

TERMS AND CONDITIONS

LEARNING LADDERS – STANDARD LICENCE TERMS FOR EDUCATIONAL ESTABLISHMENTS

1. Introduction

- 1.1. Definitions are set out at paragraph 2.
- 1.2. Learning Ladders is a product developed and provided by School Explained Ltd ("We"). We are a company registered in England and Wales (registered number 08400688). Our registered address is 6 St. Georges Circus, London, SE1 6FE. Our VAT number is 173 1196 16.
- 1.3. These terms together with the Order Form and, if Your agreement to purchase is directly with us, the Supplementary Terms (providing direct subscription arrangements which are provided in the Order Form) will be the basis on which You may make use of Learning Ladders. This is called the Licence.
- 1.4. The organisation identified within the Order Form is You for the purpose of these Terms and Conditions.
- 1.5. If you are a Registered User under this Licence We recommend that you read this Licence carefully before you start to use Learning Ladders. Your organisation has placed an order for the product Learning Ladders and the right to use Learning Ladders within Your School is provided subject to the Terms and Conditions of this Licence. Your organisation was provided with a copy of this Licence prior to the submission of the order form.

2. Definitions

- 2.1. When reading the Terms and Conditions, please refer to these definitions.

Licence	The right for Registered Users to use Learning Ladders or (in the case of Parent Subscribers to access certain functionality of the product) for so long as this Licence continues under the terms and conditions of the Licence
Learning Ladders	The Learning Ladders product described on and available from the Learning Ladders Website or direct from us
Order Form	Your completed Learning Ladders Order Form which We have accepted and which, together with the Licence, forms our agreement with You
Parent Subscriber	A parent, carer or guardian of a Pupil Subscriber who is a Registered User
Pre-loaded Content	Materials provided by us or by third parties who We have authorised to upload content and which We make available from time to time as part of Learning Ladders
Pupil Subscriber	A pupil or student of You who is a Registered User

Registered Users	A user that You have authorised to use Learning Ladders as a School Subscriber, Teacher Subscriber, Pupil Subscriber or Parent Subscriber, in the latter case providing certain access rights to Learning Ladders.
School	The learning establishment which is named as the subscriber entitled to use Learning Ladders.
School Subscriber	The administrative account set up for You with which You control access of Registered Users in Your School
Subscriber uploaded content	Any materials uploaded by a Registered User of Learning Ladders.
Supplementary terms	The terms set out in the supplement to the Order Form
Teacher Subscriber	A qualified teacher, teaching assistant, reading assistant, classroom assistant, SENCO or other person who is employed or contracted by or on behalf of You and who is provided with log on details which are subsequently activated by that person
Term	The duration of this License
Terms	These standard Licence terms
Updates	Additions or changes to Learning Ladders
We	School Explained Ltd, company number 08400688
You	The School, college, Academy Trust or other educational establishment identified on the Order Form. Where a School is or becomes part of an Academy Trust, You is a reference to the Academy Trust provided that any relevant requirements of this contract have been observed. The rights to use Learning Ladders are limited to those Schools that have been identified on the Order Form.

- 2.2. Please also refer to the following notes, which will help Your understanding of the effect of these terms and conditions.
- 2.3. A reference to Data Protection Obligations is a reference to legal duties and responsibilities that apply under the General Data Protection Regulation and associated legislation as applied in our relationship with You or to which You are obliged to comply or We are obliged to comply.
- 2.4. Paragraph headings shall not affect the interpretation of this Licence.
- 2.5. References to the singular includes the plural and vice versa.

- 2.6. A reference to any party shall include that party's successors and permitted assigns.
- 2.7. Any obligation on a party not to do something includes an obligation to not to allow that thing to be done by any person for whom that party is responsible.
- 2.8. Any words following the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

3. **Additional terms and policies**

- 3.1. In agreeing to this Licence, You agree that You and each Registered User agree with and in the case of the Acceptable Use policy will comply with:
 - 3.1.1. Our Privacy Policy (<https://www.learningladders.info/privacy-policy>) which sets out the terms on which We process any personal data We collect from You or that You provide to us
 - 3.1.2. Our Acceptable Use Policy (<https://www.learningladders.info/acceptable-use>) which sets out the permitted uses and prohibited uses of our site.
 - 3.1.3. Our Cookie Policy (<https://www.learningladders.info/cookie-policy>) which sets out information about the cookies on our site.
- 3.2. We will alert You and each Registered User to any changes in policies that arise from time to time.

4. **Our obligations**

- 4.1. We shall set up and create a School specific Website together with unique URL for the School Subscriber upon receipt of Your completed Order Form together with confirmation of payment by You of the fee payable in respect of this Licence.
- 4.2. We shall generate and issue log in details for the School Subscriber account.
- 4.3. The School Subscriber account shall act as the master account for You with administrative privileges and We shall allow the School Subscriber sufficient rights to enter data to create accounts for the Registered Users.
- 4.4. We shall provide Pre-loaded Content for Your benefit to be accessed and used under the terms of this Licence.

