

Terms of Business

Document Control

Associated Documents

Document Name
Data Protection Policy
Privacy Notice
Data Protection Impact Assessment
Engagement Letter

Change History

Version	Date	Revision Notes	Responsibility
1	June 2023	New document	Thinking Matters Holdings Ltd

Introduction

This document details the obligations of Thinking Matters Holdings Ltd and its Affiliates (collectively, the Supplier) and the Customer to ensure the successful delivery of the Services as defined in the Engagement Letter.

1. Interpretation

1.1 Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Charges: the charges payable by the Customer for the supply of the Services by the Supplier, as set out in the Engagement Letter.

Conditions: these terms and conditions set out in clause 1 (Interpretation) to clause 9 (General) (inclusive).

Contract: the contract between the Customer and the Supplier for the supply of the Services in accordance with the Engagement Letter and these Conditions.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.

Customer: the person or firm who purchases Services from the Supplier.

Deliverables: all documents, materials, information, presentations, training, consultancy, web applications and membership features developed by the Supplier or its agents, subcontractors and

personnel as part of or in relation to the Services in any form including, but not limited to, the course materials (hardcopy and online).

Engagement Letter: the covering letter addressed to the Customer.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Parties: the Customer and Supplier are each referred to herein as a 'Party' and collectively as the 'Parties'.

Services: the Services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Engagement Letter.

Services Start Date: the day on which the Supplier is to start provision of the Services, as set out in the Engagement Letter.

Supplier: Thinking Matters Holdings Ltd and its Affiliates registered in England and Wales with company number 7698927 of Lower Herdswick Farm, Lower Herdswick, Ogbourne St George, Marlborough, Wiltshire
SN8 1SY

1.2 Interpretation:

1.2.1 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision includes any subordinate legislation made from time to time under that statute or statutory provision.

1.2.2 Any words following the terms **including, include, in particular, for example** 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.

1.2.3 A reference to **writing** or **written** includes fax and email.

2. Commencement

2.1 The Contract shall commence on the date when the Engagement Letter has been signed by both parties or the Services Start Date, whichever is the earlier. Should the service start before both parties have signed the Engagement Letter, then that letter shall be deemed to have been signed.

3. Supply of Services

- 3.1 The Supplier shall supply the Services to the Customer from the Services Start Date in accordance with the Contract.
- 3.2 In supplying the Services, the Supplier shall:
- 3.2.1 perform the Services with reasonable care and skill;
 - 3.2.2 use reasonable endeavours to perform the Services in accordance with the service description set out in the Engagement Letter;
 - 3.2.3 use reasonable endeavours to meet any performance dates specified in the Engagement Letter, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services; and
 - 3.2.4 observe all reasonable health and safety rules and regulations and security requirements that apply at any of the Customer's premises and have been communicated to the Supplier, provided that the Supplier shall not be liable under the Contract if, as a result of such observation, it is in breach of any of its obligations under the Contract.

4. Customer's obligations

- 4.1 The Customer shall:
- 4.1.1 co-operate with, and ensure that its staff co-operate with, the Supplier in all matters relating to the Services;
 - 4.1.2 provide, for the Supplier, its agents, subcontractors, consultants and employees, access to the Customer's premises, office accommodation, data and other facilities as reasonably required by the Supplier or any of its agents, subcontractors, consultants and employees;
 - 4.1.3 provide, in a timely manner, such information as the Supplier may reasonably require in order to supply the Services, and ensure that it is accurate and complete in all material respects; and
 - 4.1.4 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start.
- 4.2 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees (**Customer Default**), the Supplier shall:
- 4.2.1 have the right (without limiting or affecting any other right or remedy available to it) to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;

- 4.2.2 not be liable for any costs, charges or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay;
- 4.2.3 be entitled to recover any additional costs, charges or losses the Supplier sustains or incurs that arise directly or indirectly from such prevention or delay.

