2 In case of conflicts, the order of precedence is established as follows: (a) Supplemental Terms, (b) Order Form, (c) Conditions outlined in this section, and (d) Terms of Use.

2.3 The System is licensed, and Training is provided under the conditions outlined in this section. These conditions are the sole terms applicable to the Institution's use of the System or any Service, and terms from the Institution's documents are not binding.

2.4 If the Institution or an individual User does not agree to the Terms of Use, any contract with Applicaa will terminate immediately.

2.5 The Institution, by entering into the contract, represents and warrants that it has the necessary authority to do so. No representative, agent, or person has the authority to alter these conditions unless signed in writing by a Director of Applicaa Ltd.

2.6 The Institution can order additional services by agreeing to a new Order Form.

2.7 Applicaa reserves the right to modify terms, and if it does, it will inform the Institution at least 30 days in advance. The Institution's continued use of the services after this period implies acceptance of the modifications. If the Institution disagrees, it can provide written notice, and Applicaa may then choose to either terminate the contract or allow continued use until the next Renewal start date, at which point the updated terms apply.

2.8 Applicaa may engage subcontractors or third-party agents to provide services to the Institution.

2.9 Applicaa reserves the right to increase licence costs in line with RPIX and to reflect upgrades to the software. Price increases will occur once per year on 1st January or on the Renewal Start date. However, if you are on a three-year contract then the price that you initially purchase Applicaa for will be honoured for the duration of the contract, plus any increase due to changes in RPIX.

It's important to note that this is a legal document, and the specific details and implications of each point should be thoroughly reviewed and understood by the parties involved before entering into the contract. Legal advice may be sought to ensure complete comprehension of the terms and conditions outlined.

3. Term to use Applicaa and other software

Upon full payment and subject to your compliance with these Terms and Conditions, including the "Prohibited Activities" section below, we grant you non-exclusive, non-transferable, revocable licence to:

- Access to Applicaa Software

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- Download or print any portion of the Content to which you have properly gained access.

Except as set out in this section or elsewhere in our Terms and Conditions, you shall not sell, lease, hire or otherwise part with any part of, or part with their access rights to, Applicaa or other Software and/or associated documentation nor act as a bureau service to a third party by using the facilities of Applicaa or other software to produce information for third parties, nor attempt, nor allow third parties to attempt to copy, decompile, or reverse engineer Applicaa or Other Software, nor permit any third party to use Applicaa or Other Software and/or documentation either on behalf of Customer or for the benefit of any third party and undertakes not to make Applicaa or Other Software available in any way to any party unless authorised by Applicaa.

3.1. Applicaa Software Warranties

Applicaa supplies "Off the Shelf" also known as "Commercial Off the Shelf" software that is configurable and does NOT supply "custom written", or "specifically written" software" unless specifically otherwise agreed in writing.

Applicaa warrants that the latest version of the Software which it delivers to the Customer shall operate generally in accordance with the software description and/or the software upgrade notification and with any Software manuals, which may form part of the documentation supplied with such Software. Whilst no software from any supplier can be said to be error-free, Applicaa's obligation under this warranty shall be to use reasonable endeavours to correct any faults that are found and reported in accordance with its Software annual maintenance procedures and routines.

3.2 Applicaa provides the Software's annual maintenance service as a compulsory part of the licencing of the Software. The payment of a Software annual maintenance fee by Customers includes Software annual maintenance (including but not limited to the fixing of bugs, the provision of necessary software updates as a result of statutory changes imposed by the Department for Education (in England), the review and rearrangement of software modules, etc) the Software licence fee, a hosting fee for SaaS Software, the Customer Care service and the Help Desk service.

For invoicing purposes, the first period of Software annual maintenance covers the period from the effective date of the Agreement for such a period of one year after the effective date. Year one of the Software year starts on the date of signature by the Institution of the relevant Purchase Order Form, or when we make the relevant service available to the Institution, whichever is earlier.

4. Terms of Use

4.1 Accessing the Applicaa Website and Products. You may access and use some areas of the Applicaa Website and Products as a Visitor. However, certain areas of the Applicaa Website are only accessible to you if you are an Applicant, Teacher (Customer), Other Staff Member (Customer) or Referee.

