DATED   00/00/202[*]

READING SOLUTIONS UK LIMITED   **(1)**

[CUSTOMER]   **(2)**

READING PLUS
SOFTWARE AS A SERVICE SUBSCRIPTION AGREEMENT

Contents

THIS AGREEMENT is made on **00/00/202[*]**

PARTIES

(1)   **READING SOLUTIONS UK LIMITED** incorporated and registered in England and Wales with company number 09284598 whose registered office is at Unit 5 Enterprise House, Kingsway North, Team Valley, Gateshead, Tyne and Wear, NE11 0SR (the "Supplier");

(2)   [**FULL COMPANY NAME**] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (the "Customer").

BACKGROUND

(A)   The Supplier is the UK reseller of Reading Plus which it makes available to UK subscribers via the internet on a pay-per-use basis for the purpose of teaching silent reading fluency.

(B)   The Customer wishes to use Reading Plus in its teaching of students in year 1 to year 13.

(C)   The Supplier has agreed to provide and the Customer has agreed to take and pay for Reading Plus subject to the terms and conditions of this agreement.

AGREED TERMS:

1.   **INTERPRETATION**

1.1   The definitions and rules of interpretation in this clause apply in this agreement.

Authorised Users	the students, staff and administrators who are authorised by the Customer to use the Services and the Documentation, as further described in clause 2.2.4.
Back Up Policy	The back up policy which will be made available to the Customer on request.
Business Day	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
Change of Control	the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the

	company, and **controls**, **controlled** and the expression **change of control** shall be construed accordingly.
Confidential Information	information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 11.6 or clause 11.7.
Customer Data	the data inputted by the Customer, Authorised Users, or the Supplier on the Customer's behalf for the purpose of or in the course of using the Services or facilitating the Customer's use of the Services.
Customer Personal Data	any parts of the Customer Data comprising Personal Data.
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, and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications).
Documentation	the document(s) made available to the Customer online via httips://readingsolutionsuk.co.uk/teacher-hub/ which sets out a description of the Services and the user instructions for the Services.
Effective Date	the date of this agreement.
Subscription Term	the term of this agreement as set out in Schedule 2.
Normal Business Hours	8.15 am – 4.30 pm local UK time, each Business Day.
Services	the subscription services provided by the Supplier to the Customer under this agreement via https://login.readingplus.com or any other website notified to the Customer by the Supplier from time to time, as more particularly described in the Documentation.

Software	the online software application known as Reading Plus provided as part of the Services.
Subscription Fees	the subscription fees payable by the Customer to the Supplier for the User Subscriptions, as set out in paragraph 1 of Schedule 1.
Support Services Policy	the Supplier's policy for providing support in relation to the Services as made available at https://readingsolutionsuk.co.uk/support-policy or such other website address as may be notified to the Customer from time to time.
UK GDPR	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
User Subscriptions	the user subscriptions purchased by the Customer pursuant to clause 9.1 which entitle Authorised Users to access and use the Services and the Documentation in accordance with this agreement.
Virus	any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.
Controller, Processor, Data Subject, Personal Data, Personal Data Breach, process and **processing** and **appropriate technical**	shall have the meanings give to these terms respectively in the Data Protection Legislation.

and organisational measures

1.2   Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.

1.3   A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.

1.4   A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.5   Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.6   Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.7   A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.

1.8   A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.

1.9   A reference to writing or written includes e-mail.

1.10   References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement.

2.   **USER SUBSCRIPTIONS**

2.1   Subject to the Customer purchasing the User Subscriptions in accordance with clause 3.3 and clause 9.1, the restrictions set out in this clause 2 and the other terms and conditions of this agreement, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sublicenses, to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Customer's teaching activities in relation to students in year 1 to year 13 inclusive.

2.2   In relation to the Authorised Users, the Customer undertakes that:

2.2.1   the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;

2.2.2   it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services and/or Documentation;

2.2.3   each Authorised User shall keep a secure password for his use of the Services and Documentation, that such password shall be changed no less frequently than once in each academic year and that each Authorised User shall keep his password confidential;

2.2.4   it shall maintain a written, up to date list of current Authorised Users and provide such list to the Supplier within 5 Business Days of the Supplier's written request at any time or times;

2.2.5   it shall permit the Supplier or the Supplier's designated auditor to audit the Services in order to establish the name and password of each Authorised User. Each such audit may be conducted no more than once per quarter, at the Supplier's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;

2.2.6   if any of the audits referred to in clause 2.2.5 reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to the Supplier's other rights, the Customer shall promptly disable such passwords and the Supplier shall not issue any new passwords to any such individual; and

2.2.7   if any of the audits referred to in clause 2.2.5 reveal that the Customer has underpaid Subscription Fees to the Supplier, then without prejudice to the Supplier's other rights, the Customer shall pay to the Supplier an amount equal to such underpayment as calculated in accordance with the prices set out in paragraph 1 of Schedule 1 within 10 Business Days of the date of the relevant audit.

