

STANDARD SUBSCRIPTION AGREEMENT TERMS (INTERNATIONAL 2022:1)

Kognity Teaching & Learning Platform Service

1 INTRODUCTION

- 1.1 Subject to the terms and conditions of this Subscription Agreement and during the Subscription Period, Service Provider will make the subscribed Service available to Subscriber, solely for use according to the Terms of Use, which supplement the terms and conditions of this Subscription Agreement.
- 1.2 Occasionally Service Provider may, in its discretion, make changes to the Service and the Subscription Agreement. Upon such material changes to the Subscription Agreement or Services, Service Provider shall notify Subscriber. By continuing to use the Service or entitle the Users to continue using the Service after changes are made, Subscriber is expressing and acknowledging its acceptance of the changes.

2 DEFINITIONS

- 2.1 In this document, unless the context otherwise requires:

“Confidential Information” means any information that: (i) if disclosed in writing, is labelled as “confidential” or “proprietary”; (ii) if disclosed orally, is designated confidential at disclosure; or (iii) whether it being written or oral and whether it being designated as confidential or not, by its nature, or the circumstances of its disclosure, makes it reasonably likely that it is confidential;

“Data Protection Laws” mean all applicable laws, rules and regulations that apply to or govern the processing of personal data from time to time, including, but not limited to, the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council (“**GDPR**”), all laws, rules and regulations supplementing the GDPR and all laws, rules and regulations implementing the E-privacy Directive 2002/58/EC, the UK General Data Protection Regulation (UK GDPR), and Data Protection Act 2018, as well as the Swiss Federal Act on Data Protection (FADP) and any amendments to or replacements of such laws;

“Effective Date” means the date on which Subscriber and Service Provider execute the Subscription Agreement;

“Feedback” means comments, suggestions, improvements, ideas or other feedback, whether written or oral;

“Intellectual Property Rights” means all copyright and related rights, design rights, registered designs, patents, trade and service marks, database rights, semi-conductor topography rights, know how, trade secrets, rights in confidential information and all other intellectual property rights, whether registered or unregistered, throughout the world for the full term of the rights concerned;

“Privacy Notice” means the Service Provider’s general privacy notice, available at <https://kognity.com/privacy/general-privacy-notice> as the same may be updated or amended from time to time;

“Service” means all educational teaching and learning material, including but not limited to textbooks, videos, assessments, practice centers, laboratories, animations and other digital media, provided by Service Provider from time to time for different Subject Matters;

“Service Deals” means Service Provider’s offering from time to time to Subscriber and its Users as set forth in the agreement form (or, if applicable, in the email from the account manager or other relevant representative of Service Provider);

“Service Provider” means Kognity AB, a Swedish limited liability company, Reg. No. 559023-5080, with address Linnégatan 87D, 115 23 Stockholm, Sweden;

“Subject Matter” means all Services provided by Service Provider on selected topics from time to time, *inter alia*, biology, chemistry, physics, history, business management, geography, humanities and languages, environmental systems and societies, mathematics, economics and psychology;

“Subscriber” means the subscriber set out in the agreement form;

“Subscription Agreement” means the agreement form (executed in written form online or by other means), these subscription agreement terms and conditions and any supplementary documents referred to in either of these documents;

“Subscription Period” means the Service subscription period for each Service Deal as defined by the access start and end dates set out in the agreement form;

“Terms of Use” means Service Provider’s supplementary document “Terms of Use” that Subscriber and Users have to accept to use the Service, available at <https://app.kognity.com/terms/> as the same may be updated or amended from

time to time;

“Trial Access” means trial access for Subscriber and its Users for purposes of evaluating the Service, for such parts of the Service and for the duration as specified on the agreement form;

“User Account Information” means information requested by Service Provider on Subscriber’s Users in order to setup and register the Users for Services;

“Users” means individual students, teachers and other Subscriber staff who are authorized by Subscriber to use the Service, for whom subscriptions to a Service have been procured, and who have been supplied user identifications and passwords by Subscriber (or by Service Provider at Subscriber’s request).