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4.1.1 By using the Applicaa Website and Products, you confirm that you accept these Terms of Use and that you agree to comply with them.

4.1.2 If you do not agree to these Terms of Use, you must not use the Applicaa Website and Products

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4.2 We may make changes to the Applicaa Website and Product. We may update and change the Applicaa Website from time to time to reflect changes to, for example, our users' needs or technical, operational or other business priorities.

4.3 We may suspend or withdraw the Applicaa Website and Products. We do not guarantee that the Applicaa Website and Products, or any content on it, will always be available or be uninterrupted. We may suspend or withdraw or restrict the availability of all or any part of the Applicaa Website for business, technical and/or operational reasons. We will try to give you reasonable notice of any suspension or withdrawal.

4.3.1 We will not be liable to you if, for any reason, the Applicaa Website is unavailable at any time.

4.4 You must keep your account details safe.

4.4.1 If you choose, or you are provided with, a username, password or any other piece of information as part of our security procedures, you must treat such information as confidential. You must not disclose it to any third party.

4.4.2 We have the right to disable any user identification code, username or password, whether chosen by you or allocated by us, at any time, if in our reasonable opinion you have failed to comply with any of the provisions of these Terms of Use.

4.4.3 If you know or suspect that anyone other than you knows your user identification code, username or password, you must promptly notify us.

4.5 Do not rely on the information on the Applicaa Website. The content which we provide on the Applicaa Website is provided for general information only. It is not intended to amount to advice on which you should rely. You must obtain professional or specialist advice before taking, or refraining from, any action on the basis of the content on the Applicaa Website.

4.5.1 Although we make reasonable efforts to update the information on the Applicaa Website, we make no representations, warranties or guarantees, whether express or implied, that the content on the Applicaa Website is accurate, complete or up to date.

4.6 We are not responsible for websites we link to

4.6.1 Where the Applicaa Website contains links to other sites and resources provided by third parties, these links are provided for your information only. We have no control over the contents of those sites or resources.

Date updated 29/02/2024

4.6.User generated content is not approved by us.

4.6.1 The Applicaa Platform may include information and materials uploaded by Applicants, Teachers, Other School Staff or Referees, including personal data in relation to the Applicants application, records of interactions, opinions and comments. This information and these materials have not been verified or approved by us. The views expressed by Applicants, Teachers, Other School Staff or Referees on the Applicaa Website do not represent our views or values.

4.6.2 If you wish to complain about information and materials uploaded by Applicants, Teachers, Other School Staff or Referees please contact us.

4.7 Uploading content to the Applicaa Platform

4.7.1 Whenever you make use of a feature that allows you to upload content to the Applicaa Platform, or to otherwise make content available to other Applicants, Teachers, Other School Staff and/or Referees, you must comply with the content standards in our Acceptable Use Policy.

4.7.2 We have the right to remove any content you post or upload to the Applicaa Platform if, in our opinion, that content does not comply with the content standards set out in our Acceptable Use Policy.

4.7.3 When you submit comments, opinions or other feedback to us about the Applicaa Website, you agree that we can use and share (but do not have to) such feedback for any purpose without compensation to you.

4.6 We are not responsible for viruses and you must not introduce them

4.6.1 We do not guarantee that the Applicaa Website will be secure or free from bugs or viruses. You should use your own virus protection software.

4.6.2 You must not misuse the Applicaa Website by knowingly introducing viruses, trojans, worms, logic bombs or other material that is malicious or technologically harmful. You must not attempt to gain unauthorised access to the Applicaa Website, the server on which the Applicaa Website is stored or any server, computer or database connected to the Applicaa Website. You must not attack the Applicaa Website via a denial-of-service attack or a distributed denial-of service attack. By breaching this provision, you would commit a criminal offence under the Computer Misuse Act 1990. We will report any such breach to the relevant law enforcement authorities and we will co-operate with those authorities by disclosing your identity to them. In the event of such a breach, your right to use the Applicaa Website will cease immediately.

4.6.3 To the fullest extent permissible by law, we will not be liable to you for any loss or damage caused by a distributed denial-of-services attack, viruses, or other technologically harmful material that may infect your computer equipment, computer programmes, data or other proprietary material due to your use of the Applicaa Website or to your downloading of any material posted on it, or any linked website.