2.3   The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

2.3.1   is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

2.3.2   facilitates illegal activity;

2.3.3   depicts sexually explicit images;

2.3.4   promotes unlawful violence;

2.3.5   is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

2.3.6   is otherwise illegal or causes damage or injury to any person or property;

and the Supplier reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

2.4   The Customer shall not:

2.4.1   except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this agreement:

2.4.1.1   attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means;

2.4.1.2   attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;

2.4.2   access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation;

2.4.3   use the Services and/or Documentation to provide services to third parties;

2.4.4   subject to clause 22.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or

2.4.5   attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 2.

2.5   The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify the Supplier.

2.6   The rights provided under this clause 2 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

3.   **ADDITIONAL USER SUBSCRIPTIONS**

3.1   Subject to clause 3.2 and clause 3.3, the Customer may, from time to time during any Subscription Term, purchase additional User Subscriptions in excess of the number set out in paragraph 1 of Schedule 1 and the Supplier shall grant access to the Services and the Documentation to such additional Authorised Users in accordance with the provisions of this agreement.

3.2   If the Customer wishes to purchase additional User Subscriptions, the Customer shall notify the Supplier. Upon approval the Supplier shall activate the additional User Subscriptions within 14 days of the Customer's request.

3.3   If the Supplier approves the Customer's request to purchase additional User Subscriptions, the Customer shall, within 30 days of the date of the Supplier's invoice, pay to the Supplier the relevant fees for such additional User Subscriptions as set out in paragraph 2 of Schedule 1 and, if such additional User Subscriptions are purchased by the Customer part way through the Subscription Term such fees shall be pro-rated from the date of activation by the Supplier for the remainder of the Subscription Term.

4.   **SERVICES**

4.1   The Supplier shall, during the Subscription Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of this agreement.

4.2   The Supplier shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

4.2.1   planned maintenance carried out during the maintenance window of 20.00 pm to 6.00 am UK time; and

4.2.2   unscheduled maintenance performed outside Normal Business Hours, provided that the Supplier has used reasonable endeavours to give the Customer at least 6 Normal Business Hours' notice in advance.

4.3   The Supplier will, as part of the Services and at no additional cost to the Customer, provide the Customer with the Supplier's standard customer support services during

Normal Business Hours in accordance with the Supplier's Support Services Policy in effect at the time that the Services are provided. The Supplier may amend the Support Services Policy in its sole and absolute discretion from time to time. The Customer may purchase additional support and training services separately at the Supplier's then current rates and subject to the Supplier's standard terms of service.

5.   **CUSTOMER DATA AND CUSTOMER PERSONAL DATA**

5.1   The Customer shall own all right, title and interest in and to all of the Customer Data (other than the Customer Personal Data) and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data (including the Customer Personal Data).

5.2   The Customer Data shall be backed up as set out in the Back-Up Policy (as such document may be amended from time to time). In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy against the Supplier shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data in accordance with the archiving procedure described in its Back-Up Policy. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by the Supplier to perform services related to Customer Data maintenance and back-up for which it shall remain fully liable).

5.3   Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 5 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

5.4   The parties have determined that, for the purposes of Data Protection Legislation:

        5.4.1   the Supplier will act as Controller when processing Personal Data of the Customer's personnel for the purpose of entering into, administering and enforcing this agreement as described in the Supplier's privacy policy at https://readingsolutionsuk.co.uk/privacy-policy; and

        5.4.2   the Supplier will act as Processor when processing Customer Personal Data for the purpose of delivering the Services to the Customer.

5.5   Without prejudice to the generality of clause 5.3, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data and the Customer Personal Data to the Supplier and/or lawful collection of the same by the Supplier for the duration and purposes of this agreement so that the Supplier may lawfully use, process and transfer the Personal Data and Customer Personal Data in accordance with this agreement.

5.6   Schedule 3 sets out the scope, nature and purpose of the Supplier's processing of Customer Personal Data, the duration of the processing and the types of Customer Personal Data and categories of Data Subject.

5.7   Without prejudice to the generality of clause 5.3, the Supplier shall, in relation to the Customer Personal Data:

5.7.1   process Customer Personal Data only on the written instructions of the Customer, which are to process Customer Personal Data for the purpose set out in Schedule 3, unless the Supplier is required by any law of the United Kingdom or a part of the United Kingdom (**Applicable Laws**) to otherwise process Customer Personal Data. Where the Supplier is relying on Applicable Laws as the basis for processing Customer Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;

5.7.2   ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Customer Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Customer Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

5.7.3   ensure that any personnel engaged and authorised by the Supplier to process Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;

5.7.4   assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

5.7.5 notify the Customer without undue delay on becoming aware of a Personal Data Breach involving the Customer Personal Data;

5.7.6 at the written direction of the Customer, delete or return Customer Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Customer Personal Data; and

5.7.7 maintain complete and accurate records and information to demonstrate its compliance with this clause 5.7.

