

Data Processing Agreement

This Data Processing Agreement (DPA), is between HT2 Ltd the ("Contractor", or "HT2 Labs", or "HT2"), a company incorporated in England and Wales, registered number 04052815, having a registered office at Hillside, Albion Street, Chipping Norton, Oxon, OX7 5BH and _____ (Customer). Dated: _____.

IT IS AGREED as follows:

1. GENERAL

- 1.1. Capitalised terms used but not defined in this Amendment shall have the meaning given to them in the Agreement.
- 1.2. In consideration of the performance of each party's obligations set out in this Amendment and the Agreement, the parties agree that the Agreement be supplemented by adding the following clause 2 (the GDPR Terms).
- 1.3. The GDPR Terms shall become effective on 25 May 2018.
- 1.4. The following defined terms are used in the GDPR Terms:

Data Protection Laws means (a) the GDPR; and (b) all other laws concerning the processing of data relating to living persons;

Data Subject means each identified or identifiable (whether directly or indirectly) natural person to whom any Personal Data relates;

GDPR means Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation); Personal Data means any information relating to an identified or identifiable living individual; and

Personal Data Breach means any actual or suspected breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.

2. GDPR TERMS

2.1. General Terms

- 2.1.1. HT2's services can be used to process and store personally-identifiable information. It is the Customer's responsibility to only collect this in accordance with the laws of each territory within which it operates under this agreement. The scope, aim and nature of the processing as part of this service is outlined in Appendix 1.
- 2.1.2. To the extent that HT2 processes Personal Data in the course of providing the Services, each party acknowledges that, for the purpose of Data Protection Laws, Customer is the controller of the Personal Data and HT2 is the processor.
- 2.1.3. HT2 shall implement appropriate technical and organisational measures in such a manner that processing will meet the requirements of the GDPR and ensure the protection of the rights of the data subject.

2.1.4. Processing by HT2 shall be governed by this Agreement under any law of the European Union or any member state of the European Union, which is binding on HT2 with regard to Customer. The subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data, the categories of data subjects and the obligations and rights of Customer are set forth in this Agreement and Appendix 1 (as amended by the parties from time to time).

2.1.5. HT2 shall:

- 2.1.5.1. Only process that Personal Data in accordance with the documented instructions of Customer (including to the extent necessary to provide the Services and to comply with its obligations under this Agreement);
- 2.1.5.2. inform Customer if, in HT2's opinion, any of Customer's instructions would breach Data Protection Laws; and
- 2.1.5.3. assist Customer with undertaking an assessment of the impact of processing that Personal Data, and with any consultations with a supervisory authority, if and to the extent an assessment or consultation is required to be carried out under Data Protection Laws.

2.2. Data Subject Rights

HT2 shall:

- 2.2.1. implement appropriate technical and organisational measures for the fulfilment of Customer's obligation to respond to requests by Data Subjects to exercise their rights of access, rectification or erasure, to restrict or object to processing of Personal Data, or to data portability; and
- 2.2.2. if a Data Subject makes a written request to HT2 to exercise any of the rights referred to in clause 2.2(a), forward the request to Customer promptly and shall, upon Customer reasonable written request, provide Customer with all co-operation and assistance reasonably requested by Customer in relation to that request to enable Customer to respond to that request in compliance with applicable deadlines and information requirements.

2.3. Security Measures

HT2 shall:

- 2.3.1. taking into account the state of the art, the costs of implementation and the nature, scope, context and purpose of processing, as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including the risk of unauthorised or unlawful processing of Personal Data, and of accidental or unlawful loss, alteration, unauthorised disclosure or destruction of, or damage to, Personal Data; and
- 2.3.2. notify Customer without undue delay after becoming aware of a Personal Data Breach, and upon Customer's reasonable written request, provide Customer with all co-operation and assistance reasonably requested by Customer to enable Customer to notify the Personal Data Breach to the relevant supervisory authority and relevant Data Subject(s) (as applicable).