3 SUPPLY OF SERVICES

- 3.1 Service Provider hereby undertakes to procure the supply to Subscriber the subscribed Service Deals on the terms set out in this Subscription Agreement. Service Provider hereby grants to the Subscriber a non-exclusive, non-transferable and non-sublicensable right to permit Users to remotely access and use the Service solely for the Subscriber’s own educational purposes as permitted by this Subscription Agreement and during its term.

- 3.2 By subscribing to Services, Subscriber warrants and represents that its representatives are authorized to bind Subscriber to this Subscription Agreement. Subscriber further warrants and represents that: (i) it is registered in its territory and will only grant User access to the Services in that territory; (ii) it complies with and will comply with the subscription requirements set out in the Subscription Agreement; (iii) any registration information that it submits to Service Provider is true, accurate and complete, and it agrees to keep it that way at all times; (iv) it is authorized to grant all permissions and licenses provided in this Subscription Agreement to its Users; (v) it shall comply with any laws and regulations that apply to its use of the Services (in particular local regulatory regimes on privacy and data protection); (vi) it shall not provide any information to Service Provider that it is not permitted to provide under law, regulation or contract or that would require Service Provider to undertake separate measures such as obtaining consent from a User, a User’s parent or guardian, or any other third party, and (vii) it shall not use the Services for any other use than set forth herein and shall not allow any third party to do so.

- 3.3 Use of the Services requires User registration with Service Provider. The registration is made by Service Provider upon receiving the requested User Account Information from Subscriber (directly or indirectly via any third party on the Subscriber’s behalf).

- 3.4 Subscriber confirms that it will accept and comply with Service Provider’s Terms of Use and other relevant terms, and that Users consent to the processing of any personal data as set out in this Subscription Agreement. Upon valid User registration, Service Provider will activate the subscribed Subject Matters for the registered User in its system.

- 3.5 Subscriber is responsible for that its Users at all times comply with the terms of the Subscription Agreement and adhere to Service Provider’s requirements and guidelines in relation to use of the Service, as designated by Service Provider from time to time, including applicable Terms of Use and instructions.

- 3.6 Subscriber or registered Users are responsible for all hardware, communication networks and other equipment necessary for use of Services, and the due installation thereof. Subscriber is solely responsible for all activities conducted by Users, through each of any User’s logins. Subscriber is not allowed to engage in service bureau use, outsourcing, renting, reselling, sublicensing, concurrent use of a single User login, or time-sharing of the Service.

- 3.7 Subscriber shall not and shall not permit Users to: (i) copy, translate, create a derivative work of, reverse engineer, reverse assemble, disassemble, or decompile the Service or any part thereof or otherwise attempt to discover any source code or modify the Service in any manner or form; (ii) use the Service in a manner that is contrary to applicable law or in violation of any third party rights of privacy or Service Provider’s Intellectual Property Rights; (iii) use or knowingly permit the use of any security testing tools in order to probe, scan or attempt to penetrate or ascertain the security of the Service; (iv) access the Service by any means other than through the interfaces that are provided by Service Provider; or (v) use or allow Users or third parties to use the Services in any unauthorized manner or in breach of the Terms of Use.

- 3.8 Service Provider will: (i) authorize registered Users access to and assign unique User passwords and usernames; (ii) grant Users access to any subscribed Subject Matter relevant to that User in accordance with this Subscription Agreement; and (iii) endeavor that the use of the Service is secure, error-free, or that the Service will meet the subscribed requirements, or that errors in the Service are reasonably resolved and that the overall system

hosting of the Service is free of viruses or other harmful components. Service Provider will use its reasonable endeavors to resolve any issues related to the Service as part of its technical support obligations.

- 3.9 Service Provider reserves the right to make such changes to the features and functionality of the Service, systems and interfaces as it sees fit in its discretion. The foregoing notwithstanding, Service Provider will notify Subscriber, or where relevant, Users, of any material changes in advance where reasonably practicable and where such prior notice would not adversely affect Service Provider's commercial interests.