5.8 The Customer hereby provides its prior, general authorisation for the Supplier to:

5.8.1 appoint third-party Processors of Customer Personal Data under this agreement provided that the Supplier:

5.8.1.1 shall ensure that the terms on which it appoints such Processors comply with Data Protection Laws and are consistent with the obligations imposed on the Supplier in this Clause 5;

5.8.1.2 shall remain responsible for the acts and omission of any such Processor as if they were the acts and omissions of the Supplier; and

5.8.1.3 shall make a list of all Processors used by the Supplier available to the Customer on request and shall inform the Customer of any intended changes concerning the addition or replacement of the Processors, thereby giving the Customer the opportunity to object to such changes where it reasonably considers that the change will result in an actual or likely breach of Data Protection Legislation.

5.8.2 transfer Customer Personal Data outside of the UK, provided that the Supplier shall ensure that all such transfers are effected in accordance with Data Protection Legislation. For this purpose, the Supplier is hereby authorised by the Customer to enter into data transfer agreements on behalf of and in the name of the Customer with recipients of Customer Personal Data outside of the UK incorporating standard data protection clauses adopted by the Information Commissioner from time to time, including but not limited to the data transfer agreement attached at Schedule 4.

5.9 The Supplier may, at any time on not less than 30 days' notice, revise this clause 5 by replacing it with any applicable controller to processor standard clauses or similar

terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

6. **THIRD PARTY PROVIDERS**

6.1 To the extent that the Services may enable or assist the Customer to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites the Customer acknowledges that it does so solely at its own risk. The Supplier makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not the Supplier. The Supplier recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. The Supplier does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

7. **SUPPLIER'S OBLIGATIONS**

7.1 The Supplier undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.

7.2 The undertaking at clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Supplier's instructions, or modification or alteration of the Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, the Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 7.1. Notwithstanding the foregoing, the Supplier:

7.2.1 does not warrant that the Customer's use of the Services will be uninterrupted or error-free or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and

7.2.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that

the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

7.3   This agreement shall not prevent the Supplier from entering into similar agreements with third parties.

7.4   The Supplier warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

8.   **CUSTOMER'S OBLIGATIONS**

8.1   The Customer shall:

8.1.1   provide the Supplier with:

8.1.1.1   all necessary co-operation in relation to this agreement; and

8.1.1.2   all necessary access to such information as may be required by the Supplier;

in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;

8.1.2   without affecting its other obligations under this agreement, comply with all applicable laws and regulations with respect to its activities under this agreement;

8.1.3   carry out all other Customer responsibilities set out in this agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;

8.1.4   ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and shall be responsible for any Authorised User's breach of this agreement;

8.1.5   obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under this agreement, including without limitation the Services;

8.1.6   ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time; and

8.1.7   be, to the extent permitted by law and except as otherwise expressly provided in this agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

9.   **CHARGES AND PAYMENT**

9.1   The Customer shall pay the Subscription Fees to the Supplier for the User Subscriptions in accordance with this clause 9 and Schedule 1.

9.2   The Customer shall on or before the Effective Date provide to the Supplier approved purchase order information acceptable to the Supplier and any other relevant valid, up-to-date and complete contact and billing details and the Supplier shall invoice the Customer for the Subscription Fees payable in respect of the Subscription Term in accordance with Schedule 1.

9.3   All invoices shall be payable by the Customer within 30 days of the date of the invoice.

9.4   If the Supplier has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of the Supplier:

9.4.1   the Supplier may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and the Supplier shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

9.4.2   interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of the Bank of England from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

9.5   All amounts and fees stated or referred to in this agreement:

9.5.1   shall be payable in pounds sterling;

9.5.2   are, subject to clause 13.3.2, non-cancellable and non-refundable;

9.5.3   are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.

9.6   The Supplier shall be entitled to increase the Subscription Fees and the fees payable in respect of the additional User Subscriptions purchased pursuant to clause 3.3 at

any time upon 90 days' prior notice to the Customer and Schedule 1 shall be deemed to have been amended accordingly.

10. **PROPRIETARY RIGHTS**

10.1 The Customer acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, this agreement does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

10.2 The Supplier confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement.

11. **CONFIDENTIALITY**

11.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that:

11.1.1 is or becomes publicly known other than through any act or omission of the receiving party;

11.1.2 was in the other party's lawful possession before the disclosure;

11.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or

11.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence.

11.2 Subject to clause 11.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this agreement.

11.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this agreement.