5. Intellectual property

- 5.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier of its licensors.
- 5.2 The Supplier grants the Customer or shall procure the direct grant to the Customer of, a licence to use and access the Deliverables (excluding materials provided by the Customer) for the sole purpose of receiving and using the Services and the Deliverables in the Customer's business during the term of the Contract.
- 5.3 For the avoidance of any doubt, the licence granted in clause 5.2 does not grant the Customer, or any of its staff, the right to use the Deliverables outside the school, or group of schools, covered by the Engagement Letter, whether for commercial gain or otherwise.
- 5.4 The Customer shall not sub-license, assign or otherwise transfer the rights granted in clause 5.2.
- 5.5 The Customer grants the Supplier a fully paid-up, worldwide, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer in accordance with the Contract.

6. Charges and payment

- 6.1 In consideration for the provision of the Services, the Customer shall pay the Supplier the Charges in accordance with this clause 6.
- 6.2 The Supplier shall be entitled to charge for additional support provided to the Customer, calculated on a time and materials basis in accordance with the Supplier's daily fee rates from time to time. The Supplier shall also be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the additional support including travelling expenses, hotel costs, subsistence and any associated expenses.
- 6.3 All amounts payable by the Customer exclude amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to receipt of a valid VAT invoice.
- 6.4 The Supplier shall submit invoices for the Charges plus VAT to the Customer at the intervals specified in the Engagement Letter. Each invoice shall include all reasonable supporting information required by the Customer.

- 6.5 The Customer shall pay each invoice due and submitted to it by the Supplier, within 30 days of receipt, to a bank account nominated in writing by the Supplier.
- 6.6 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then, without limiting the Supplier's remedies under clause 8 (Termination):
- 6.6.1 the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 6.6.2 the Supplier may suspend all Services until payment has been made in full.
- 6.7 All amounts due under the Contract from the Customer to the Supplier shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 7. Limitation of liability**
- 7.1 References to liability in this clause 7 include every kind of liability arising under or in connection with the Contract including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 7.2 Nothing in this clause 7 shall limit the Customer's payment obligations under the Contract.
- 7.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 7.3.1 death or personal injury caused by negligence;
- 7.3.2 fraud or fraudulent misrepresentation; and
- 7.3.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 7.4 Subject to clause 7.2 (No limitation on customer's payment obligations), and clause 7.3 (Liabilities which cannot legally be limited) the Supplier's total liability to the Customer shall not exceed the total Charges payable under the Contract.
- 7.5 Subject to clause 7.2 (No limitation on customer's payment obligations) and clause 7.3 (Liabilities which cannot legally be limited), this clause 7.5 sets out the types of loss that are wholly excluded:
- 7.5.1 loss of profits;
- 7.5.2 loss of sales or business;
- 7.5.3 loss of opportunity, agreements or contracts;
- 7.5.4 loss of anticipated savings;

7.5.5 loss of use or corruption of software, data or information;

7.5.6 loss of or damage to goodwill; and

7.5.7 indirect or consequential loss.

7.6 The Supplier has given commitments as to compliance of the Services with relevant specifications in clause 3. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

8. Termination

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

8.1.1 the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

8.1.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

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

8.2 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

8.3 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services under the Contract or any other contract between the Customer and the Supplier if:

8.3.1 the Customer fails to pay any amount due under the Contract on the due date for payment;

8.3.2 the Customer becomes subject to any of the events listed in clause 8.1.3, or the Supplier reasonably believes that the Customer is about to become subject to any of them; and

8.3.3 the Supplier reasonably believes that the Customer is about to become subject to any of the events listed in clause 8.1.2.

8.4 On termination of the Contract for whatever reason:

8.4.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been

submitted or a balance is due, the Supplier may submit an invoice, which shall be payable immediately on receipt;

8.4.2 any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect; and

8.4.3 termination or expiry of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

9. General

9.1 **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

9.2 Assignment and other dealings.

9.2.1 The Customer shall not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without the Supplier's prior written consent.