5. **Our obligations when acting as a processor**

- 5.1. When acting as a data processor for You We shall ensure that We:
 - 5.1.1. assist You in providing subject access and allowing data subjects to exercise their rights under the Data Protection Obligations;
 - 5.1.2. assist You in meeting Your Data Protection Obligations in relation to the security of processing, the notification of personal data breaches and data protection impact assessments;

- 5.1.3. delete or return all personal data to You as requested at the end of the period of the licence;
- 5.1.4. comply with our legal duties in relation to data portability and co-operate with You in respect of requests made to You in respect of Learning Ladders Personal Data;
- 5.1.5. submit to audits and inspections, provide You as the controller with whatever information You need that We hold and can make available to You to ensure that We are both meeting our legal obligations, and tell You immediately if We are asked to do something infringing the Data Protection Obligations or other relevant data protection laws of the United Kingdom or other EU member states; and
- 5.1.6. facilitate opt outs that Registered Users may subsequent to registration wish to secure from any processing of their Personal Data and also the right to be forgotten provided that We may need to withdraw access to the Product if specific data elements are essential to the functionality of the Product.

6. **Grant of and scope of licence**

- 6.1. We hereby grant You a non-exclusive, non-transferable licence to use Learning Ladders in Your country for the term. This licence shall entitle You to allow rights to access and use Learning Ladders under this licence and under a sub-licence granted by You to the following categories of people:
 - 6.1.1. Teacher Subscribers, including but not limited to qualified teachers, teaching assistants, reading assistants, classroom assistants, SENCOs and any other persons who shall require access in their role within the School, access to be granted under this licence; and
 - 6.1.2. Pupil Subscribers for pupils or students of this School;
- 6.2. We also agree to provide You with a basis upon which Parent Subscribers may access certain features of Learning Ladders. Access by such Parent Subscribers shall be upon the terms and conditions for use of our Website (including our Acceptable Use Policy) as We determine the same from time to time. When We change such conditions all Parent Subscribers shall be informed by us of the amended information..
- 6.3. Access shall be granted in the following way:
 - 6.3.1. Teacher Subscribers shall be granted access by this licence but You are responsible at all times for due observance of the licence by all such persons. The School Subscriber shall provide us with the name and email address of each Teacher Subscriber; You should ensure that your Privacy and Fair Processing Notices reflect the relationship We have with You.
 - 6.3.2. Pupil Subscribers shall be granted access rights by the School Subscriber. The School Subscriber shall provide us with the details necessary to set up and thereafter manage the participation in Learning

Ladders of each Pupil Subscriber. You will take all reasonable care to be accurate in specifying the date of birth of a proposed Pupil Subscriber. You warrant (as a duty continuing throughout the period of this Licence) that for all Pupil Subscribers who at the relevant time are under 13 years of age You have secured in writing or by appropriate digital means an express consent of a parent or carer to authorise the transfer of data to us and the processing of personal data by us.

- 6.3.3. You will (save in any circumstances in which a parent or guardian necessarily remains responsible for such matters) ensure that upon any Pupil Subscriber attaining the age of 13 any consents required are retaken from the Pupil Subscriber directly as that is the age at which consent cannot usually be validly taken from a responsible adult.
- 6.3.4. Parent Subscribers shall be granted access through the issue of a unique code provided by the School Subscriber. We will provide the actual access through the use of that code.
- 6.4. You are entitled during the term to:
 - 6.4.1. permit Registered Users to log in and use Learning Ladders content from School / college or home for Your establishment's internal education and non-commercial purposes;
 - 6.4.2. permit Registered Users, acting within the terms of this Licence, to download other Content accessible to that Registered User to computers and portable devices;
 - 6.4.3. authorise Registered Users to upload material to Learning Ladders in compliance with the Acceptable Use policy.
- 6.5. This Licence shall apply to Learning Ladders as updated from time to time.

7. **Your obligations**

- 7.1. You (meaning for the avoidance of doubt the School or Academy Trust or other institution that We enter into this licence with) shall:
 - 7.1.1. ensure that You complete the Order Form accurately;
 - 7.1.2. ensure that the person signing the Order Form is authorised by the Academy Trust, School or other appropriate body to enter into this licence on Your behalf;
 - 7.1.3. ensure that Staff Subscribers are trained in the use of Learning Ladders;
 - 7.1.4. keep an accurate and up-to-date record throughout the term of:
 - 7.1.4.1. all Registered Users;
 - 7.1.4.2. what Learning Ladders content is downloaded by Registered Users;
 - 7.1.4.3. Access codes granted to Parent Subscribers;

- 7.1.5. expressly prohibit Registered Users from sharing their user access details;
- 7.1.6. require Registered Users to select a secure password which they change when reasonably requested by us or by You, and which they keep secure and confidential;
- 7.1.7. keep Learning Ladders downloads secure from unauthorised access;
- 7.1.8. keep our copyright notice on all Learning Ladders downloads;
- 7.1.9. ensure that resources are used solely for the benefit of Pupil Subscribers and copies of the materials used do not exceed the number of Pupil Subscribers registered;
- 7.1.10. ensure that Pupil Subscribers have a good appreciation of the functionality of Learning Ladders and responsibility for any uploading of work they undertake;
- 7.1.11. supervise and control the use of Learning Ladders to ensure it is used in accordance with this licence;
- 7.1.12. ensure that the data that You provide to Learning Ladders is accurate;
- 7.1.13. ensure that You have sufficient procedures in place to identify when data is no longer accurate and update ourselves with this as soon as practicable;
- 7.1.14. ensure that You have a privacy policy allowing data to be transferred to us in compliance with all relevant legislation;
- 7.1.15. unless We are manifestly in breach of Our Data Protection Obligations and you have so advised us providing evidence of such breach not withdraw Your instructions that permit our processing of personal data for so long as this Agreement has effect;
- 7.1.16. (where You are a Multi-Academy Trust), advise us promptly in the event that a School that has the benefit of this Licence leaves Your Trust advising us also of the Trust that is its destination and also the date upon which You ceased to be responsible for that School; and
- 7.1.17. permit us and our authorised representatives to have access to Your premises (subject to our complying with all reasonable requirements You make in relation to such access) for the purpose of auditing and verifying compliance with this Licence.