3.10 TO THE FULLEST EXTENT POSSIBLE UNDER APPLICABLE LAW, SERVICE PROVIDER DOES NOT GIVE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE QUALITY, CONTENT AND AVAILABILITY OR FITNESS FOR A SPECIFIC PURPOSE OF THE SERVICE, OR THE NON-INFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHTS OR A WARRANTY OF MERCHANTABILITY. SUBSCRIBER ASSUMES TOTAL RESPONSIBILITY FOR THE SELECTION OF THE SERVICE TO ACHIEVE SUBSCRIBER'S INTENDED RESULTS.

4 FEES AND PAYMENT

- 4.1 The Services are provided in Service Deals, the prices and conditions for which are based on Subscriber's choice as set forth in the agreement form. The User numbers in the agreement form are final and not subject to reductions during the Subscription Period. There is no right to refund, whether due to a reduction in User numbers or non-use of the Service. The prices and conditions for each Service Deal are however subject to review from time to time in connection with renewals, and Service Provider reserves the right to propose adjustments to the prices at the latest two months prior to the expiration of a Subscription Period. Unless Subscriber cancels the subscription pursuant to the terms set forth herein, the adjusted prices for the subscribed Service Deals will apply when the subscription is renewed for a subsequent successive Subscription Period.

- 4.2 Unless otherwise agreed in writing, Service Provider will invoice Subscriber for the full Subscription Period at the start of the Subscription Period for new subscriptions. For renewed Subscription Periods, the invoice will be sent once the last day to give notice of cancellation has passed. Invoiced amounts are in the currency set out in the Subscription Agreement, and exclude taxes, levies or duties of any nature, including value-added, sales use or withholding taxes.

- 4.3 To the extent Subscriber's use of the Service exceeds the parameters of the Service Deal (e.g. due to exceeding the allocated number of student Users), Service Provider reserves the right to issue additional invoices for fees due for such excess use based on the same pricing structure as the relevant Service Deal. Additional invoices will be issued at the end of the Subscription Period or during it. Subscriber will however be permitted up to five per cent excess use for a single Service Deal subscription type (e.g. one curriculum) without additional fees provided such excess use is in good faith. If the excess use is more than five per cent, Service Provider's right to issue additional invoices will be for the full excess use without deduction of the five per cent buffer. In reference to section 4.1, however, reductions in user numbers does not result in a right to refund.

- 4.4 All invoices are payable within 30 calendar days from the relevant invoice date, unless otherwise agreed in the Subscription Agreement. All amounts owed hereunder, not paid when due, will be subject to penalty interest at a rate of six per cent per annum calculated and compounded daily on the amount overdue, as well as compensation for costs for recovery of late payment. If amounts to be paid are overdue (whether fully or partially), Service Provider may, at its own discretion, temporarily restrict Subscriber's or its Users' access to the Service until payment has been received in full. For the avoidance of doubt, Subscriber being late with payment for one subscription or invoice may result in Service access under other subscriptions being suspended until payment has been received.

5 SUBSCRIPTION, TRIAL ACCESS AND CANCELLATION

- 5.1 Unless otherwise agreed in the Subscription Agreement, the Subscription Period shall be twelve months commencing on the Effective Date. Unless Subscriber cancels the subscription pursuant to the terms set forth herein, a subscription is automatically renewed for a subsequent successive Subscription Period of twelve months and, subject to section 4.1, otherwise based on the same Service Deal (e.g. number of students and price) excluding any introductory or otherwise time-limited discounts.

- 5.2 From time to time Service Provider may grant Trial Access to Subscriber. During Trial Access, Subscriber and its Users are granted access to use Services for all Subject Matters available to Users at the Effective Date. Unless otherwise agreed, the Trial Access shall be for four weeks commencing on the Effective Date, after which Trial Access will automatically end unless Subscriber has entered into a Service Deal with a start date on or before the last day of the trial period. Trial Access may be granted subject to Service Provider charging a set-up fee for its trial onboarding and training costs. Such set-up fee is non-refundable and must be paid in full regardless of whether Subscriber actually uses the Service during the trial period.

- 5.3 The subscription is binding during the full duration of the Subscription Period. Subscriber may avoid automatic extension of the Subscription Period pursuant to the terms set forth in this Subscription Agreement by submitting a

cancellation note to Service Provider at the latest one calendar month prior to expiration of a Subscription Period.