9.2.2 The Supplier may at any time assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights under the Contract.

9.3 Confidentiality.

9.3.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by clause 9.3. For the purposes of this clause 9.3, group means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party. For the avoidance of doubt, the Deliverables will constitute confidential information of the Supplier.

9.3.2 Each party may disclose the other party's confidential information:

- (i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 9.3; and
- (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

9.3.3 Neither party shall use any other party's confidential information for any purpose other than to perform its obligations under the Contract.

9.4 **Entire agreement.**

9.4.1 The Contract 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.

9.4.2 Each party acknowledges that in entering into the Contract 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 the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

9.5 **Variation.** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

9.6 **Waiver.**

9.6.1 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

9.6.2 A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

9.7 **Severance.** If any provision or part-provision of the Contract 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 clause 9.7 shall not affect the validity and enforceability of the rest of the Contract.

9.8 **Notices.**

9.8.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

9.8.2 Any notice shall be deemed to have been received:

- (i) if delivered by hand, at the time the notice is left at the proper address; or
- (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.

9.8.3 This clause 9.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

9.8.4 A notice given under the Contract is not valid if sent by email.

9.9 **Third party rights.**

9.9.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

9.10 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the law of England and Wales.

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

Data Processing Addendum

This Data Processing Addendum (“the Addendum”), forms part of the Standard Terms of Service as set out in the Engagement Letter between the Customer and Thinking Matters Holdings Ltd and/or affiliates ‘the Supplier’ that includes the Standard Contractual Clauses as applicable and reflects the Parties’ agreement with respect to the terms governing the Processing of Personal data pursuant to the Contract between the Customer and the Supplier (whether on the purchase order terms or otherwise). This Addendum forms part of the Contract. All agreements between the Parties (whether made before or after the effective date of this Addendum) are collectively referred to herein as “the Agreement”. Under the Agreement, the Supplier is providing services and/or materials and/or software (the “Services”) to and for the benefit of the Customer.

With respect to provisions regarding Processing of Customer Data, in the event of a conflict between the Agreement and this Addendum, the provisions of this Addendum shall prevail including in relation to agreements made after the date of this Addendum (for example by placing of new purchase orders and the standard terms associated with the new purchase orders containing conflicting provisions). This Addendum may only be varied or superseded by the Agreement of the Customer and the Supplier in writing, expressly referring to this Addendum and the fact that it is being varied or superseded.

Definitions

Capitalised terms not otherwise defined in this Addendum shall have the meanings set forth in the Agreement. The following additional definitions shall apply:

- (a) “Affiliates” means, any person, corporation, company, partnership, joint venture, or other entity controlling, controlled by, or under common control with the applicable Party for such purpose, the term ‘control’ means the holding of 50% or more of the common voting stock or ordinary shares in, or the right to appoint 50% or more of the directors of, the corporation, company, partnership, joint venture or entity.
- (b) “**Agreement**” the Supplier Terms of Service/Contract/Engagement Letter
- (c) “**Customer Data**” means any information owned or provided by or on behalf of the Customer or processed by the Supplier on the Customers behalf through providing the Services. Customer Data