7.2. You shall not:

- 7.2.1. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of Learning Ladders in any form or media or by any means, except to the extent expressly permitted by this licence or which must be allowed by law; or

- 7.2.2. download Learning Ladders content and place it on Your establishment's VLE, Intranet, Website or any other media from which students or staff can download directly, except with our express written permission; or
 - 7.2.3. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of Learning Ladders except to the extent which must be allowed by law; or
 - 7.2.4. access all or any part of Learning Ladders in order to build a product or service which competes with Learning Ladders; or
 - 7.2.5. use Learning Ladders for the benefit of any third party, including any School that is not a School Subscriber; or
 - 7.2.6. license, sell, rent, lease, transfer, assign, distribute, display, disclose, commercially exploit, or otherwise make Learning Ladders available to any third party except Your users without our express written permission
- 7.3. You shall use all reasonable endeavours to prevent any unauthorised access to or use of Learning Ladders and, in the event of any unauthorised access or use, promptly notify us. In any such circumstances We strongly recommend that you review and have regard to the provisions of the Appendix to these Terms and Conditions immediately as other actions may become necessary under law.

8. **Access and account details**

- 8.1. We will provide You with access to Learning Ladders and You shall ensure that any Registered User access details are kept confidential as detailed at paragraph 7.1.5.
- 8.2. We have the right to disable any Registered User accounts at any time if in our reasonable opinion the Registered User access details have not been kept confidential. We shall make the Registered User accounts available again once requested and new details will be issued.
- 8.3. If You know or suspect that any Registered User access details have become known by anyone other than the intended Registered User, the details must be changed as soon as practicable OR the School Subscriber or a Teacher Subscriber must contact Support Services as soon as practicable.
- 8.4. We have the right to suspend or terminate Your and/or any Registered User's access to Learning Ladders if we determine that You or such Registered User has uploaded inappropriate content or has made inappropriate use of any Subscriber uploaded content or Pre-loaded Content, as further detailed in our Acceptable Use Policy (<https://www.learningladders.info/acceptable-use>). Where we deem there to have been an inappropriate use of content, we will notify You of the facts and provide such evidence to You as is appropriate. In such circumstances You will take such action as is appropriate in the circumstances to prevent recurrence of the circumstances that have arisen.

9. **Services and Support**

- 9.1. Following our acceptance of the order form and agreement with You of any supplementary terms, We shall set up and make Learning Ladders available to You on and subject to the terms of the licence during the term.

- 9.2. We shall use commercially reasonable endeavours to make Learning Ladders available 24 (twenty four) hours a day, 7 (seven) days a Week, except for:
- 9.2.1. planned maintenance carried out during a scheduled and pre-published maintenance window during term time, or at any time during School holidays;
 - 9.2.2. unscheduled maintenance performed outside normal business hours, provided that We use reasonable endeavours to give You at least 2 (two) normal business hours' notice in advance.
- 9.3. The free licence does not include our standard support. Our support staff will endeavour to answer by e-mail any queries which You have regarding the use of Learning Ladders, but this falls outside our standard Service Level Standards. Details of our support staff contact details will be provided to You with Your confirmation documentation.

10. **Data**

- 10.1. The provisions of the Appendix to this Licence govern the management and authority to process personal data. We each agree to comply with the terms and conditions of the Appendix.
- 10.2. School Subscribers shall upload the required data as detailed by the Learning Ladders system by:
- 10.2.1. automatic export of data from a complementary system; OR
 - 10.2.2. manual export of data in such form as the system requires.
- 10.3. We shall be granted access to the data for the term of this Licence.
- 10.4. You shall not make access to data unavailable during the term of this Licence save for any changes required for the accuracy of the data. Temporary unavailability of data for maintenance purposes shall be accepted by us.
- 10.5. Should You decide to not renew Your Licence with us upon expiry of the term or for any reason under paragraph 15 or should We terminate this Agreement, You shall ensure that all Pre-loaded Content have been disposed of and are not used after the end of the term. This includes the destruction of all unused Learning Ladders booklets in printed or electronic form.

11. **Registered Users leaving / joining**

- 11.1. You must ensure that should any Registered User end their relationship with You by leaving the School or changing their position so as to no longer require access, the School Subscriber shall remove that person's access within 28 days following the date access is to be denied.
- 11.2. You must ensure that any Pre-loaded Content accessible to any Registered User who is ending their relationship with You must be made inaccessible and any printed materials (excluding used Learning Ladders booklets returned to You for secure disposal).

11.3. Should a person begin a relationship with You who fits the criteria for a Teacher Subscriber or a Pupil Subscriber, the School Subscriber shall upload their data in line with paragraph 10 and grant that party access to the system. The provisions of the Appendix to these terms and conditions shall at that time become applicable to any relevant Personal Data.

12. **Intellectual property rights**

12.1. Learning Ladders is a trade mark of School Explained Limited.

12.2. You acknowledge that the copyright, database rights and all other intellectual property rights in Learning Ladders anywhere in the world belong to us or our licensors, that rights in Learning Ladders are licensed (not sold) to You, and that You have no rights in, or to, Learning Ladders other than the right to use it in accordance with the licence.