4.7 Rules about linking to the Applicaa Website

Date updated 29/02/2024

4.7.1 You may link to our home page or sign-in page, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it.

4.7.2 You must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part where none exists.

4.7.3 You must not establish a link to the Applicaa Website in any website that is not owned by you.

4.7.4 The Applicaa Website must not be framed on any other website, nor may you create a link to any part of our site other than the home page.

4.7.4 We reserve the right to withdraw linking permission without notice.

5. Prohibited Activities

5.1.1 As a Customer of Applicaa, you may only use the Software for lawful purposes. When using the Software, you must not:

5.1.2 use, sell, lease, hire or otherwise make available in any way, any software developed by Customer, and person(s) acting on behalf of the Customer, which is dependent or integrates with Applicaa and Other Software unless a written agreement has been obtained from Applicaa.

5.1.3 decrypt, extract, disassemble, reverse-engineer or decompile the Software

5.1.4 use the Software in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect

5.1.5 include any portion of the Software in any other software programme

5.1.6 develop methods to enable unauthorised parties to use the Software

5.1.7 create any modifications or derivative works directly or indirectly using the Software, or components thereof

5.1.8 knowingly transmit any data, send or upload any material that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programmes or similar computer code designed to adversely affect the operation of any computer software or hardware of the Website

5.1.8 damage, interfere with or disrupt the Software in any way

5.1.9 use the Software or information obtained from the Software to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam)

5.1.10 use the Software for any purpose that is unlawful, improper or illegal, or in breach of any, or for the purpose of breaching any, law

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5.1.11 use the Software in a way which infringes the rights of or harasses anyone else, is harmful to, or otherwise restricts or inhibits anyone else's use and enjoyment of the Software

5.1.12 use the Software to impersonate any person or entity or falsely state or misrepresent your affiliation with a person or entity

5.1.13 use the Software for the purpose of harming or attempting to harm minors in any way

5.1.14 use contact details obtained using the Software to harass any person

5.1.15 use contact details obtained using the Software for any reason other than for the purpose that this data was shared with the customer

5.1.16 provide a login/account to adults who do not require access in line with their defined role within the organisation

5.2 Access to the Software is permitted on a temporary basis, and we reserve the right to withdraw or amend the service we provide on our Software without notice. We will not be liable if for any reason the Software is unavailable at any time or for any period.

5.3 We will use our reasonable endeavours to make the Software available but cannot guarantee that the Software will operate continuously or without interruption or be error-free. You must not attempt to interfere with the proper working of the Software and, in particular, you must not attempt to circumvent security, tamper with, hack into, or otherwise disrupt any computer system, server, website, router or any other internet connected device. You are also advised to use the appropriate antivirus software before and during access to the Software.

5.4 We reserve the right, at any time and for any reason or none, to suspend or terminate your access to, or use of, the Software, or any part thereof. We may also restrict access to some parts of our Software to users who have registered with us.

5.5 Where you choose or are provided with a Personal ID, code, password or any other piece of information as part of our security procedures, you must treat such information as confidential, and you must not disclose it to any third party. Please ensure that you log off when not using the Software and ensure that devices which you use to access the Software are securely locked when not in your possession. You must notify us if you suspect there has been any unauthorised use of your Personal ID, code or password or any other breach of security.

5.6 We have the right to disable any Personal ID, code or password, whether chosen by you or allocated by us, at any time, if in our opinion you have failed to comply with any of the provisions of these Terms. We will not be liable for any loss or damage whatsoever resulting from the disclosure of your Personal ID, code or password contrary to these Terms.

6. Support and Updates

This section of the contract outlines terms related to support, updates, and maintenance of the system provided by Applicaa Limited.

6.1 The institution is obligated to promptly notify Applicaa of any problems or errors with the System and/or any Third Party Integrations. Applicaa will use reasonable efforts to remedy these issues at the institution's cost.

6.2 Applicaa is not responsible for maintaining or remedying any issues related to Third Party Integrations.

6.3 During the Licence Period, Applicaa may modify, vary, update, or adapt the System (referred to as "Updates"). Updates will take effect automatically, and Applicaa will use reasonable efforts to notify the institution when an Update occurs. The institution agrees that Updates may only be used for the specified purpose and no other purpose.

