



Data Sharing Agreement

Review Date: 11/12/2019
Next Review Date: December 2020
Signed: *Changing Education Group*

This agreement is made on **Insert date**.

Parties to this agreement:

(1) ***Insert Client details.***

(2) Connecting Education Limited incorporated and registered in [ENGLAND AND WALES] with company number 11554616 whose registered office is at The Cheshire College South and West, Dane Bank Avenue, Crewe. CW2 8AB (the "Processor").

Background and Scope

(A) The Controller determines the purposes and means of processing Personal Data in connection with its business activities;

(B) The Processor processes Personal Data on behalf of the Controller;

(C) The Controller wishes to engage the services of the Processor to process personal data on its behalf;

(D) Article 28 (1) of the Data Protection Regulation 2016/679 (as hereinafter defined and referred to as the Regulation) provides that, where processing is to be carried out on behalf of a controller, the controller shall use only processors providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that processing will meet the requirements of the Regulation and ensure the protection of the rights of the data subject;

(E) Articles 28 (2) of the Regulation provides that, the Processor shall not engage another processor without prior specific or general written authorisation of the controller. In the case of general written authorisation, the processor shall inform the controller of any intended changes concerning the addition or replacement of other processors, thereby giving the controller the opportunity to object to such changes;

(F) Article 29 of the Regulation provides that, the Processor and any person acting under the authority of the controller or of the processor, who has access to personal data, shall not process those data except on instructions from the controller, unless required to do so by Union or Member State law;

(G) In compliance with the above-mentioned provisions of Article 28 and 29 of the Regulation the Controller and Processor wish to enter into this processing agreement.

The parties hereby mutually agree the following:

1. Definitions and Interpretation

1.1 In this agreement the following words and phrases shall have the following meanings, unless inconsistent with the context or as otherwise specified:

"Appendix 1" means the appendix to this agreement and which forms part of this agreement;

"Data Protection Regulation or General Data Protection Regulation (GDPR)" hereafter referred to as the Regulation, means REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data;

"Controller, data controller, processor, data processor, data subject, personal data, special categories of personal data, personal data breach, supervisory authority, processing and appropriate technical and organisational measures": as set out in the Data Protection Legislation in force at the time;

"Confidential Information" means all information disclosed by a party to the other party pursuant to this agreement which is either designated as proprietary and/or confidential, or by its nature or the nature of the circumstances surrounding disclosure, should reasonably be understood to be confidential, including (but not limited to), information on products, customer lists, price lists and financial information;

"Data Protection Legislation": means the Data Protection Act 2018, which incorporates the General Data Protection Regulation ((EU) 2016/679) (**GDPR**); **"Services"** means **CONNECT – work placement tracking and monitoring platform**. The Services is described more in detail in Appendix 1;

"Sub-contract" and "sub-contracting" shall mean the process by which either party arranges for a third party to carry out its obligations under this agreement;

"Sub-processor" means the party to whom the obligations are sub-contracted.

2. Consideration

2.1 In consideration of the Controller engaging the services of the Processor to process personal data on its behalf, the Processor shall comply with the security, confidentiality and other obligations imposed on it under this agreement and any applicable Data Protection Legislation.

3. Processing Details

3.1 The Controller hereby confirms the processing details:

Subject matter of the processing	Work placement information – placement information, feedback, attendance students notes relating to this.
The duration of the processing	1 Year from start of Contract with Connecting Education
The nature of the processing	Legitimate Interest
The locations where data will be stored and or processed	Amazon Web Server (SQL Server)– Ireland – there is no offline storage of information.
The type of personal data being handled	Student Data: <ul style="list-style-type: none">• Forename• Surname• Course Code