12.3. You must not modify the paper or digital copies of any materials You have printed off or downloaded in any way from Learning Ladders, unless they are expressly identified as being designed to be modified and neither You nor any Registered User must use any illustrations, photographs, video or audio sequences or any graphics separately from any accompanying text for any purposes not expressly permitted by this Licence.

12.4. Our status (and that of any identified contributors) as the authors of content within Learning Ladders must always be acknowledged.

12.5. You agree that You shall indemnify us in relation to any loss or damage of whatsoever nature that We may suffer in consequence of any breach of the intellectual property rights of a third party caused or permitted by a Registered User or through any wilful or negligent act of a School Subscriber.

13. **User generated content**

13.1. Learning Ladders includes information and materials uploaded by third parties and Registered Users of the site.

13.2. The information and materials have not been verified or approved by us and the views expressed do not represent our views or values.

13.3. If You wish to complain about information and materials uploaded by other users, please contact our support services as detailed in paragraph 9.3.

14. **Liability**

14.1. Save in respect of liability for:-

14.1.1. Death or personal injury

14.1.2. Fraud or fraudulent misrepresentation and

14.1.3. Any other matter for which it would be illegal for us to exclude or attempt to exclude our liability

our liability in each case being unlimited, We exclude expressly any liability on the part of our officers, directors, employees, third party contributors of Content, employees, shareholders or agents for any loss or liability that may arise and affect You or any third party leading to You suffering loss or incurring damages of any kind in connection with the use of Learning Ladders.

- 14.2. The liability of Learning Ladders to You if You are a direct purchaser of our product shall be limited (subject to clause 14.1) to loss or damages suffered by You which arises through our deliberate act or omission (subject always to Clause 9.2 in relation to availability of Learning Ladders and exclusion of any claim for non-availability) or negligence shall be limited to the amount of the Licence Fee actually paid in respect of the School or Schools in respect of which the claim arises.

15. **Duration and termination**

- 15.1. The Licence granted to each School is from the date we issue your login details to 30th June 2020. You can upgrade to a paid plan at any time to extend this access.
- 15.2. Access to the system shall terminate for all users on 30th June 2020, except where the School has upgraded to a paid plan.
- 15.3. Learning Ladders reserves the right, at its sole and absolute discretion, to terminate the free access licence at any time.
- 15.4. Your access to Learning Ladders and the access rights of each and every Registered User associated with Your School shall be terminated in the event of non-payment of invoices.

16. **Transfer of rights and obligations**

- 16.1. The licence is binding on You and us, and on our respective successors and assignees.
- 16.2. You may not transfer, assign, charge or otherwise dispose of Your licence, or any of Your rights or obligations arising under it, without our prior written consent. If You are a School that becomes part of an Academy Trust or are School that transfers to another Academy Trust during the period of this Licence You must ensure that the requirements of Clause 20 are complied with.
- 16.3. We may transfer, assign, charge, sub-contract or otherwise dispose of these, this licence, or any of our rights or obligations arising under it, at any time during the term of the licence.

17. **Third party rights**

- 17.1. No one other than a party to this licence, its successors and permitted assignees, shall have any right to enforce any of its terms.

18. **Notices**

- 18.1. Any formal notices that either party may wish to serve upon the other shall be served as follows:-

- 18.1.1. By the School: To the Managing Director, School Explained sent to hello@learningladders.info or the address of the company appearing at the beginning of this Licence
- 18.1.2. By School Explained: To the named responsible person whose details appeared on the Order Form. You are responsible for providing updated information if the detail of that person changes during the period of the Licence.

19. **Force Majeure**

- 19.1. Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 90 days the party not affected may terminate this agreement by giving 30 days written notice to the affected party.

20. **School Rebrokerage**

- 20.1. We agree that in the event that there is a change in status of a School that is a School Subscriber of either of the following kinds:-
 - 20.1.1. a School that is presently a local authority maintained School converts to become an Academy; and
 - 20.1.2. an Academy leaves the ownership of one Academy Trust and joins anotherupon due notice being provided to us and the successor organisation entering into a formal novation of this Licence in terms acceptable to us as having the effect of transferring the Licence and all rights and obligations under that Licence We shall accept the successor organisation as the licensee in respect of this Licence.

21. **Variation**

- 21.1. We may need to vary the terms of this agreement from time to time or ask You to confirm acceptance of a new agreement. This may be, by way of non-exhaustive examples, where You decide to change Your Data Extractor (should You have one); where You change the data fields provided to us, or issue us with new instructions outside the scope of this agreement; or where there is a change in applicable Data Protection Legislation as envisaged in the clause 6.4 of the Appendix. Where this happens, We will issue You with a new or updated agreement and will ask You to confirm that You accept its terms. Where Your failure to accept the terms means that it is likely that You or We are in breach of Data Protection Legislation, We may refuse to continue to Process Personal Data on Your behalf until You have accepted them.

22. **Waiver**

- 22.1. If We fail, at any time during the term of the licence, to insist on strict performance of any of Your obligations under the licence, or if We fail to exercise any of the rights or remedies to which We are entitled under the licence, this shall not constitute a

waiver of those rights or remedies and shall not relieve You from compliance with Your obligations.

22.2. A waiver by us of any default shall not constitute a waiver of any subsequent default.

22.3. No waiver by us of any of these terms shall be effective unless it is expressly stated to be a waiver and is communicated to You in writing.