2.4. Sharing of Personal Data

- 2.4.1. Customer authorises HT2 to engage appropriate processors to carry out the processing of the Personal Data as envisaged under these GDPR Terms and Appendix 1.
- 2.4.2. HT2 only discloses potentially personally-identifying and personally-identifying information to those of its employees, contractors and affiliated organisations that need to know that

information in order to process it to provide The Services, and that have contractually agreed not to disclose it to others.

HT2 shall:

- 2.4.3. save for those processors detailed in Appendix 1, not engage another processor without prior specific or general written authorisation of Customer and in the case of general written authorisation, inform Customer of any intended changes concerning the addition or replacement of other processors, thereby giving Customer the opportunity to object to such changes;
- 2.4.4. before disclosing Personal Data to any processor, enter into a contract with that processor under which the processor agrees to comply with obligations equivalent to those set out in these GDPR Terms; and
- 2.4.5. before disclosing Personal Data to any of its employees and representatives, and the employees and representatives of each of its processors, in each case who have access to the Personal Data, ensure that those persons:
- 2.4.6. have undergone appropriate training in data protection and the care and handling of Personal Data;
- 2.4.7. are bound to hold the information in confidence to at least the same standard as required under this Agreement (whether under a written agreement or otherwise).

2.5. Transfer of Personal Data

HT2 shall:

- 2.5.1. not transfer Personal Data to, or process Personal Data in, any third country or territory without the prior written consent of Customer (which consent may be conditional upon HT2 or the relevant third parties entering into an agreement containing similar terms to these GDPR Terms with Customer) unless (and for so long as):
- 2.5.2. there has been a European Community finding of adequacy pursuant to Article 25(6) of Directive 95/46/EC or, after 24 May 2018, Article 45 of the GDPR in respect of that country or territory;
- 2.5.3. the transfer is to HT2 employees in the United States. The Customer consents to the transfer of only such information as is required by these employees to ensure the continued delivery of the Services as described in this Agreement. At all times HT2 employees in the USA are bound by the terms of the GDPR, as asserted by HT2's ongoing commitment to the "Privacy Shield" programme, or
- 2.5.4. Customer and the relevant importing entity are party to a contract in relation to the export of Personal Data incorporating standard contractual clauses in the form adopted by the European Commission under Decision 2010/87/EU or an equivalent data transfer agreement meeting the requirements of Data Protection Laws.
- 2.5.5. Where any mechanism for cross-border transfers of Personal Data is found by a supervisory authority, court of competent jurisdiction or other governmental authority to be an invalid means of complying with the restrictions on transferring Personal Data to a third country or territory as set out in Data Protection Laws, the parties shall act in good faith to agree the implementation of an alternatives solution to enable Customer to comply with the provisions of Data Protection Laws in respect of any such transfer.

2.6. Compliance

HT2 shall:

- 2.6.1. notify Customer if it receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data, or to either party's compliance with Data Protection Laws, and shall fully co-operate and assist Customer in relation to any such complaint, notice, communication or non-compliance; and
- 2.6.2. upon Customer's reasonable written request, provide all information necessary to demonstrate compliance with these GDPR Terms, and allow Customer or an auditor appointed by Customer to carry out audits, including inspections of facilities, equipment, documents and electronic data, relating to the processing of Personal Data by HT2 or any processor, to verify compliance with these GDPR Terms.
- 2.6.3.

2.7. Termination/ expiry

HT2 shall:

- 2.7.1. unless expressly stated otherwise in this Agreement, upon termination of this Agreement, HT2 shall, and shall procure that each processor shall, immediately cease to use the Personal Data and shall, at Customer's option, return the Personal Data to Customer or to a processor nominated by Customer or delete the Personal Data and all copies and extracts of the Personal Data unless required to retain a copy in accordance with any law of the European Union or any member state of the European Union; and
- 2.7.2. on expiry or termination of this Agreement (however arising) these GDPR Terms shall survive and continue in full force and effect.