- 5.4 Any Subscriber requests for modification of the Service's scope or cancellation of the Subscription Period must be submitted in writing to their account manager or to am@kognity.com.

- 5.5 Upon the termination of this Subscription Agreement for any reason, any sum owing or due to Service Provider shall be immediately payable and the rights of Subscriber and Users herein shall be immediately canceled.

6 INTELLECTUAL PROPERTY RIGHTS

- 6.1 Service Provider and its affiliates and licensors, as applicable, shall remain the exclusive owners of all Intellectual Property Rights in and to the Service (including the underlying technology, software and content). Subscriber may not remove any legends or statements in the Service or any materials provided with such legends regarding Service Provider's and its licensors' proprietary rights.

- 6.2 Service Provider's trademarks, service marks, trade names, logos, domain names, and any other features of the Service are the sole property of Service Provider and its licensors. The license granted to Subscriber and its Users herein does not grant any rights to use Intellectual Property Rights or any other features of the Service, whether for commercial or non-commercial use.

- 6.3 It follows from Service Provider's Terms of Use that Subscriber or its Users shall remain the owner of any User Data (as defined in the Terms of Use). Notwithstanding the foregoing, Service Provider is hereby granted a license to use said posted content on the terms set forth in the Terms of Use. Without prejudice to applicable Data Protection laws, Service Provider shall in all other respects be the owner of any Intellectual Property Rights arising under this Subscription Agreement. Any such Intellectual Property Rights created by Subscriber or its Users, if any, shall immediately, finally and irrevocably be assigned to Service Provider upon creation thereof.

- 6.4 If the Subscriber or any of its Users provide any Feedback relating to the Service (including in connection with access to and use of the Service by the Users), the Subscriber agrees that the Service Provider may incorporate into the Service any such Feedback without any obligation, attribution, payment or restriction based on Intellectual Property Rights or otherwise.

7 CONFIDENTIALITY AND PRIVACY

- 7.1 All Confidential Information exchanged between Service Provider, Subscriber and Users shall be kept confidential and not disclosed to any third party without prior written consent of the owner of the Confidential Information. At all times, Confidential Information shall be treated and stored carefully and appropriately so that the Confidential Information is not inadvertently made available to any third party or otherwise disclosed in breach of this Subscription Agreement.

- 7.2 Notwithstanding section 7.1, this Subscription Agreement shall not prohibit the disclosure of Confidential Information to the extent that such disclosure is permitted or required by law, regulation or order of a court or other governmental authority. Furthermore, Service Provider may disclose Confidential Information on a need to know basis to its contractors and service providers who have executed written agreements requiring them to maintain such information in strict confidence and use it only to facilitate the performance of their services in connection with the Services.

- 7.3 Subscriber and its Users may not copy, make transcriptions or recordings or in any other way reproduce or duplicate any document or other medium containing Confidential Information or Intellectual Property Rights, without Service Provider's written consent.

- 7.4 In providing the Service, Service Provider will comply with Data Protection Laws as well as with its own, at each time applicable, Privacy Notice and policies in relation to any Subscriber or User personal data that it may collect and process for the purposes of supplying the Service. Service Provider will process any such personal data in accordance with the Data Processing Agreement between Service Provider and Subscriber set out in [Appendix 1](#). For the sake of clarity, Service Provider may process personal data collected from the Service for its own business purposes, for example to improve the Service, in which case, Service Provider processes such personal data as a data controller and Appendix 1 does not apply to that processing.

8 LIMITATION OF LIABILITY

- 8.1 TO THE FULLEST EXTENT POSSIBLE UNDER APPLICABLE LAW, SERVICE PROVIDER SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, BUSINESS, GOODWILL, REVENUE, SALES, OR DATA, OR FOR ANY INDIRECT, CONSEQUENTIAL, PUNITIVE, INCIDENTAL OR SPECIAL LOSS OR DAMAGES OF ANY KIND UNDER OR IN CONNECTION WITH THIS SUBSCRIPTION AGREEMENT WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, SAVE WHERE SUCH LOSS OR DAMAGE IS DUE TO SERVICE PROVIDER'S WILLFUL VIOLATION OF THE TERMS OF THIS SUBSCRIPTION AGREEMENT.