23. **Severability**

23.1. If any condition (or part condition) of the licence is determined by any competent authority to be invalid, unlawful or unenforceable to any extent, that condition (or part condition) will to that extent be severed from the remaining conditions which will continue to be valid to the fullest extent permitted by law.

24. **Entire Agreement**

24.1. This agreement (including any applicable terms set out in the order form and in all cases the appendix to these terms and conditions) constitutes the whole agreement between us and supersedes any previous arrangement, understanding or agreement between us, relating to the licensing of Learning Ladders.

24.2. We each acknowledge that, in entering into the licence, neither of us relies on any statement, representation, assurance or warranty of any person (whether a party to the licence or not) other than as expressly set out in the licence.

24.3. Each of us agrees that the only rights and remedies available to us arising out of or in connection with a representation shall be for breach of contract as provided in the licence.

24.4. Nothing in this condition shall limit or exclude any liability for fraud.

25. **Law and Jurisdiction**

25.1. The licence, its subject matter or its formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and We each submit to the non-exclusive jurisdiction of the courts of England and Wales.

APPENDIX

DATA SHARING CONTROL AND USE

Background

- (A) We provide education services through the provision of our product Learning Ladders.
- (B) Under the order form and the licence terms associated with such order form (the "Licence") You have (or where a multi-academy trust signed, that multi-academy trust has) agreed to license from us the right to use Learning Ladders with Your students. In order to maximise use of Learning Ladders staff members (for example, teachers) also require access to Learning Ladders. It is also intended that parents, guardians and carers of students are provided with access to Learning Ladders.
- (C) To enable the provision of Learning Ladders to Your students, staff members and Parents (together the "Registered Users") under the Licence, You wish us to input the User Data (as defined below) into Learning Ladders on Your behalf, and to process Data on Your behalf, on the terms set out in this agreement.
- (D) This appendix is drafted to reflect the requirements of Data Protection Legislation (insofar as they are currently understood at May 2018). Insofar as Data Protection Legislation applies to each party's Processing, each party will be responsible for compliance with the DPA up to 24 May 2018, and after that, for compliance with the Data Protection Obligations together with or alternatively any revised legislation.
- (E) In consideration of the mutual benefits of good data protection standards, and the payments to be made pursuant to this agreement, the parties hereby agree the following additional terms and conditions.

1. Definitions

- 1.1. The following definitions apply in this appendix:

"Additional Data" means any Personal Data supplied by You, or supplied by and/or generated by Your Registered Users, in addition to User Data.

"Confidential Information" means all confidential information (however recorded or preserved) disclosed or made available, directly or indirectly, by a party or its Representatives to the other party (or its Representatives) including but not limited to:

- (a) any information relating to:
 - (i) the business, affairs or intentions of the disclosing party;
 - (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party;
 - (iii) the customer, clients, suppliers, students or staff members of the disclosing party; and
 - (iv) any information or analysis derived from the Confidential Information

but not including any information that:

- (b) is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this agreement); or
- (c) was, is or becomes available to the receiving party on a non-confidential basis prior to disclosure by the disclosing party; or
- (d) was lawfully in the possession of the receiving party before the information was disclosed to it by the disclosing party; or
- (e) the parties agree in writing is not confidential or may be disclosed.

"Data Controller" or "Controller"	has the meaning given to it in Data Protection Legislation.
"Data Extraction"	Any permission given by You which constitutes an authority for School Explained to access Your information systems and extract data in respect of a Data Subject
"Data Processor" or "Processor"	has the meaning given to it in Data Protection Legislation.
"Data Protection Legislation"	means the DPA, the Data Protection Obligations and all applicable laws and regulations relating to Processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner or other applicable regulatory authority, and any legislation or regulations superseding or varying that legislation or those regulations from time to time.
"Data Subject"	has the meaning given to it in Data Protection Legislation.

"Data"	means User Data and Additional Data.
"DPA"	means the Data Protection Act 1998.
"European Law"	means European Union or European Member State law (as referred to in the Data Protection Obligations) or such other law as may be designated in its place when England (whether with Scotland, Wales and/or North Ireland or not), leaves the European Union.
"Personal Data"	has the meaning given to it in Data Protection Legislation.
"Process"	has the meaning given to it in Data Protection Legislation and "Processing" and "Processed" shall be construed accordingly.
"Representatives"	means a party's employees, agents, contractors, officers, representatives or advisers.
"Restricted Country"	means any third country or international organisation as described in the Data Protection Obligations (but excluding any of England, Scotland, Wales and Northern Ireland, if they leave the European Union).
"User Data"	has the meaning given to it in paragraph 3.1.

2. **References to Legislation**

Any reference to legislation shall be a reference to legislation applicable to and regulating the possession, access to, use, transfer and processing of Personal Data at the relevant time. These terms and conditions expressly acknowledge the UK Government intention to apply the terms of the Data Protection Bill in substitution for Data Protection Obligations should the same receive Royal Assent and the former be repealed.

3. **Nature of Data Collected**

- 3.1. Subject to paragraph 3.2 below, to enable us to set-up Learning Ladders for Your Users on Your behalf, You shall provide to us the information as set out in Schedule 1 (User Data) in respect of each User (the "User Data").
- 3.2. Once introduced a setting on our Website will enable you to opt-in to functionality which allows You to run extended reports through Learning Ladders. We will provide further details relating to this function in the course of its implementation. The name of the person approving or revoking the additional data collection will be recorded on our Website, along with the date they made the approval or revoked access. You may revoke access to those User Data at any time by opting-out on our Website. Once the access is revoked, those User Data will be deleted from our servers.
- 3.3. Additional Data will be collected or generated through Your Registered Users' use of Learning Ladders.