6.4 Applicaa has the right to access the System, including Content, for the purpose of maintaining the System. This may include changing user names, passwords, or other access information for essential network maintenance, enhancement, modernisation, or other necessary work.

6.5 The System may become unavailable for periods due to planned maintenance. The institution will receive advance reasonable notice of any planned maintenance, and Applicaa will make reasonable efforts to ensure that the institution's use of the System is not interrupted during such maintenance.

7. Pricing and Payment (Fees)

7.1 Subscription Fees. The Subscription Fee will remain fixed during the initial term of your subscription unless (i) you upgrade products or base packages, (ii) you subscribe to additional features or products or (iii) otherwise agreed to in your Order.

7.2 Fee Adjustments at Renewal. Upon renewal, we may increase your Subscription Fees up to our then-current list price set out in our Pricing Page. If this increase applies to you, we will notify you at least thirty (30) days in advance of your renewal and the increased fees will apply at the start of the next renewal term. If you do not agree to this increase, either party can choose to terminate your subscription at the end of your then-current term by giving the notice required in the 'Notice of Non-Renewal' section below.

7.3 Fees will increase in line with inflation, and will track the retail price index as well as any enhancements. Annual price changes will take effect from 1st Jan each year or the renewal date of the Contract

7.4 Fees for some Contracts are based on usage and can be downgraded if your usage reduces (please see pricing page for more details)

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All Payments to be made by the Customer under this Agreement shall be paid to an account designated by Applicaa either by direct debit instruction or BACS transfer and shall arrive on or before the due date in cleared funds. Prompt payment of all sums dues under this Agreement is an essential condition of the Agreement.

8. Terms and Termination

8.1 Term and Renewal. Your initial subscription term will be specified in your Order, and, unless otherwise specified in your Order, your subscription will automatically renew for the shorter of the subscription term, or one year.

How will you be notified?

i) Email: Your **Key Contact** will be notified by email 30 days ahead of renewal.
ii) In App: and all users with the permission 'admin' will receive a pop up in the platform 7 days before your renewal is due. The pop-up will remind you that your account will be suspended without renewal.

On your renewal date you will be automatically sent an email with the invoice for the next year. The service/account will be suspended if payment isn't received by the renewal date.

To renew you will need to accept the terms through the APP. Or agree over email?

8.2 Non-Renewal Notice Period. Unless otherwise specified in your Purchase Order, to prevent renewal of your Subscription Services or paid Add-Ons, you or we must give written notice of non-renewal, which must be received before the date the next renewal period begins.

8.3 Early Cancellation. You may choose to cancel your subscription early at your convenience provided that we will not provide any refunds of prepaid fees or unused Subscription Fees, and you will promptly pay all unpaid fees due through the end of the Subscription Term. See the 'Notice of Non-Renewal' section for information on how to cancel your subscription.

8.4 Termination for Cause. Either party may terminate this Agreement for cause, as to any or all Subscription Services: (i) upon **thirty (30) days' notice** to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) immediately, if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, cessation of business, liquidation or assignment for the benefit of creditors. No refunds will be made.

We may also terminate this Agreement for cause on **thirty (30) days**' notice if we determine that you are acting, or have acted, in a way that has or may negatively reflect on or affect us, our prospects, or our customers.

This Agreement may not otherwise be terminated prior to the end of the Subscription Term.

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8.5.1 Suspension for Non-Payment. We will provide you with notice of non-payment of any amount due. Unless the full amount has been paid, we may suspend your access to any or all of the Subscription Services thirty (30) days after such notice. We will not suspend the Subscription Service while you are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute. If a Subscription Service is suspended for non-payment, we may charge a reactivation fee to reinstate the Subscription Service.

9. Applicaa Help Desk

Use of the Applicaa Help Desk is subject to these conditions. Applicaa Help Desk agents will expect customers to be using the Applicaa Software according to the Software licence terms (section 3 and 4 above). In consideration of said Software annual maintenance service, which includes the Applicaa Help Desk service, the Customer, shall, subject to the conditions in this agreement, pay to the company the Company's invoices to the Customer, each such payment to be made in advance of the period covered.