- may include Personal data, special categories of Personal data, and Customer Confidential Information.
- (d) “**Controller**” shall have the meaning give to it in the Data Protection Act 2018 and the UK General Data Protection Regulation.
 - (e) “**Processor/sub-Processor**” shall have the meaning given to it in Data Protection Act 2018 and the UK General Data Protection Regulation.
 - (f) “**Data Subject**” means any identified or identifiable individual to who Personal data relates.
 - (g) “**Data Subject Request**” means a request made by a Data Subject in accordance with rights granted pursuant to the Data Protection Laws (including requests to access, rectify, erase, object to restrict Processing of, or port his/her/their Personal data)
 - (h) “**Data Security Breach**” means: (i) the loss or misuse, by any means, of Customer Data; (ii) the inadvertent, unauthorised, and/or unlawful Processing of any Customer Data; or (iii) any other act or omission that compromises the security, confidentiality, or integrity of Customer Data.
 - (i) “**Personal data**” means any information which: (i) falls within the definition of “Personal data” under the Data Protection Act 2018 and the UK General Data Protection Regulation; and (ii) in relation to which the Supplier providing the Services or which the Supplier is required to process (subject to Data Protection Legislation) under this Addendum.
 - (j) “**Data Protection Laws**” means all applicable laws and regulations relating to data protection, privacy, data security, including, but not limited to, the Data Protection Act 2018, UK General Data Protection Regulation, and any successor legislation or regulations thereto.
 - (k) “**Process**”, “**Processing**”, or “**Processed**” shall have the meaning given to it in Data Protection Laws.
 - (l) “**Shared Hosting Environment**” means any network device and/or application which processes information for more than one customer on the same device or through the same application.
 - (m) “**Standard Contractual Clauses (Processors)**” means the contractual clauses issued by the Commissioner under S118A(1) Data Protection Act 2018 on standard contractual clauses for the transfer of Personal data to processors established outside the European Economic Area.
 - (n) “**Instruction**” means the written, documented instruction, issued by the Controller to the Processor, and directing the same to perform a specific action with regard to Personal data (including, but not limited to, depersonalising, blocking, deletion, making available).

The Parties acknowledge that the Customer is the Data Controller and the Supplier is the Data Processor of Personal data. In the event, due to the nature of the Services provided by the Data Processor under this Addendum, the Supplier are deemed or found to be a Data Controller under applicable Data Protection Laws, the Suppllier shall comply with any obligations as a Data Controller under the applicable Data Protection Law and otherwise perform the Services as a Data Controller in accordance with the applicable Data Protection Law and vice versa for the Customer in the event it is identified as a Data Processor.

The categories of Customer Data to be processed by the Supplier, categories of data subjects whose Personal data will be processed, and the nature and purpose of Processing activities to be performed under this Addendum are set out in the Privacy Notice.

Controller Responsibility

Within the scope of the Agreement and in its use of the Services, the Controller shall be solely responsible for complying with the statutory requirements relating to data protection and privacy, regarding the disclosure and transfer of Personal data to the Processor and the Processing of Personal data. For the avoidance of doubt, the Controller’s instructions for the Processing of Personal data shall comply with Data Protection Law. This Addendum is the Controller’s complete and final instruction to the Supplier in relation to Personal data and that additional instructions outside the scope of this Addendum would require prior written agreement between the Parties. Instructions shall initially be specified in this Addendum and may,

from time to time, thereafter, be amended, amplified, or replaced by the Controller in separate written instructions (as individual instructions).

The Controller shall inform the Supplier without undue delay and comprehensively about any errors or irregularities related to statutory provisions on the Processing of Personal data.

Obligations of the Data Processor

1. **Compliance with Instructions:** The customer acknowledges and agrees that they are the Data Controller of Personal data and the Supplier is the Data Processor of that data. The Processor shall collect, process, and use Personal data only within the scope of the Controller's Instructions. If the Processor believes that an instruction of the Controller infringes the Data Protection Law, it shall immediately inform the Controller without delay. If the Processor cannot process Personal data in accordance with the instructions due to a legal requirement under any Data Protection Law, the Processor will (i) promptly notify the Controller of that legal requirement before the relevant Processing to the extent permitted by the Data Protection Law; and (ii) cease all Processing (other than merely storing and maintaining the security of the affected Personal data) until such time as the Controller issues new instructions with which the Processor is able to comply. If this provision is invoked, the Processor will not be liable to the Controller under the Agreement for any failure to perform the applicable services until such time as the Controller issues new instructions in regard to the Processing.

