

GREENHEART

LEARNING PARTNERSHIP 

DATA PROTECTION TERMS AND CONDITIONS FOR SERVICE PROVIDER

Signed off by Trust Board meeting dated: July 2024

Effective from: September 2024

Review Date: July 2026

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1. Definitions

Personal Data	Means any information from which individuals may be identified or identifiable, directly or indirectly, and has the meaning given in the GDPR.
DPA 1998	Means the Data Protection Act 1998.
GDPR	Means the EU General Data Protection Regulation (Regulation (EU) 2016/679).
LED	Means Law Enforcement Directive (Directive (EU) 2016/680).
Data Protection Legislation	Means any law, statute, declaration, decree, directive, legislative enactment, order ordinance, regulation, rule or other binding restriction which relates to the protection of individuals with regards to the processing personal data to which the Controller and/or Processor is subject, including the DPA 1998 and 2018, the GDPR, the LED and the Privacy and Electronic Communications (EC Directive) Regulations 2003, or as otherwise amended or replaced.
Data Loss Event	Means any event or incident that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement or the Data Protection Legislation.
Security Measures	Means the appropriate technical and organisation measures to be taken by the Contractor to protect the Personal Data against unauthorised processing and accidental loss or damage, which may include:

pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to the Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it.

Services

Means the service to be carried out hereunder by the contractor as set out in this Agreement or any pertinent Service Level Agreement.

Sub-processors

Means approved persons who may carry out services on behalf of the contractor.

2. Data Protection

Unless the context otherwise requires:

- 'Data controller', 'data processor', 'data subject', 'personal data', 'subject access request' and 'processing' have the meanings given in the GDPR
- The Parties acknowledge that for the purposes of the Data Protection Legislation, Greenheart Learning Partnership (the Partnership) is the Controller and the Contractor is the Processor. The only processing that the Contractor is authorised to undertake is that, which is upon the written instruction of the Partnership and only to the extent and in such a manner as is necessary for the performance of the Services only and shall not be processed for any other purpose
- The Contractor shall notify the Partnership immediately if it considers that any of the Partnership's instructions infringe the Data Protection Legislation
- The Contractor shall provide all reasonable assistance to the Partnership in preparation of any Data Protection Impact Assessment prior to commencing any processing, or at any time where so required. Such assistance may, at the discretion of the Partnership, include:
 - A systematic description of the envisaged processing operations and the purpose of the processing
 - An assessment of the necessity and proportionality of the processing operations in relation to the Services
 - An assessment of the risks to the rights and freedoms of Data Subjects; and
 - The measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of the Personal Data
- The Contractor shall, in relation to the Personal Data processed in connection with its obligations for the purposes of the Services:
 - Process the Personal Data only in accordance with the written instructions of the Trust, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Trust before processing the Personal Data unless prohibited by Law
 - Ensure that it has in place Security Measures as appropriate to protect against a Data Loss Event having taken account of the:
 - Nature of the data to be protected
 - Harm that might result from a Data Loss Event
 - State of technological development; and
 - Cost of implementing any measures
 - Ensure that:
 - Contractor Personnel do not process Personal Data except in accordance with the Trust's written instructions and in line with appropriate Security Measures

- It takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:
 - Are aware of and comply with the Contractor's duties under these clauses
 - Are subject to appropriate confidentiality undertakings with the Contractor or Sub-processor
 - Are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Trust;
 - Have undergone adequate training in the use, care, protection and handling of personal data and relevant UK Data Protection legislation
- Not transfer the Personal Data outside of the EU unless prior written consent of the Trust has been obtained and the following conditions are fulfilled:
 - The Trust or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Trust
 - the Data Subject has enforceable rights and effective legal remedies
 - The Contractor complies with its obligations under the Data Protection Legislation by providing adequate level of protection to any Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Trust in meeting its obligations); and
 - The Contractor complies with any reasonable instructions notified to it in advance by the Trust with respect to the processing of the Personal Data
- The Contractor shall, in relation to the Personal Data processed in connection with its obligations for the purposes of the Services:
 - Process the Personal Data only in accordance with the written instructions of the Trust, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Trust before processing the Personal Data unless prohibited by Law
 - Ensure that it has in place Security Measures as appropriate to protect against a Data Loss Event having taken account of the:
 - nature of the data to be protected
 - harm that might result from a Data Loss Event
 - state of technological development; and
 - cost of implementing any measures
 - Ensure that:

- Contractor Personnel do not process Personal Data except in accordance with the Trust's written instructions and in line with appropriate Security Measures
- It takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:
 - Are aware of and comply with the Contractor's duties under these clauses
 - Are subject to appropriate confidentiality undertakings with the Contractor or Sub-processor
 - Are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Trust
 - Have undergone adequate training in the use, care, protection and handling of personal data and relevant UK Data Protection legislation
- Not transfer the Personal Data outside of the EU unless prior written consent of the Trust has been obtained and the following conditions are fulfilled:
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 - The Data Subject has enforceable rights and effective legal remedies;
 - The Contractor complies with its obligations under the Data Protection Legislation by providing adequate level of protection to any Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Trust in meeting its obligations); and
 - The Contractor complies with any reasonable instructions notified to it in advance by the Trust with respect to the processing of the Personal Data
- The Contractor shall notify the Partnership immediately if it:
 - Receives a subject access request (or a purported subject access request)
 - Receives a request to rectify, block or erase any of the Personal Data
 - Receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation
 - Receives any communication from the Information Commissioner or any other regulatory authority in connection with the Personal Data
 - Receives a request from any third party for disclosure of the Personal Data where compliance with such request is required or purported to be required by Law; or
 - Becomes aware of an actual or potential Data Loss Event
- The Contractor's obligation to notify shall also include the provision of further information to the Partnership, as details become available

- Taking into account the nature of the processing, the Contractor shall provide the Partnership with full assistance in relation to either Party's obligations under the Data Protection Legislation and any complaint, communication or request (and insofar as possible within the timescales reasonably required by the Partnership) including by promptly providing:
 - the Partnership with full details and copies of the complaint, communication or request
 - such assistance as is reasonably requested by the Partnership to enable the Partnership to comply with a subject access request within the relevant timescales set out in the Data Protection Legislation
 - the Partnership, at its request, with any Personal Data it holds in relation to a Data Subject
 - assistance as requested by the Partnership following any Data Loss Event
 - assistance as requested by the Partnership with respect to any request from the Information Commissioner's Office, or any consultation by the Partnership with the Information Commissioner's Office
- The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with the Data Protection Legislation on behalf of the Partnership
- The Contractor shall allow for audits of its data processing activities by the Partnership or the Partnership's designated auditor and supply the Partnership with such access, and such information in such format, as the Partnership may request, and otherwise assist the Partnership in verifying the Contractor's compliance with this Agreement or the Data Protection Legislation
- Before allowing any Sub-processor to process any Personal Data of the Partnership in relation to the Services, the Contractor must:
 - Notify the Partnership in writing of the intended sub-processor and processing
 - Obtain the written consent of the Partnership
 - Enter into a written agreement with the Sub-processor which give effect to the terms set out in this Data Protection clause such that they apply to the Sub-processor, and which automatically terminates upon termination of the Service Level Agreement for any reason; and
 - Provide the Partnership with such information regarding the Sub-processor as the Partnership may reasonably require
- Consent may be subject to such terms as the Partnership sees fit and may be withdrawn if the partnership believes that Data security may be compromised for any reason
- The Partnership shall remain fully liable for all acts or omissions of any Sub-processor
- The Partnership may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable clauses or similar terms forming part of an applicable certification scheme

- The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Partnership may on not less than 30 Working Days' notice to the Contractor amend this Data Protection clause to ensure that it complies with any guidance issued by the Information Commissioner's Office
- The Partnership may terminate this Agreement Where this Agreement is terminated in accordance with clause 8.2 or otherwise the Processor shall adhere to all instructions received from the Partnership for the secure return or destruction of any Data it may have in its possession
- The Partnership may terminate this or any pertinent Agreement immediately if the Contractor acts in relation to the Personal Data or any other data in a way which does not comply with the spirit of the principles of the Data Protection Legislation, including the GDPR
- Where this Agreement is terminated for any reason, the Contractor shall adhere to all instructions received from the Partnership for the secure return or destruction of any Personal Data, databases created from the Personal Data and copies thereof, it may have in its possession or control