11.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided

that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 11.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

11.5   Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

11.6   The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Supplier's Confidential Information.

11.7   The Supplier acknowledges that the Customer Data is the Confidential Information of the Customer.

11.8   No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

11.9   The above provisions of this clause 11 shall survive termination of this agreement, however arising.

12.   **INDEMNITY**

12.1   The Customer shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services and/or Documentation, provided that:

12.1.1   the Customer is given prompt notice of any such claim;

12.1.2   the Supplier provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and

12.1.3   the Customer is given sole authority to defend or settle the claim.

12.2   The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Services or Documentation infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

12.2.1   the Supplier is given prompt notice of any such claim;

12.2.2   the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and

12.2.3   the Supplier is given sole authority to defend or settle the claim.

12.3   In the defence or settlement of any claim, the Supplier may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement on 2 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

12.4   In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

12.4.1   a modification of the Services or Documentation by anyone other than the Supplier; or

12.4.2   the Customer's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by the Supplier; or

12.4.3   the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from the Supplier or any appropriate authority.

12.5   The foregoing and clause 13.3.2 state the Customer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

13.   **LIMITATION OF LIABILITY**

13.1   Except as expressly and specifically provided in this agreement:

13.1.1   the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Supplier by the Customer in connection with the Services, or any actions taken by the Supplier at the Customer's direction;

13.1.2   all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement; and

13.1.3   the Services and the Documentation are provided to the Customer on an "as is" basis.

13.2   Nothing in this agreement excludes the liability of the Supplier:

13.2.1   for death or personal injury caused by the Supplier's negligence; or

13.2.2   for fraud or fraudulent misrepresentation.

13.3   Subject to clause 13.1 and clause 13.2:

13.3.1   the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and

13.3.2   the Supplier's total aggregate liability in contract (including in respect of the indemnity at clause 12.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to the total Subscription Fees paid for the User Subscriptions during the 12 months immediately preceding the date on which the claim arose.

14.   TERM AND TERMINATION

14.1   This agreement shall, unless otherwise terminated as provided in this clause 14, commence on the Effective Date and shall continue for the Subscription Term.

14.2   Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

14.2.1   the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

14.2.2   the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;

14.2.3   the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;

14.2.4   the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

14.2.5   a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

14.2.6   an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;

14.2.7   the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;

14.2.8   a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

14.2.9   a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days; or

14.2.10   the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

14.3   On termination of this agreement for any reason:

14.3.1   all licences granted under this agreement shall immediately terminate and the Customer shall immediately cease all use of the Services and/or the Documentation;

14.3.2   each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;

14.3.3   the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession in accordance with clause 5.7.6, unless the Supplier receives, no later than ten days after the effective date of the termination of this agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. The Supplier shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by the Supplier in returning or disposing of Customer Data; and

14.3.4   any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

15.   FORCE MAJEURE

15.1   The Supplier shall have no liability to the Customer under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

16.   CONFLICT

16.1   If there is an inconsistency between any of the provisions in the main body of this agreement and the Schedules, the provisions in the main body of this agreement shall prevail.

17.   **VARIATION**

17.1   No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

18.   **WAIVER**

18.1   No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

19.   **RIGHTS AND REMEDIES**

19.1   Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

20.   **SEVERANCE**

20.1   If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.

20.2   If any provision or part-provision of this agreement is deemed deleted under clause 20.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

21.   **ENTIRE AGREEMENT**

21.1   This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21.2   Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.

21.3   Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

21.4   Nothing in this clause shall limit or exclude any liability for fraud.

22.   **ASSIGNMENT**

22.1   The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

22.2   The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

23.   **NO PARTNERSHIP OR AGENCY**

23.1   Subject to clause 5.8.2, nothing in this agreement is intended to or shall operate to create a partnership between the parties, or, authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

24.   **THIRD PARTY RIGHTS**

24.1   This agreement does not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

25.   **NOTICES**

25.1   Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this agreement, or such other address as may have been notified by that party for such purposes.

25.2   A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

26.   **GOVERNING LAW**

26.1   This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

27. **JURISDICTION**

27.1   Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.

Schedule 1   Subscription Fees

1.   **SUBSCRIPTION FEES**

1.1   The Subscription Fees shall amount to a total of £[AMOUNT], based on [NUMBER] User Subscriptions at £[AMOUNT] per User Subscription.

1.2   The Supplier shall invoice the Customer for all Subscription Fees payable during the Subscription Term [on the Effective Date] OR [as detailed below:

[INSERT PAYMENT SCHEDULE]

2.   **ADDITIONAL USER SUBSCRIPTION FEES**

Additional User Subscriptions may be purchased by the Customer in accordance with clause 3 at £[AMOUNT] per User Subscription.