4. **Process of Sharing Data**

- 4.1. You will facilitate a manual upload of Data which is necessary in order to ensure the correct operation and functionality of Learning Ladders across Your Staff, Pupils, Parents, Guardians and Carers. When You wish to add new Registered Users You should provide the User Data to us in CSV file format by secure means (for example, by secure FTP).
- 4.2. We will not check any of the Data You provide. It is Your responsibility to check all Data and ensure that it is accurate and, where necessary, kept up-to-date.
- 4.3. You shall:
 - 4.3.1. in respect of the Data, ensure that Your privacy notices are clear and provide sufficient information to the Registered Users for them to understand what of their Personal Data You are sharing with Us, the circumstances in which it will be shared, the purposes for the data sharing, the features of any analytics You use (e.g. notice about what Data is collected via Learning Ladders and reported on) and the fact We will use the Data to create statistical reports;
 - 4.3.2. be responsible for obtaining all necessary consents and permissions required for the sharing and use of the Data; and
 - 4.3.3. otherwise comply with all applicable Data Protection Legislation in relation to the Data with respect to which You are a Data Controller.

5. **Purpose of Collection and Sharing Data**

- 5.1. The Data is shared by You with us in order to enable You and Registered Users to use Learning Ladders for the purposes of educational provision, to allow You to monitor individual and group use of Learning Ladders and to measure progress of students who are using (or have, in the past, used) Learning Ladders.
- 5.2. We use the Data to run statistical reports within Learning Ladders for our own use (for example, showing which assignments are the most popular with students, which We would use for improving Learning Ladders). You consent to our use of the Data for such purposes, and agree that our use of the Data is necessary and proportionate given the negligible/zero impact on Users and the benefit they will receive from product improvements and enhancements.
- 5.3. We also collect individual contacts data for Your staff which is used to manage the relationship We have with You and to provide service updates (where necessary). This includes, where the relevant person agrees, to send You updates about Learning Ladders or to send You information about complementary products that may be of interest to You.
- 5.4. The Data will only be used by us to inform You of developments in our products and to inform You of new products that We have developed likely to be of interest to You. The Data will not be shared with or sold to any third party save as is permitted or required by law or is necessary for the provision of Learning Ladders as outlined in this agreement. When information is shared We will ensure such sharing is necessary and proportionate for the purpose for which the information is shared.

6. **Data Protection Conditions**

- 6.1. Subject to paragraph 6.5, where Personal Data is Processed in connection with the exercise of each of our rights and obligations under this agreement, We each acknowledge that You are the Controller and that We are the Processor.
- 6.2. Details of the Processing We carry out on Your behalf under this agreement are set out at Part 1 of Schedule 2 (Details of Data Processing) and details of each of our responsibilities for Processing are set out at Part 2 of Schedule 2 (Details of Data Processing). We each agree to update Schedule 2 (Details of Data Processing) as necessary during the term of the Licence to reflect any changes in Processing. Each updated version of Schedule 2 (Details of Data Processing) shall form part of this Agreement.
- 6.3. We shall:
- 6.3.1. Process the Personal Data only in accordance with documented instructions from You. Those instructions include to perform our obligations under this agreement, and not to transfer Personal Data to a Restricted Country, unless required to do so by European Law to which We are subject; in such a case, We shall inform You of that legal requirement before Processing, unless that European Law prohibits such information on important grounds of public interest;
 - 6.3.2. ensure that persons authorised to Process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
 - 6.3.3. take all measures required pursuant to Article 32 Data Protection Obligations;
 - 6.3.4. comply with the following conditions for engaging another Processor (a "**Sub-Processor**"):
 - 6.3.4.1. We shall not engage a Sub-Processor without Your prior specific or general written authorisation. In the case of general written authorisation, We shall inform You of any intended changes concerning the addition or replacement of Sub-Processors, thereby giving You the opportunity to object to such changes; and
 - 6.3.4.2. where We engage a Sub-Processor for carrying out specific Processing activities on Your behalf, the same data protection obligations as set out in this agreement and in Data Protection Legislation shall be imposed on that Sub-Processor by way of a contract (if not directly imposed by Data Protection Legislation), in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the Processing will meet the requirements of Data Protection Legislation. Where that Sub-Processor fails to fulfil its data protection obligations, We shall remain fully

liable to You for the performance of that Sub-Processor's obligations;

- 6.3.5. taking into account the nature of the Processing, assist You by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of Your obligation to respond to requests for exercising the Data Subject's rights laid down in Chapter III of the Data Protection Obligations;
 - 6.3.6. assist You in ensuring compliance with the obligations pursuant to Articles 32 to 36 Data Protection Obligations taking into account the nature of Processing and the information available to us;
 - 6.3.7. at Your choice, delete or return all the Personal Data to You after the end of the provision of services relating to Processing, and delete existing copies unless European Law requires storage of the Personal Data;
 - 6.3.8. make available to You all information necessary to demonstrate compliance with the obligations laid down in Article 28 Data Protection Obligations and allow for and contribute to audits, including inspections, conducted by You or another auditor mandated by You, and shall immediately inform You if, in our opinion, an instruction infringes the Data Protection Obligations, other Data Protection Legislation or other data protection provisions in European Law; and
 - 6.3.9. procure that any person acting under our authority who has access to Personal Data, shall not Process the Personal Data except on instructions from You, unless required to do so by European Law.
- 6.4. In the event that there is a change in applicable Data Protection Legislation in England during the term of this agreement, and/or, if applicable, there is a change during the term of this agreement in the available mechanisms used to transfer Personal data to a Restricted Country, We each agree to take such reasonable and appropriate steps and to negotiate in good faith such variation to this paragraph 6 and corresponding definitions and any other affected paragraph and Schedules during the term of the agreement if variation is required to ensure our ongoing compliance with applicable Data Protection Legislation.
- 6.5. We shall act as Controller in respect of Your contact details which We Process for the purpose of account management and direct marketing and our Processing of Personal Data for statistical purposes in order to improve Learning Ladders. Each of us shall, as a Controller, be responsible for observing our respective obligations under Data Protection Legislation which arise under or in connection with our respective Processing. We shall be in no way responsible for Your Processing as Controller under this agreement and You shall be in no way responsible for our Processing as Controller for account management and product improvement.