- 8.2 IN ADDITION TO ANY OTHER LIMITATIONS OF LIABILITY SET FORTH IN THIS SUBSCRIPTION AGREEMENT AND TO THE FULLEST EXTENT POSSIBLE UNDER APPLICABLE LAW, SERVICE PROVIDER'S MAXIMUM LIABILITY DUE TO ANY PERSON, FIRM OR CORPORATION WHATSOEVER ARISING OUT OF OR IN THE CONNECTION WITH ANY LICENSE, USE OR OTHER EMPLOYMENT OF THE SERVICE, WHETHER

SUCH LIABILITY ARISES FROM ANY CLAIM BASED ON BREACH OR REPUDIATION OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, TORT, STATUTORY DUTY, OR OTHERWISE, SHALL NOT WITH RESPECT TO ANY SINGLE INCIDENT ARISING OUT OF OR RELATED TO THIS SUBSCRIPTION AGREEMENT EXCEED THE SUBSCRIPTION FEES PAID OR PAYABLE BY THE SUBSCRIBER UNDER THIS SUBSCRIPTION AGREEMENT IN THE TWELVE MONTH TERM IN WHICH THE INCIDENT GIVING RISE TO LIABILITY OCCURRED AND THE SERVICE PROVIDER'S AGGREGATE LIABILITY ARISING OUT OF OR IN RELATION TO THIS SUBSCRIPTION AGREEMENT SHALL IN NO CASE EXCEED THE TOTAL AMOUNT OF SUBSCRIPTION FEES PAID BY THE SUBSCRIBER HEREUNDER, SAVE FOR WHERE SUCH LOSS OR DAMAGE IS DUE TO THE SERVICE PROVIDER'S WILFUL VIOLATION OF THE TERMS OF THIS SUBSCRIPTION AGREEMENT. SUBSCRIBER SHALL NOT HAVE THE RIGHT TO TERMINATE THIS SUBSCRIPTION AGREEMENT UNLESS SUCH LOSS OR DAMAGE IS DUE TO SERVICE PROVIDER'S WILLFUL VIOLATION OF THE TERMS OF THIS SUBSCRIPTION AGREEMENT.

- 8.3 Service Provider shall not be liable for damages for any delay or default in performance of its undertakings of obligations under this Subscription Agreement, if such delay or default is caused by force majeure, including without limitation wars, insurrections, fires, pandemics, passing of laws or any governmental order, regulation or ruling, or any other acts or circumstances beyond the reasonable control of Service Provider, and Subscriber shall not have the right to terminate this Subscription Agreement unless such delay or default in performance is caused by force majeure for a period of more than six months. During the force majeure event, Service Provider will use all reasonable efforts to avoid, reduce or eliminate the force majeure event's prevention, restriction or delay of the performance of its obligations under this Subscription Agreement.

9 MISCELLANEOUS

- 9.1 Any notice or other communication to be given or served under or in connection with this Subscription Agreement shall be in writing and shall be sent by e-mail to the other party's contact person set forth in the agreement service form.
- 9.2 Subscriber may not assign, mortgage, charge any of its rights or sub-contract or otherwise delegate any of its obligations under this Subscription Agreement, except with the written consent of Service Provider.
- 9.3 This Subscription Agreement constitutes the entire agreement between the parties and supersedes any previous agreement and no modification of this Subscription Agreement shall be effective unless it is made in writing and executed by or on behalf of the parties unless otherwise set forth in this Subscription Agreement.
- 9.4 No failure or delay by any party in exercising any of its rights under this Subscription Agreement shall be deemed to be a waiver of that right, or otherwise prejudice, affect or restrict the rights or remedies of that party in relation to the other party, and no waiver by any party of a breach of any provision of this Subscription Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision of this Subscription Agreement.
- 9.5 All provisions of this Subscription Agreement that can be reasonably interpreted as surviving upon the full performance, expiry, termination, cancellation or voidance of the Subscription Agreement (in particular provisions on intellectual property rights and confidentiality) shall survive said performance, expiry, termination, cancellation or voidance.