Schedule 2   Subscription Term

1.1   Subscription Term: [INSERT LENGTH OF SUBSCRIPTION TERM].

Schedule 3   Processing of Customer Personal Data

1.   **PROCESSING BY THE SUPPLIER**

1.2   **Scope**

The processing of Customer Personal Data as required under the terms of this agreement

1.3   **Nature**

The storage of Customer Personal Data processed by the Customer using the Services together with such retrieval, amendment, transmission, structuring, restriction or erasure of Customer Personal Data as may be required in the course of the provision of support services to the Customer.

1.4   **Purpose of processing:**

To enable and facilitate the Customer's use of the Services.

1.5   **Duration of the processing**

The processing shall continue for the duration of this agreement.

2.   **TYPES OF PERSONAL DATA**

Names (first name, surname, title)

Status (student, teacher, administrator)

Contact details (email address, telephone number)

Technical data (IP address, login date and times, domain and web browser information, technical information about a user's workstation or local area network, simultaneous login attempts, lesson dates and times, account creation date and time, account modification date and time, and information collected through cookies and other tracking technologies)

Profile data (username, passwords, student number, school year, race, lunch status, first language, special educational status)

Usage data (tasks performed, assessments undertaken, progress and development, skills deficiencies/areas of weakness)

3.   **CATEGORIES OF DATA SUBJECT**

Students, teachers and administrators attending or employed at the school run by the Customer.

STANDARD CONTRACTUAL CLAUSES FOR INTERNATIONAL TRANSFERS FROM CONTROLLERS TO PROCESSORS

PARTIES

[Name]

[Address]

[Telephone]

[Email]

A company registered in England & Wales with company number [number]

Acting by its agent Reading Solutions UK Limited

(hereinafter **the data exporter**)

and

Reading Plus LLC

110 West Canal Street, Suite 301, Winooski, VT 05404

800-732-3758

support@readingplus.com

A Delaware limited liability company

(hereinafter **the data importer**)

each a **party**; together **the parties**

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

Clause 1

Definitions

For the purposes of the Clauses:

(a)   '**personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'Commissioner'** shall have the same meaning as in the UK GDPR;

(b)　　**'the data exporter'** means the controller who transfers the personal data;

(c)　　**'the data importer'** means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system covered by UK adequacy regulations issued under Section 17A Data Protection Act 2018 or Paragraphs 4 and 5 of Schedule 21 of the Data Protection Act 2018;

(d)　　**'the sub-processor'** means any processor engaged by the data importer or by any other sub-processor of the data importer who agrees to receive from the data importer or from any other sub-processor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e)　　**'the applicable data protection law'** means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the UK;

(f)　　**'technical and organisational security measures'** means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing

Clause 2

Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

Clause 3

Third-party beneficiary clause

1.　　The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

1.　　The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor

entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

2. The data subject can enforce against the sub-processor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.

3. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4
Obligations of the data exporter

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the Commissioner) and does not violate the applicable data protection law;

(b) that it has instructed and throughout the duration of the personal data-processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

(c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;

(d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

(e) that it will ensure compliance with the security measures;

(f)   that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not covered by adequacy regulations issued under Section 17A Data Protection Act 2018 or Paragraphs 4 and 5 of Schedule 21 Data Protection Act 2018;

(g)   to forward any notification received from the data importer or any sub-processor pursuant to Clause 5(b) and Clause 8(3) to the Commissioner if the data exporter decides to continue the transfer or to lift the suspension;

(h)   to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for sub-processing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i)   that, in the event of sub-processing, the processing activity is carried out in accordance with Clause 11 by a sub-processor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j)   that it will ensure compliance with Clause 4(a) to (i).

Clause 5
Obligations of the data importer[1]

The data importer agrees and warrants:

(a)   to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b)   that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses,

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[1] Mandatory requirements of the national legislation applicable to the data importer which do not go beyond what is necessary in a democratic society that is, if they constitute a necessary measure to safeguard national security, defence, public security, the prevention, investigation, detection and prosecution of criminal offences or of breaches of ethics for the regulated professions, an important economic or financial interest of the State or the protection of the data subject or the rights and freedoms of others, are not in contradiction with the standard contractual clauses. Some examples of such mandatory requirements which do not go beyond what is necessary in a democratic society are, inter alia, internationally recognised sanctions, tax-reporting requirements or anti-money-laundering reporting requirements.

it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c)   that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

(d)   that it will promptly notify the data exporter about:

    (i)   any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;

    (ii)   any accidental or unauthorised access; and

    (iii)   any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e)   to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the Commissioner with regard to the processing of the data transferred;

(f)   at the request of the data exporter to submit its data-processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the Commissioner;

(g)   to make available to the data subject upon request a copy of the Clauses, or any existing contract for sub-processing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h)   that, in the event of sub-processing, it has previously informed the data exporter and obtained its prior written consent;

(i)   that the processing services by the sub-processor will be carried out in accordance with Clause 11;

(j)   to send promptly a copy of any sub-processor agreement it concludes under the Clauses to the data exporter.