	<ul style="list-style-type: none"> • Course • Email • DOB • Student ID number (not ULN) • Department • Year (i.e. 1st year or 2nd year) <p>Employer Data:</p> <ul style="list-style-type: none"> • Company Name • Category • Address • Postcode • Contact Name • Contact Email • Contact Tel • Role • Role of student on placement
The purpose of the processing	To identify, track and monitor work placements and to gather intelligence on employer and student feedback for the college to use.
The categories of data subjects to whom the personal data relates	Students from Insert Client name
The Personal Data transferred may be disclosed only to these recipients or categories of recipients	All Employees of Connecting Education Limited – 4 staff in total including 2 x developers, 1 x Sales Manager and 1 x customer support officer. In addition to this 2 group directors.
The obligations and rights of the data controller	<p>The Data Controller warrants and undertakes that:</p> <ul style="list-style-type: none"> • The Personal Data has been collected, processed and transferred in accordance with the GDPR and all Applicable Data Protection law. • It has used reasonable efforts to determine that the Data Processor is able to satisfy its legal obligations under this Agreement. • It will respond to enquiries from Data Subjects and the ICO concerning processing of the Personal Data by the Data Controller. • It will make available, upon request, a copy of this Agreement to Data Subjects who are relevant to the processing, the subject matter of this Agreement, unless this Agreement contains confidential information, in which case it may redact such information. The Data Controller shall abide by a decision of the ICO regarding access to the full text of this Agreement by Data Subjects, as long as Data Subjects have agreed to respect the confidentiality of the confidential information removed. The Data Controller shall also provide a copy of this Agreement to the ICO where required.

3.2 Without prejudice to the generality of clause 5.2, the Controller will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Processor for the duration and purposes of this agreement.

4. A) Obligations of the Processor

The Processor agrees to:

4.1 Process the 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 Union or Member State law to which the Processor is subject; in such a case, the processor shall inform the Controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest.

4.2 Take into account the nature of the processing, and to assist the Controller through appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of the Regulation. In addition, the Processor shall:

4.2.1 Promptly notify the Controller if it receives a request from a Data Subject under any Data Protection Legislation in respect of Controller Personal Data; and

4.2.2 Ensure that the Processor does not respond to that request except on the documented instructions of Controller or as required by Data Protection Legislation to which the Processor is subject, in which case the Processor shall, to the extent permitted by Data Protection Legislation, inform the Controller of that legal requirement before the Processor responds to the request.

4.3 Take 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, and the Processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk.

4.4 Take account in assessing the appropriate level of security the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed.

4.5 Have in place appropriate technical and organisational security measures, reviewed and approved by the Controller, to protect the personal data provided or made available by the Controller to the Processor in the context of this agreement, as required under the Data Protection Legislation. Further details, including the minimum standard of security protection, are set out in Appendix 1 of this agreement.

4.6 For the avoidance of doubt, nothing within this agreement relieves the Processor of its own direct responsibilities and liabilities under the GDPR.

4. B) Additional Obligations of the Processor

The Processor further agrees, by taking into account the nature of processing and the information available to the Processor, to:

4.7 Assist the Controller in meeting its Article 32 obligation to keep personal data secure;

4.8 Assist the Controller in meeting its Article 33 obligation to notify personal data breaches to the supervisory authority, this includes:

4.8.1 Notifying the Controller without undue delay upon the Processor or any Sub-processor becoming aware of a Personal Data Breach affecting Controller Personal Data.

4.8.2 Such notification shall as a minimum:

- a) Describe the nature of the Personal Data Breach, the categories and numbers of Data Subjects concerned, and the categories and numbers of Personal Data records concerned;
- b) Communicate the name and contact details of Processor's data protection officer or other relevant contact from whom more information may be obtained;
- c) Describe the likely consequences of the Personal Data Breach; and
- d) Describe the measures taken or proposed to be taken to address the Personal Data Breach.

4.8.3 In addition, to co-operate with the Controller and to take such reasonable commercial steps as are directed by the Controller to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

4.9 Assist the Controller in meeting its Article 34 obligation to advise data subjects when there has been a personal data breach;

4.10 Assist the Controller in meeting its Article 35 obligation to carry out data protection impact assessments (DPIAs); and

4.11 Assist the Controller in meeting its Article 36 obligation to consult with the supervisory authority where a DPIA indicates there is an unmitigated high risk to the processing.

5. Other Obligations for Both Parties

5.1 The Controller and Processor shall take steps to ensure that any natural person acting under the authority of the Controller or the processor who has access to personal data does not process them except on instructions from the Controller, unless he or she is required to do so by Union or Member State law.