3. Miscellaneous Provisions

- 3.1. This Amendment may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same agreement, and any party (including any duly authorised representative of a party) may enter into this Amendment by executing a counterpart.
- 3.2. If there is any conflict or inconsistency between the GDPR Terms and the other terms of the Agreement, these GDPR Terms will govern. Except for changes made by this Amendment, the Agreement remains unchanged and in full force and effect and the original effective date (or equivalent) as defined in the Agreement shall remain the same.
- 3.3. This Amendment and any non-contractual obligations arising out of or in connection with it are governed by English law. The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Amendment and the parties submit to the exclusive jurisdiction of the English courts.

This Amendment is signed by duly authorised representatives of the parties on the date which appears below.

HT2 Ltd

The Customer

Signature:

Signature:

Name:

Name:

Title:

Title:

Date:

Date:

APPENDIX 1

Description of the data processing carried out on behalf of the Data Controller

For the avoidance of doubt, the data processing agreement shall apply in addition to, and not in substitution for, the terms of your contract.

In addition to the information documented elsewhere in this Agreement, the Parties wish to document the following in relation to the data processing activities:

Nature	HT2 will perform data processing activities on behalf of the Customer to provide online learning, online education services and learning analytics through web applications, email and other messaging services.
Activity	The data processing activity consists of data collection, data storage, data sorting, data processing, data analysis and data presentation by using cloud hosting, storage and content delivery services.
Purpose	The purpose of data processing under this Agreement is the provision of The Services to the Customer as agreed by the parties.
Duration	Duration of the Agreement until termination in accordance with its terms
Location of Data at Rest	Personal Data will be stored within the EEA (including the UK) as part of this Agreement.
Categories of Data subjects	The categories of Personal Data involved are: <ol style="list-style-type: none"> 1. Employees and Representatives of the Customer ("Employee & Representative Data"); 2. Any individual accessing and/or using the Services as resold by the Customer ("User Data"); 3. Any individual whose information is stored on or collected via the Services ("User Data").
Types of Personal Data	<p>The following Personal Data relating to Employee & Representative Data will be processed under this DPA:</p> <ul style="list-style-type: none"> ● Name ● Address ● Contact details ● Geographic location ● Areas of responsibility ● Written recorded data in relation to our services IT information (User IDs, IP addresses, usage data, cookies data, online navigation data, click data, location data, browser data, records of viewing) <p>The following Personal Data relating to User Data will be processed under this DPA:</p> <ul style="list-style-type: none"> ● Username ● Personal Unique ID or User IDs ● Email Address(es) ● IT information (IP addresses, usage data, cookies data, online navigation data, click data, location data, browser data, records of viewing) ● For Curatr this would also include Pictures and Biographical Data

Processing instructions	Appropriate technical and organisational measures include: encrypting Personal Data in transit and at rest, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, taking reasonable steps to ensure the reliability of its employees with access to Personal Data and regularly assessing and evaluating the effectiveness of such measures adopted.
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Appointed Sub-processors

HT2 has appointed the following sub-processors for User Data which includes links the respective data processing agreements (under GDPR) in parentheses:

- a. Google (<https://cloud.google.com/security/gdpr/>)
- b. Amazon (<https://aws.amazon.com/compliance/gdpr-center/>)
- c. Rackspace (<https://www.rackspace.com/en-gb/gdpr>)

HT2 shall (i) provide an up-to-date list of the sub-processors it has appointed upon written request from the Customer; and (ii) notify the Customer (for which email shall suffice) if it adds sub-processors at least 10 days prior to any such changes.

The Customer may object in writing to HT2's appointment of a new sub-processor within five (5) calendar days of such notice, provided that such objection is based on reasonable grounds relating to data protection. In such event, the parties shall discuss such concerns in good faith with a view to achieving resolution. If this is not possible, the Customer may suspend or terminate the Agreement (without prejudice to any fees incurred by the Customer prior to suspension or termination).

Data Breach / Incident Contacts

The following table outlines HT2's contact in the event of a Data Breach / Incident:

Name	
Role	
Phone	
Email	

The following table outlines the Customer contact in the event of a Data Breach / Incident:

Name	
Role	
Phone	
Email	