The service provided by the Applicaa Help Desk includes an examination of any reported problem with the Software by the use of Telephone, email, or other means. Applicaa Help Desk will assist the Customer in understanding the software.
Help Desk support excludes the examination and solution of problems concerning the Customer's specific application of the Software, which can be provided in the form of consultancy.

Help Desk support excludes the examination of problems where the Customer contact concerned has not been trained or appears not to have been trained to use the Software. The service provided by the Applicaa Help Desk is not designed to be a substitute for proper and adequate training. Applicaa Help Desk will endeavour always to provide a solution to a problem experienced in the use of the software. However, where a Customer contact is experiencing difficulty understanding inter alia basic principles in the use of an application/module/work method, Help Desk may be obliged to recommend a training course as the solution.

If Help Desk is not able to provide a solution to a reported problem within reasonable timescales because of a fault with the Software, the agent will report the problem to the Software or Other Software creator. In the case of an Applicaa Software problem, this will be reported to the Chief Operating Officer at Applicaa. As an interim solution, the Software or other Software creator may provide alternative methods of achieving the required results (i.e. a workaround) which should be used while a software fix is engineered. The Customer should use the workaround until such time as the software fix is engineered and presented via a software upgrade or other method.

Where a fault is found in the Applicaa software, Applicaa will use every reasonable endeavour to repair the Software or find a workaround where one is available. Help Desk is not responsible, under this Agreement, for fixing reported faults or

malfunctions in Other Software and the provision of an updated or fixed version of Other Software, if available, is at the discretion of Help Desk.

Customers using SaaS automatically grant Applicaa Help Desk permissions to access their remotely hosted data for the purposes of carrying out the Help Desk function.

Applicaa Help Desk is not responsible for any failure to fulfil or display in fulfilling its obligations under the terms of this Agreement due to causes beyond its control, including Acts of God.

Applicaa Help Desk is not responsible for the consequential loss suffered directly or indirectly by the Customer or any of his clients if applicable as a result of the Help Desk support supplied under this Agreement.

10. System Availability

We will use our reasonable endeavours to maximise uptime and ensure the System Availability during the Licence Period. For the avoidance of doubt, availability of Services offered by a Third Party that complement the System, including Third Party Integrations, shall not be taken into account in calculating System Availability.

11. Patent, IPR, Copyright

The Customer acknowledges and agrees that Applicaa and/or its licensors own all intellectual Property Right in the Platform and Services. Except as expressly stated herein, the Agreement does not grant Customer any right to, under or in, Intellectual Property Rights in respect of Applicaa Software or services.
Applicaa confirms that it has all the rights in relation to the Software(s) that are necessary to grant all the rights in purports to grant under, and in accordance with, the terms of the Agreement.

Customers grant Applicaa:
for the duration of the Term, a non-exclusive, irrevocable licence to use the Customer Data to provide Customer with access to the SaaS and its functionality a non-exclusive, perpetual, irrevocable licence to use anonymized and aggregated data derived from the Customer Data for any purpose whatsoever (including to improve the Software).

12. Confidentiality

Each party may be given access to Confidential Information from the other party in order to perform obligations under the agreement, Each party shall:
Keep confidential and not disclose any such Confidential information to any person save as expressly permitted by this Clause 12; and protect the Confidential Information against unauthorised disclosure by using the same degree of care as it

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takes to preserve and safeguard its own Confidential information of similar nature, being at least a reasonable degree of care.

Confidential information of a party may be disclosed by the other party to its employees, agents, and advisors who need to know the Confidential information for the purpose of exercising their rights of carrying out their obligations under the Agreement without the prior written consent of the other party.

The obligations set out in this Clause 12 shall not apply to Confidential Information that:
- is or becomes publicly known (other than through a breach of an obligation of confidence); was in the other party's lawful possession before the disclosure;
- is lawfully disclosed to the receiving party by a third party without restriction on disclosure; independently developed by the receiving party, which independent development can be shown by written evidence; or
- Confidential information that is required to be disclosed by law or by a governmental authority, stock exchange, or regulatory body, provided that the party subject to such disclosure requirements must where permitted by law give to the other party prompt written notice of their disclosure requirement.