5.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 5.2 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

6. Confidentiality

6.1 The Processor shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

6.2 In particular, the Processor agrees that, save with the prior written authorisation of the Controller, it shall not disclose any personal data supplied to the Processor by, for, or on behalf of, the Controller to any third party.

6.3 The Processor shall not make any use of any personal data supplied to it by the Controller otherwise than in connection with the provision of services to the Controller and as agreed in this agreement.

6.4 The obligations in clauses 6.1, 6.2 and 6.3 above shall continue in perpetuity after the cessation of the provision of services by the Processor to the Controller.

6.5 Nothing in this agreement shall prevent either party from complying with any legal obligation imposed by a regulator or court. Both parties shall however, where possible, discuss together the appropriate response to any request from a regulator or court for disclosure of information.

7. Engaging another processor

7.1 The Processor shall not engage another processor without the prior specific or general written authorisation of the Controller.

7.2 In the case of general written authorisation, the Processor shall inform the Controller of any intended changes concerning the addition or replacement of other processors, thereby giving the Controller the opportunity to object to such change and to terminate the agreement as a result of this change.

7.3 Where the Processor, with the authorisation of the Controller, engages another processor for carrying out its obligations under this agreement or other legal act, it shall do so only by way of a written agreement with the Sub-processor which imposes at least the same level of protection for the Controller as set out in this agreement or other legal act, including but not limited to providing sufficient guarantees in relation to the security of the processing on the Sub-processor as are imposed on the Processor under this agreement.

7.4 The Processor agrees to provide to the Controller for review such copies of the written agreement between the Processor and the Sub-processor (which may be redacted to remove confidential commercial information not relevant to the requirements of this agreement) as the Controller may request from time to time.

7.5 For the avoidance of doubt, where the Sub-processor fails to fulfil its data protection obligations, the Processor shall remain fully liable to the Controller for the fulfilment of that other processor's obligations.

8. Price and payment

8.1 The Controller shall pay the Processor for the Services described in Appendix 1.

9. Audits and Inspections

The Processor agrees to:

9.1 Make available to the Controller all information necessary to demonstrate compliance with the obligations laid down in this agreement and Article 28 of the Regulation;

9.2 Allow for and contribute to audits, including inspections, conducted by the Controller or another auditor mandated by the Controller.

9.3 The Processor shall immediately inform the Controller if, in its opinion, an instruction pursuant to this section 9 infringes the Regulation or other Union or Member State data protection legislation.

10. Term and Termination

10.1 This agreement shall continue in full force and effect for **1 Year from the date of signature of this agreement.**

10.2 Either Party shall have the right to terminate the Agreement, partially or entirely, forthwith by sending a written notice of termination to the other Party specifying the reasons for the termination, if any of the following events occur:

10.2.1 The other party materially breaches any of its obligations under this agreement;

10.2.2 The other party breaches any of its obligations under this agreement and, notwithstanding a written request from the non-breaching party to remedy such a breach, fails to comply with such a request within a period of thirty 30 days following such notice;

10.2.3 An event of force majeure prevails for a period exceeding three (3) months; or

10.2.4 The other party becomes insolvent or enters liquidation, a petition in bankruptcy is filed for it or a receiver is appointed.

10.3 Upon the termination or expiry of this agreement, any rights and obligations of the parties, accrued prior to the termination or expiry thereof shall continue to exist.

10.4 Within 14 days following termination of this agreement the Processor shall, at the direction of the Controller, either (a) return all personal data passed to the Processor by the Controller for processing, or (b) on receipt of instructions from the Controller, destroy all such data unless the Processor is prohibited from doing so by any applicable law.

10.5 The Processor may retain Controller Personal Data to the extent required by Data Protection Legislation and only to the extent and for such period as required by Data Protection Legislation and always provided that the Processor and any sub-processor shall ensure the confidentiality of all such Controller Personal Data and shall ensure that such Controller Personal Data is only processed as necessary for the purpose(s) specified in the Data Protection Legislation requiring its storage and for no other purpose.