Clause 6

Liability

1.   The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or sub-processor is entitled to receive compensation from the data exporter for the damage suffered.

2.   If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his sub-processor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract of by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a sub-processor of its obligations in order to avoid its own liabilities.

3.   If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the sub-processor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the sub-processor agrees that the data subject may issue a claim against the data sub-processor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the sub-processor shall be limited to its own processing operations under the Clauses.

Clause 7
MEDITATION AND JURISDICTION

1.   The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

(a)   to refer the dispute to mediation, by an independent person or, where applicable, by the Commissioner;

(b)   to refer the dispute to the UK courts.

2.   The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8
Cooperation with supervisory authorities

1.   The data exporter agrees to deposit a copy of this contract with the Commissioner if it so requests or if such deposit is required under the applicable data protection law

2.   The parties agree that the Commissioner has the right to conduct an audit of the data importer, and of any sub-processor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3.   The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any sub-processor preventing the conduct of an audit of the data importer, or any sub-processor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5(b).

Clause 9
Governing law

The Clauses shall be governed by the law of the country of the United Kingdom in which the data exporter is established, namely England and Wales.

Clause 10
Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from (i) making changes permitted by Paragraph 7(3) & (4) of Schedule 21 Data Protection Act 2018; or (ii) adding clauses on business related issues where required as long as they do not contradict the Clauses.

Clause 11
Sub-processing

1.   The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the sub-processor which imposes the same obligations on the sub-processor as are imposed on the data importer under the Clauses[2]. Where the sub-processor fails

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[2] This requirement may be satisfied by the sub-processor co-signing the contract entered into between the data exporter and the data importer under this Decision.

to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the sub-processor's obligations under such agreement.

2. The prior written contract between the data importer and the sub-processor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.

3. The provisions relating to data protection aspects for sub-processing of the contract referred to in paragraph 1 shall be governed by the law of the country of the UK where the data exporter is established.

4. The data exporter shall keep a list of sub-processing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be updated at least once a year. The list shall be available to the Commissioner.

Clause 12
Obligation after the termination of personal data-processing services

1. The parties agree that on the termination of the provision of data-processing services, the data importer and the sub-processor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2. The data importer and the sub-processor warrant that upon request of the data exporter and/or of the Commissioner, it will submit its data-processing facilities for an audit of the measures referred to in paragraph 1.

Additional Commercial Clause
Supplemental Measures

1. To prevent the acquisition of personal data by third parties, such as governmental authorities who may gain physical access to the transmission mechanisms (e.g., wires and cables) while the personal data is in transmission or at rest, the parties shall encrypt the personal data (i) during transit between the parties or by Reading Plus

internally or between either party and any sub-processor or other third parties, and (ii) when it is in storage or otherwise not in transit.

2.   The data importer represents that:

2.1   as at the date of these Clauses it has not received any directive under Section 702 of the U.S. Foreign Intelligence Surveillance Act, codified at 50 U.S.C. § 1881a ("FISA Section 702") and has no reason to believe that such a directive would be made;

2.2   it is not a "telecommunications carrier" as defined in 47 U.S.C. § 153; and

2.3   it is not the type of provider that is eligible to be subject to upstream collection ("bulk" collection) pursuant to FISA Section 702, as described in paragraphs 62 & 179 of the judgment in the EU Court of Justice in Case C-311/18 Data Protection Commissioner v Facebook Ireland Limited and Maximillian Schrems, and that therefore the only FISA Section 702 process it could be eligible to receive would be based on a specific "targeted selector" (i.e. an identifier that is unique to the targeted endpoint of communications subject to the surveillance).

3.   If the data importer receives a FISA Section 702 order seeking disclosure of the personal data, the data importer will:

3.1   use all reasonably available legal mechanisms to challenge any demands for personal data access through any national security process it receives as well as any non-disclosure provisions attached thereto;

3.2   seek available interim measures to suspend the effects of the order until the court has decided the foregoing challenges on the merits;

3.3   not disclose the personal data requested until required to do so under the applicable procedural rules; and

3.4   provide the minimum amount of information permissible when responding to the order, based on a reasonable interpretation of the order.

4.   To the extent not prohibited by applicable law or order, the parties will provide any data subjects whose personal data is subject to a FISA Section 702 order with reasonable assistance with ad hoc redress mechanisms.

5.   To the extent not prohibited by applicable law or order, the data importer will promptly notify the data exporter in the event that the data importer receives any request or order from governmental authorities in the United States seeking disclosure of the personal data. Upon receiving such notification from the data importer, the data exporter will promptly notify any relevant data subjects of the request or order to enable the data subjects to seek information and an effective redress.