7. **Roles and Responsibilities**

- 7.1. We and You shall appoint a single point of contact who will work together to solve problems relating to Registered Users.
- 7.2. The points of contact are:

- 7.2.1. Us: The Managing Director, c/o hello@learningladders.info
- 7.2.2. You: the representative for Your organisation specified on the Order Form or subsequently advised to us in writing or by email.

8. **Confidentiality**

- 8.1. Each party shall keep the other party's Confidential Information confidential and shall not:
 - 8.1.1. use or exploit the other party's Confidential Information in any way except for the purposes of performing its obligations under this agreement or the Licence;
 - 8.1.2. directly or indirectly disclose, or make available any Confidential Information in whole or in part to any person except as permitted by paragraph 8.2.
- 8.2. Either party may disclose the other's confidential information:
 - 8.2.1. to its Representatives who need to know such information for the purposes of carrying out its obligations under any agreement between the parties. Each party will procure that those Representatives to whom it discloses the other party's confidential information comply with this paragraph 8 and shall be liable for the actions or omissions of the Representatives in relation to the Confidential Information as if they were the actions or omissions of the party; and
 - 8.2.2. as may be required by law (including pursuant to the Freedom of Information Act 2000), a court of competent jurisdiction or any governmental or regulatory authority.
- 8.3. Each party reserves all rights in its Confidential Information. The disclosure of Confidential Information by one party does not give the other party or any other person any licence or other right in respect of any Confidential Information beyond the rights expressly set out in this agreement.

9. **Term and Termination**

- 9.1. Either party can suspend this agreement for up to 30 days, or such longer period as may be agreed between the parties, in the event of a security breach/Personal Data breach. This may involve our suspending access to the site or You requesting that We arrange such suspension. Where such security breach/Personal Data breach is caused by a fault of ours, then You shall be entitled to a pro rata refund of the licence fees for the period during which this agreement is suspended.
- 9.2. This agreement shall continue for the term of the Licence (including any renewal period) and shall terminate only when We cease to Process any Data on Your behalf.
- 9.3. Upon termination of the Licence, We shall return all User Data to You or destroy it as You direct (acting reasonably).

10. **Severance**

- 10.1. If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this paragraph shall not affect the validity and enforceability of the rest of this agreement.
- 10.2. If any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

11. **Background**

Paragraphs 1.3,1.4 and 1.5 of the Background (recitals) are operative; they form part of the agreement and shall have effect as if set out in full in the body of this agreement.

Schedule 1 to Appendix - User Data
Mandatory Data

Data Type	Why
Student data	
Date of birth	{Reason for holding? How is this used eg just for reporting?
Surname	Combined with additional information, creates a unique identifier for self-activation of accounts.
Middle Name	Optionally a user may provide a middle name. No functionality is specifically associated with this item of personal data {Matt suggest you remove the option since you are not entitled to hold data that is not necessary – sorry but it would give someone a good example of this GDPR expectation!}
Forename	Combined with additional information, creates a unique identifier for self-activation of accounts.
Gender	Used by school staff members to analyse usage.
Primary email address	Used by school staff members as a unique identifier for certain integrations.
Unique pupil number	Used as a unique identifier. Also used if a School creates custom groups via CSV upload.
Staff data	
Title	Used to set naming conventions.
Surname (preferred)	Used to identify staff members for reporting.
Forename (preferred)	Used to identify staff members for reporting.
Main work email	Used to identify a staff member on activation of their account. Used in reporting as an identifier and can be used to reset lost/forgotten passwords. Can be used as an opt-in only notification system.
Secondary email address	Used when work email data field is unpopulated. See above.
Teaching/non-teaching staff	Used to differentiate between teaching and non-teaching staff.
Date of leaving	Used to make a decision about whether to import data about the particular staff member.

Role text	Used to identify staff by their job roles.
Staff Code	Used as a unique identifier
Group data	
Group name	Identifies the name of a group stored in Learning Ladders or the School's MIS so that staff members can report on groupings of students. Used to set assignments for particular groups.
Group type	Identifies group type to help identification for user.
Group ID	Unique identifier for a group.
Registration group	Used to identify all Pupils in a class. Used in reporting.
Year Group	Used to identify all Pupils in a Year Group. Used in reporting
Class name	Used to identify all Pupils in a Class. Used in reporting
Subject name	Used to identify the curriculum subject

Optional data

Data Type	Why
Student data extended	
LEA Care	Used to help School measure impact of key demographics.
SEN status code	Used to help School measure impact of key demographics.
Pupil premium indicator	Used to help School measure impact of key demographics.
English as an additional language	Used to help School measure impact of key demographics.