10.6 The Processor shall provide written certification to Controller that it and any sub-processor has fully complied with this section 10 within 21 days of the termination date.

11. Intellectual Property Rights

11.1 The Processor is and shall remain the owner of any materials used or made available in the context of the delivery of the services.

11.2 The Processor grants to the Controller a limited, personal, non-exclusive, non-transferable right to use any material provided in the context of the delivery of the services. This license is valid for the duration of the agreement.

11.3 The Controller is and shall remain the owner of any personal data supplied or made available to the Processor in the context of this agreement.

11.4 The Controller grants to the Processor a limited, personal, non-exclusive, non-transferable right to use any personal data provided only in the context of the delivery of the services. This license is valid for the duration of the agreement.

12. Liability and Indemnity

12.1 The Data Processor will not be liable for any claim brought by a Data Subject arising from any action by the Data Processor to the extent that such action resulted directly from the Data Controller's instructions.

12.2 Except as provided for in Clause 12.1, the Data Processor shall indemnify the Data Controller for any monetary fine or penalty imposed on the Data Controller by the ICO that results from the Data Processor's breach of its obligations under this Agreement.

12.3 In the event that any claim is brought against the Data Controller by a Data Subject arising from any action by the Data Processor, to the extent that such action did not result directly from the Data Controller's instructions, the Data Processor shall indemnify and keep indemnified and defend at its own expense the Data Controller against all costs, claims, damages or expenses incurred by the Data Controller or for which the Data Controller may become liable due to any failure by the Data Processor or its directors, officers, employees, agents or contractors to comply with any of its obligations under this Agreement.

12.4 In the event that any claim is brought against the Data Processor by a Data Subject arising from any action or omission by the Data Processor to the extent that such action or omission resulted directly from the Data Controller's instructions, the Data Controller shall indemnify and keep indemnified and defend at its own expense the Data Processor against all costs, claims, damages or expenses incurred by the Data Processor for which the Data Processor may become liable due to any failure by the Data Controller or its directors, officers, employees, agents or contractors to comply with any of its obligations under this Agreement.

12.5 Either party will provide the other party with evidence of financial resources to confirm it has sufficient such resources to fulfil its responsibilities under Clause 12.3 and 12.4 as appropriate (which may include proof of insurance cover).

13. Governing Law

13.1 This agreement shall be governed by and construed exclusively in accordance with the laws of England and Wales. The parties hereto hereby submit to the exclusive jurisdiction of the English Courts for all the purposes of this Agreement.

13. Entire agreement

13.1 This agreement contains the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes and replaces all prior agreements or understandings, whether written or oral, with respect to the same subject matter that are still in force between the parties.

13.2 Any amendments to this agreement, as well as any additions or deletions, must be agreed in writing by both the parties.

13.3 Whenever possible, the provisions of this agreement shall be interpreted in such a manner as to be valid and enforceable under the applicable law stated as per clause 12 above.

14. Severance

14.1 Should any provision of this agreement be invalid or unenforceable, then the remainder of this agreement shall remain valid and in force. The invalid or unenforceable provision shall be either (i) amended as necessary to ensure its validity and enforceability, while preserving the parties' intentions as closely as possible or, if this is not possible, (ii) construed in a manner as if the invalid or unenforceable part had never been contained therein.

AS WITNESS this agreement has been signed on behalf of each of the parties by its duly authorised representative on the day and year first above written.

SIGNED on behalf of [CONTROLLER]

.....

(Authorised signatory)

.....

(Print name and title)

SIGNED on behalf of [PROCESSOR]

(Authorised signatory)

APPENDIX 1:

1. Description of the services and pricing

Insert description of services.

2. Technical and Organisational Measures

2.1 In compliance with its obligations under clause 4 with regard to the processing of personal data on behalf of the Controller, the Processor, as a minimum requirement, shall implement appropriate technical and organisational measures to comply with the requirements of the Regulation. This includes the requirements stated in Article 32 of the Regulation being:

2.1.1 The pseudonymisation and encryption of personal data;

2.1.2 The ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;

2.1.3 The ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;

2.1.4 A process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.