6. The data importer will take no action pursuant to U.S. Executive Order 12333 ("EO 12333"). The data importer has not created back doors or similar programming in a manner designed to facilitate governmental authorities' access to personal data pursuant to FISA Section 702 or other national security process or EO 12333 and is currently is under no legal obligation to do so.

7. The data importer will document and record the requests for access (if any) received from public authorities and the response provided, alongside a summary of the legal reasoning and the actors involved.

8. The data importer will share personal data with a sub-processor only in accordance with Clause 11 and if the sub-processor meets one of the following conditions:

8.1 it processes the personal data only in the European Economic Area or another jurisdiction which is subject to UK adequacy regulations;

8.2 it receives the personal data only in situations where technical safeguards (such as appropriate end-to-end encryption) remove the ability of the sub-processor to understand the substance of the personal data; or

8.3 it has agreed to safeguards at least as protective as those set forth in these Clauses.

9. The data importer will, with due regard to the state of the art, in accordance with the risk of the categories of data processed and the likelihood of attempts from governmental authorities to access it, provide additional technical safeguards for the personal data processed hereunder by:

9.1 applying a series of physical, technical and security services that are compliant with the industry security standards; and

9.2 implementing additional measures, including (without limitation) firewalls, virus scanning software, full disk encryption, encrypted communication via SSL or VPN, and access controls such as multi-factor authentication, Single Sign On, access on an as-needed basis, strong password controls, and restricted access to administrative accounts.

10. The data importer will adopt, and regularly review, internal policies to assess the adequacy of the technical and organizational measures it has in place to protect personal data that is transferred to or by it outside of the United Kingdom and, to the extent not prohibited by applicable law or order, will use such additional measures as are required to maintain an equivalent level of protection for the personal data to that guaranteed within the UK.

11. The data importer will promptly notify the data exporter if the data importer can no longer comply with the Clauses including the provisions of this additional commercial clause on supplemental measures.

Additional Commercial Clause
Priority of Standard Contractual Clauses

1. The Clauses take priority over any other agreement between the parties, whether entered into before or after the date these Clauses are entered into.

2. Unless the Clauses are expressly referred to and expressly amended, the parties do not intend that any other agreement entered into by the parties, before or after the date the Clauses are entered into, will amend the terms or the effects of the Clauses, or limit any liability under the Clauses, and no term of any such other agreement should be read or interpreted as having that effect.

Additional Commercial Clause
Execution by agent

1. The clauses have been signed by Reading Solutions UK Limited, a company incorporated in England & Wales under company number 09284598 whose registered office is at Unit 5 Enterprise House, Kingsway North, Team Valley, Gateshead, Tyne and Wear, NE11 0SR as agent for and on behalf of the data exporter pursuant to an authority granted under the terms of the Software as a Service Agreement entered into between the data exporter and Reading Solutions UK Limited.

2. The parties acknowledge and agree that:

2.1 Notifications made by the data importer as required under the Clauses may be made to Reading Solutions UK Limited as agent for the data exporter; and

2.2 The data importer shall be entitled to construe any instructions issued by Reading Solutions UK Limited pursuant to the Clauses as instructions issued by the date exporter.

On behalf of the data exporter:

Name (written out in full): [insert full name of person signing for data exporter]

Position: [position of person signing e.g. Director]

Address: [business address of person signing]

Other information necessary in order for the contract to be binding (if any): [insert if relevant]

Signature:…………………………………………

On behalf of the data importer:

Name (written out in full): [insert full name of person signing for Reading Plus]

Position: [position of person signing e.g. Director]

Address: [business address of person signing]

Other information necessary in order for the contract to be binding (if any): [insert if relevant]

Signature:……………………………………

Date of the Standard Contractual Clauses: [insert date upon which the second party signs]

Appendix 1

This Appendix forms part of the Clauses and must be completed and signed by the parties

Data exporter

The data exporter is (please specify briefly your activities relevant to the transfer):

A UK school which uses the data importer's Software as a Service product in the delivery of educational services to its pupils.

Data importer

The data importer is (please specify briefly activities relevant to the transfer):

The provider of a Software as a Service product designed to improve literacy.

Data subjects

The personal data transferred concerns the following categories of data subjects (please specify):

Student users of the Software as a Service product together with their teachers and school administrators, parents or guardians.

Categories of data

The personal data transferred concerns the following categories of data (please specify):

- Identity Data including names and titles

- Contact Data including email addresses, addresses and telephone numbers

- Financial Data including bank account and payment card details

- Transaction Data including details about payments made, support requests, questions or complaints

- Technical Data including IP addresses, login dates and times, domain and web browser information, technical information about a user's workstation or local area network, simultaneous login attempts, lesson dates and times, account creation dates and times, account modification dates and times and information collected through cookies and other tracking technologies

- Profile Data including usernames and passwords, student numbers and grades, gender, race, Hispanic/non-Hispanic, free/reduced lunch status, first language, ESL, ELL, EL status, special education status

- Usage Data including information about how the Software as a Service product is used, tasks performed, assessments undertaken, communications within the Application, survey responses, and progress history including any specific skills deficiencies or areas of weakness identified.