2. **Security:** The Processor shall take the appropriate technical and organisational measures to adequately protect Personal data against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal data. Such measures include, but are not to be limited to:
 - i. the prevention of unauthorised persons from gaining access to Personal data Processing systems (physical access control),
 - ii. the prevention of Personal data Processing systems from being used without authorisation (logical access control),
 - iii. ensuring that persons entitled to use a Personal data Processing system gain access only to such Personal data as they are entitled to access in accordance with their access rights, and that, in the course of Processing or use and after storage, Personal data cannot be read, copied, modified or deleted without authorisation (data access control),
 - iv. ensuring that Personal data cannot be read, copied, modified or deleted without authorisation during electronic transmission, transport or storage on storage media, and that the target entities for any transfer of Personal data by means of data transmission facilities can be established and verified (data transfer control),
 - v. ensuring the establishment of an audit trail to document whether and by whom Personal data have been entered into or modified in Personal data Processing systems (entry control),
 - vi. ensuring that Personal data is processed solely in accordance with the Instructions (control of instructions),
 - vii. ensuring that Personal data is protected against accidental destruction or loss (availability control).

The Data Processor will facilitate the Controller's compliance with the Controller's obligation to implement security measures with respect to Personal data (including if applicable the Controller's obligations pursuant to Articles 32 to 34 inclusive of the GDPR), by (i) implementing and maintaining the security measures, (ii) complying with the terms in sub section 4 in this section (Data Breaches); and (iii) providing the Controller with information in relation to the Processing in accordance with the below Section entitled: Audits.

3. **Confidentiality:** The Processor shall ensure that any personnel whom the Processor authorises to process Personal data on its behalf is subject to confidentiality obligations with respect to that Personal data. The undertaking to confidentiality shall continue after the termination of the above-entitled activities.
4. **Data Breaches:** The Processor will notify the Controller of a data breach affecting any Personal data as described under all applicable Data Protection Laws. At the Controller's request, the Processor will promptly provide the Controller with all reasonable assistance necessary to enable the Controller to notify relevant data breaches to the Information Commissioner and/or affected Data Subjects, if the Controller is required to do so under the Data Protection Law.
5. **Sub-Processors:** The Processor shall be entitled to engage Sub-Processors to fulfil the Processor's obligations defined in the Agreement. If the Processor intends to instruct Sub-Processors, the Processor will notify the Controller thereof in writing and will give the Controller the opportunity to object to the engagement of the new Sub-Processors within 30 days after being notified. The objection must be based on reasonable grounds (e.g. if the Controller proves that the use of such Sub-Processor would present significant risks for the protection of its Personal data). If the Processor and the Controller are unable to resolve such objection, either party may terminate the Agreement by providing written notice to the other party.

Where the Processor engages Sub-Processors, the Processor will ensure that a contract is in place between the Processor and each Sub-Processor that imposes on the Sub-Processor the same obligations that apply to the Processor under this Addendum.

Where the Sub-Processor fails to fulfil its data protection obligations, the Processor will remain liable to the Controller for the performance of such Sub-Processors obligations.

Where a Sub-Processor is engaged, the Controller shall be granted the right to monitor and inspect the Sub-Processor's activities in accordance with this Addendum and Data Protection laws, including to obtain information from the Processor, upon written request, on the substance of the contract and the implementation of the data protection obligations under the sub-Processing contract, where necessary by inspecting the relevant contract documents.

The provisions of this section shall mutually apply if the Processor engages a Sub-Processor in a country outside the European Economic Area ("EEA") not recognised by the European Commission as providing an adequate level of protection for Personal data. If, in the performance of this Addendum, the Processor transfers any Personal data to a sub-processor located outside of the EEA, the Supplier shall, in advance of any such transfer, ensure that a legal mechanism to achieve adequacy in respect of that Processing is in place.