Schedule 2- Details of Data Processing
Part 1: Processor

Requirement in Article 28(3) DATA PROTECTION OBLIGATIONS	Details for this agreement
The subject matter and duration of the Processing	<p>The provision of education services through Learning Ladders.</p> <p>The duration of the Processing will be for the period set out in clause 9.</p>
The nature and purpose of the Processing	<p>The Processing activity is the population of Learning Ladders with the Personal Data You transfer to us from Your MIS, which will allow You to offer Learning Ladders to Registered Users.</p> <p>In particular, the Personal Data will be Processed:</p> <ul style="list-style-type: none"> (i) for the set up and management of individual user accounts; (ii) to achieve the purpose of Learning Ladders (i.e. provide learning, homework and revision resources for users); (iii) to verify, monitor and manage usage of Learning Ladders to ensure correct functioning and resolve technical issues and complaints; (iv) to monitor progress and usage; (v) to provide feedback on progress and usage to You and Users; and (vi) to assess trends in learning. <p>Learning Ladders processes data in order to prepare to enter into contracts with Learning Ladders subscribers and in order to perform our contractual obligations arising from such contracts.</p> <p>Personal Data may also be used strictly in accordance with the provisions of our Privacy Statement in relation to keeping subscribers informed about our Products and Services.</p>
The type of Personal Data	The Personal Data concerns the categories of data listed at Schedule 1 (User Data) and any further Personal Data supplied by You, or supplied by

	and/or generated by Your Users (for example, when creating usernames or passwords).
The categories of Data Subjects	<p>The Personal Data concerns the following categories of Data Subject:</p> <ul style="list-style-type: none"> (i) employees who use Learning Ladders; and (ii) pupils
The Controller's obligations and rights	<p>You shall:</p> <ul style="list-style-type: none"> (i) ensure that all Data are Processed lawfully, fairly and in a transparent manner in relation to Users; (ii) ensure that all Data collected for specified, explicit and legitimate purposes and not further Processed in a manner that is incompatible with those purposes; (iii) ensure that all Data are adequate, relevant and limited to what is necessary in relation to the purposes for which they are Processed; (iv) ensure all Data are accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that Data that are inaccurate, having regard to the purposes for which it is Processed, are erased or rectified without delay; (v) ensure that all Data are kept in a form which permits identification of Users for no longer than is necessary for the purposes for which the Data are Processed; You shall delete Data within Learning Ladders that are no longer required for Your purposes; (vi) ensure that all Data are Processed in a manner that ensures appropriate security of the Data, including protection against unauthorised or unlawful Processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures; (vii) be able to demonstrate Your compliance with paragraphs (i)..(vi);

	<ul style="list-style-type: none"> (viii) ensure that You have a legal basis for Your Processing of the Data; (ix) obtain all necessary consents and permissions required for the sharing and use of the Data under this agreement; (x) not Process special categories of Data unless a relevant condition applies (such as explicit consent); (xi) ensure that You have provided Users with a privacy policy which covers Your use of Data within Learning Ladders and our associated services; (xii) deal with all requests (including but not limited to, subject access requests, requests for rectification, erasure, restriction, portability or objections) from Data Subjects relating to Data of which You are Controller; (xiii) communicate to us any rectification or erasure of Data and any restrictions on Processing; (xiv) ensure any automated individual decision-making, including profiling, by You, complies with applicable requirements; (xv) maintain records of Your Processing activities; (xvi) cooperate with the Information Commissioner; (xvii) implement appropriate technical and organisational measures to ensure and to be able to demonstrate that processing is performed in accordance with applicable data protection requirements and to ensure a level of security appropriate to the risk; xviii) if required, notify data breaches to the relevant supervisory authority and/or Data Subjects without undue delay; (xix) if required, carry out a data protection impact assessment of the Processing activities to be carried out by us; (xx) if required, designate a data protection officer.
--	--

	You shall have the rights to enforce the obligations on us as Your Processor, as set out in clause 6.3.
--	---

Part 2: Responsibilities

Responsibilities under Article 82	Details for this agreement
Your responsibilities for Processing as Controller	<ul style="list-style-type: none"> • The provision by You of Personal Data that is accurate and Your responsibility to advise us of updates to the Personal Data promptly when any of that Personal Data becomes inaccurate. • The compliance of Data with Data Protection Legislation. • The compliance of Your Processing under this agreement as a Controller, [including where You instruct us to provide analytic services]. • The security of Your IT systems. • Not introducing viruses to Learning Ladders. • Not permitting an attack to be made on Learning Ladders through Your systems or Users' devices. • Not permitting other unauthorised or malicious access to Learning Ladders through Your systems or Users' devices. • Selecting and maintaining secure passwords for Learning Ladders • Keeping Users' login credentials to Learning Ladders confidential and secure. • And otherwise complying with Your Controller obligations set out in Part 1 of this Schedule 2 to the Appendix.
Our responsibilities for Processing as Processor	<ul style="list-style-type: none"> • The inputting of Personal Data provided by You promptly following receipt. • The following security measures: <ul style="list-style-type: none"> ○ restricted SSH access allowing only our office through the firewall;

	<ul style="list-style-type: none">○ database access restricted to internal servers only with a proxy for remote management;○ Web traffic is transferred over HTTPS;○ passwords are stored using one-way encryption; and○ security updates are immediately applied to servers and software when available. <ul style="list-style-type: none">● And otherwise complying with our Processor obligations set out in clause 6.3.
--	--