This clause 12 shall survive termination of the Agreement, howsoever arising.

13. Limitation of Liability

13.1 Liability: Nothing in this Agreement shall limit or exclude either party's liability for: death or personal injury caused by its negligence, or the negligence of its personnel, agents, or subcontractors; fraud; or any liability that cannot be excluded or limited by law.

13.2 Limitation of Liability: Neither party's aggregate liability arising out of or related to this agreement will exceed the fees annually paid by the Customer in relation to the Applicaa software licence fee. The above limitations will apply whether an action is in contract or tort and regardless of the theory of liability. However, the above limitations will not limit the Customer's payment obligations. The above limitations will apply whether an action is in contract or tort and regardless of the theory of liability. However, the above limitations will not limit the Customer's payment obligations.

13.3 Exclusion of Damages: In no event will either party have any liability to the other party for any lost profits, revenues, or indirect, special, incidental, consequential, cover or punitive damages, cost of procurement of substitute service, whether an action is in contract or tort and regardless of the theory of liability, even if a party has been advised of the possibility of such damages. The foregoing disclaimer will not apply to the extent prohibited by law.

APPENDIX 1. DATA PROCESSING

1. Definitions:

1.1 "Personal Data" means any information relating to an identified or identifiable natural person as defined in the UK Data Protection Act 2018.

1.2 "Data Subject" means the individual to whom the Personal Data relates.

1.3 "Processing" means any operation or set of operations which is performed on Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation, alteration, retrieval, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment, combination, restriction, erasure, or destruction.

2. Scope and Purpose of Data Processing:

2.1 Scope: The Processor shall process Personal Data on behalf of the Controller for the purpose of [specify the purpose of data processing as agreed in the main agreement].

2.2 Nature of Processing: The processing activities shall include but are not limited to [specify the types of processing activities].

3. Types of Personal Data:

The types of Personal Data to be processed under this Appendix include, but are not limited to, staff, students and parent/carer details.

4. Categories of Data Subjects:

The categories of Data Subjects to whom the Personal Data relates include, but are not limited to, staff, student and parent/carer details.

5. Duration of Processing:

The Processor shall process Personal Data for the duration of the Agreement unless otherwise agreed upon by the Parties.

6. Processing Instructions:

The Processor shall process Personal Data only on documented instructions from the Controller, including with regard to transfers of Personal Data to a third country or an international organisation, unless required to do so by applicable law. In such a case, the Processor shall inform the Controller of that legal requirement before processing, unless prohibited by law.

7. Security Measures:

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The Processor shall implement and maintain appropriate technical and organisational measures to ensure the security, confidentiality, integrity, and availability of Personal Data in accordance with applicable data protection laws.

8. Sub-Processing:

8.1 Authorisation: The Controller hereby authorises the Processor to engage sub-processors for the processing of Personal Data. The Processor shall inform the Controller of any intended changes concerning the addition or replacement of sub-processors, giving the Controller the opportunity to object to such changes.

8.2 Obligations on Sub-Processors: The Processor shall impose data protection obligations on its sub-processors that are at least as protective as those in this Appendix.

9. Data Subject Rights:

The Processor shall assist the Controller in fulfilling its obligations to respond to requests by Data Subjects exercising their rights under applicable data protection laws.

10. Data Breach Notification:

10.1 Notification Obligations: In the event of a Personal Data breach, the Processor shall notify the Controller without undue delay after becoming aware of the breach.

10.2 Content of Notification: The notification shall, at a minimum, describe the nature of the Personal Data breach, the likely consequences of the breach, and the measures taken or proposed to be taken by the Processor to address the breach.

11. Data Protection Impact Assessments and Consultation:

The Processor shall assist the Controller in carrying out any necessary data protection impact assessments and consultations with the Information Commissioner's Office or any other relevant supervisory authority, as required under applicable data protection laws.

12. Data Deletion or Return:

Upon termination of the Agreement or upon the Controller's written request, the Processor shall, at the Controller's choice, delete or return all Personal Data processed under this Appendix.

13. Records of Processing Activities:

The Processor shall maintain records of its processing activities in accordance with applicable data protection laws and make them available to the Controller upon request.

Date updated 29/02/2024