6. **Data Transfers:** The Controller acknowledges and agrees that, notwithstanding that the Controller may have elected to have Personal data stored in the UK, Personal data could in very rare cases be transferred outside of the UK. If necessary, the Processor will enter into the EU Standard Contractual Clauses, or other legally compliant transfer mechanism, to ensure compliance with Data Protection Laws. If for any reason the EU Standard Contractual Clauses are deemed invalid or incorrect the Supplier and/or one or more of its affiliates or permitted subcontractors and agents and/or Customer will enter into EU Standard Contractual Clauses (as varied in order to comply with Data Protection Laws) or any other mutually agreed upon international data Processing and transfer agreement(s) in order to satisfy cross-border transfer obligations relating to Personal data pursuant to applicable Data Protection Laws.

- 7. Deletion or Retrieval of Personal data:** Other than to the extent required to comply with Data Protection Law, following termination or expiry of the Agreement, the Processor will delete all Personal data (including copies thereof) in its possession processed pursuant to this Addendum after two years. If the Processor is unable to delete Personal data for technical or other reasons, the Processor will apply measures to ensure that Personal data is blocked from any further Processing.

Notices and Complaints

Unless otherwise prohibited by law, the Supplier shall notify the Customer within 5 working days if it receives: (i) any request, complaint or communication relating to the Customer's obligations under applicable Data Protection Legislation; (ii) any communication from a Supervisory Authority in connection with Customer Personal data; or (iii) a request from any third party for disclosure of any Customer Personal data where compliance with such request is required or purported to be required by applicable law.

Cooperation

Upon notice to the Processor, the Processor shall assist and support the Customer in the event of an investigation by any governmental entity or authority, including, without limitation, any data protection authority, including, without limitation, any data protection authority, or similar regulator, if and to the extent that such investigation relates to Customer Data handled by the Processor on behalf of Customer.

Third-Party and Data Subject Requests

If the Data Processor is requested or required to disclose any Customer Data to a third party, the Data Processor shall immediately provide the Customer with written notice of any such requested or required disclosure.

The Data Controller shall not disclose any customer data without first providing the customer the opportunity to exercise any rights it may have under applicable law to prevent or limit such disclosure.

The Data Controller shall notify the Customer of any data subject requests seeking to exercise a right under Data Protection Laws and shall assist the Customer to respond to such request.

Data Protection Impact Assessment

If the Supplier believes or becomes aware that its Processing of Customer Personal data is likely to result in a high risk or a risk to the data protection rights and freedoms of Data Subjects, it shall inform the Customer and provide reasonable assistance to the Customer in connection with any data protection impact assessment that may be required under applicable Data Protection Legislation.

Audits

The Controller may, once every year during the Term of the Agreement, audit the technical and organisational measures taken by Processor with respect to its Processing of Personal data. In such regard, the Controller may:

- Obtain information from the Processor, and



- Request the Processor to provide to the Controller an existing attestation or certificate by an independent professional expert.

The Processor shall not be required to provide or disclose information that would violate applicable law, a duty of confidentiality, or any other obligation owed to a third party.

General Provisions

In case of any conflict, this Addendum shall take precedence over the regulations of the Agreement. Where individual provisions of this Addendum are invalid or unenforceable, the validity and enforceability of the other provisions of this Addendum shall not be affected.

Upon the incorporation of this Addendum into the Agreement, the “Parties to this Addendum” are agreeing to the Standard Contractual Clauses. Thinking Matters will process Personal data in accordance with the Data Protection Law requirements contained herein which are directly applicable to the Supplier’s provision of the services.

Further Assurances

The Parties shall take any other steps reasonably requested by other party to assist in complying with any notification, registration, or other obligations applicable under any laws applicable to the Supplier and/or Customer’s Processing of Personal data. The Parties agree they shall not do, or refrain from doing, anything that would, or could, cause the other party and/or its affiliates to not be in compliance with privacy, data protection, and/or information security laws applicable to it, or them.

During the term of the Agreement the Parties shall cooperate in good faith to resolve any issues and to implement processes and practices necessary to address changes in law.