Special categories of data (if appropriate)

The personal data transferred concern the following special categories of data (please specify):

Race, ethnicity and health data.

Processing operations

The personal data transferred will be subject to the following basic processing activities (please specify):

- Receiving data, including collection, accessing, retrieval, recording, and data entry

- Holding data, including storage, organisation and structuring

- Using data, including analysing, consultation, testing, automated decision making and profiling

- Updating data, including correcting, adaptation, alteration, alignment and combination

- Protecting data, including restricting, encrypting, and security testing

- Sharing data, including disclosure, dissemination, allowing access or otherwise making available

- Returning data to the data exporter or data subject

- Erasing data, including destruction and deletion

All undertaken for the purpose of making the Software as a Service product available to UK users including setting up and closing user accounts, delivering product functionality and providing product support and technical IT assistance to users.

DATA EXPORTER

Name: [Insert name of individual signing for the data exporter]

Authorised Signature …………………..

DATA IMPORTER

Name: [Insert name of individual signing for Reading Plus]

Authorised Signature …………………..

Appendix 2

This Appendix forms part of the Clauses and must be completed and signed by the parties.

Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

The data importer has implemented the following security measures in its organization:

•   Network segmentation

•   Firewalls

•   Anti-virus software

•   Full disk encryption of end-points

•   Encrypted communication via SSL or VPN

•   Segregation of duties

•   Role-based access permissions (based on least-privilege)

•   Secure disposal facilities of confidential information

•   Tools to enable employees to work secure (such as password managers, VPN, multi-factor authentication)

Per application or communication, additional security measures can be implemented.

DATA EXPORTER

Name: [Insert name of individual signing for the data exporter]

Authorised Signature …………………….

DATA IMPORTER

Name: [Insert name of individual signing for Reading Plus]

Authorised Signature …………………….

Agreement to be Bound by Standard Contractual Clauses

[Name]

[Address]

[Telephone]

[Email]

A company registered in England & Wales with company number [number] (the **Data Exporter**)

(Acting by its agent Reading Solutions UK Limited); and

Reading Plus LLC

110 West Canal Street, Suite 301, Winooski, VT 05404

800-732-3758

support@readingplus.com

A Delaware limited liability company (the **Data Importer**)

each a **Party**; together **the Parties**

BACKGROUND

1.   The Data Exporter and the Reseller have entered into the SaaS Agreement pursuant to which the Reseller will act as a data processor for the Data Exporter.

2.   The Reseller has, with the prior written consent of the Data Exporter and in accordance with Article 28 of the UK GDPR, appointed the Data Importer to carry out specific processing activities on behalf of the Data Exporter.

3.   The Data Importer will process personal data on behalf of the Data Exporter in the USA.

4.   The Parties wish to enter into the Agreed SCCs in accordance with Article 46 of the UK GDPR.

AGREED TERMS

1.   Interpretation. The following definitions apply in this agreement:

1.1   the **SaaS Agreement** means the Reading Plus Software as a Service Subscription Agreement with Reading Solutions UK Limited;

1.2   the **Reseller** means Reading Solutions UK Limited;

1.3   the **Agreed SCCs** means the EU Standard Contractual Clauses for international transfers from controllers to processors in the form displayed at Schedule 4 to the SaaS Agreement;

1.4   the **Date of the Standard Contractual Clauses** shall be as stated below;

1.5   unless the context otherwise requires, all other terms used in this agreement shall have the meanings given to them in the Agreed SCCs.

2.   The parties hereby agree:

2.1   that the Agreed SCCs shall come into effect and be binding as between them with effect from the Date of the Standard Contractual Clauses;

2.2   that the processing of personal data to be undertaken by the Data Importer on behalf of the Data Exporter shall be as detailed in Appendix 1 to the Agreed SCCs; and

2.3   that the technical and organisational security measures to be implemented by the Data Importer shall be as detailed in Appendix 2 to the Agreed SCCs.

On behalf of the data exporter:

Name (written out in full): [insert full name of person signing for data exporter]

Position: [position of person signing e.g. Director]

Address: [business address of person signing]

Signature:…………………………………………

On behalf of the data importer:

Name (written out in full): [insert full name of person signing for Reading Plus]

Position: [position of person signing e.g. Director]

Address: [business address of person signing]

Signature:…………………………………………

Date of the Standard Contractual Clauses: [insert date upon which the second party signs]

Signed by Ian Fitzpatrick for and on behalf of **READING SOLUTIONS UK LIMITED**

Director

Signed   by   [NAME   OF DIRECTOR]   for and on behalf   of   [NAME   OF CUSTOMER]

....

Director