10 APPLICABLE LAW AND DISPUTE RESOLUTION

- 10.1 This Subscription Agreement shall be governed by the substantive laws of Sweden.
- 10.2 Any dispute, controversy or claim arising out of or in connection with this Subscription Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration administered by the Arbitration Institute of the Stockholm Chamber of Commerce (the "SCC"). The Rules for Expedited Arbitrations shall apply, unless the SCC in its discretion determines, taking into account the complexity of the case, the amount in dispute and other circumstances, that the Arbitration Rules shall apply. In the latter case, the SCC shall also decide whether the Arbitral Tribunal shall be composed of one or three arbitrators. The seat of arbitration shall be Stockholm, Sweden. The language to be used in the arbitral proceedings shall be the English language.



APPENDIX 1

Data Processing Agreement

1 BACKGROUND

1.1 Capitalized terms used but not defined in this data processing agreement (the "DPA") shall have the meaning ascribed to them in the Subscription Agreement. Service Provide (the "Processor") and Subscriber (the "Controller") have under the Subscription Agreement agreed that Processor shall provide Services to Controller. Processor will process personal data on behalf of Controller when providing the Services. This DPA specifies the terms and conditions applicable to the processing of personal data performed by Processor when providing the Services.

2 DATA PROTECTION LAWS DEFINITIONS

Terms defined under Data Protection Laws and which are used in this DPA shall have the same meaning as set out in Data Protection Laws even if they do not begin with capital letters in this DPA such as the terms "data subject", "personal data", "processing" and "third-country".

3 CONTROLLER'S OBLIGATIONS

Controller undertakes to:

- (a) ensure that there is a legal basis for the processing of personal data, and keep a record of this;
- (b) notify Processor of incorrect, corrected, updated or deleted personal data which is subject to Processor's processing;
- (c) document and, upon Processor's, request, inform about the categories of data subjects and categories of personal data that will be processed;
- (d) provide, documented instructions to Processor regarding Processor's processing of personal data (Sub-Appendix 1); and
- (e) comply with Data Protection Law.

4 PROCESSOR'S OBLIGATIONS

- 4.2 Processor undertakes to process the personal data only in accordance with Data Protection Laws, this DPA and documented instructions from Controller.
- 4.3 Processor shall immediately inform Controller if Processor lacks an instruction on how to process personal data in a particular situation or if it believes an instruction provided under this DPA infringes Data Protection Laws.
- 4.4 If Processor processes personal data in addition to or in violation of Processor's instructions due to being required to do so by Data Protection Laws, Processor will inform Controller of that legal requirement before processing unless that law prohibits such information on important grounds of public interest.
- 4.5 Processor shall ensure that persons authorized to process the personal data have received training and instructions regarding the processing of personal data and have undertaken to observe confidentiality or are under an appropriate statutory obligation of confidentiality.
- 4.6 If data subjects, competent authorities or any other third parties request information from Processor about the processing of personal data covered by this DPA, Processor should refer such request to Controller as soon as possible. Processor will assist Controller to fulfill its obligations to respond to requests from supervisory authorities and data subjects to exercise their rights under Chapter III of the GDPR.
- 4.7 Processor will, upon Controller's request, assist Controller with carrying out data protection impact assessment(s) where required under Data Protection Laws, *i.e.*, by supplying Controller with any external privacy assessment of the Service. Upon Controller's request, Processor will also assist Controller in its prior consultations with the supervisory authority, where such consultations are required under Data Protection Laws.
- 4.8 If and to the extent required by Data Protection Laws, Processor will provide Controller or any other third-party representative mandated by Controller with the information necessary to verify that Processor complies with Data Protection Laws. To the extent Controller uses a third-party representative to conduct the audit, Controller shall ensure that such third-party representative is bound by obligations of confidentiality. Controller may request that Processor provides such information no more than once annually. Controller shall notify Processor at least seven days in advance in order to provide Processor with a reasonable amount of time to compile information.

5 SECURITY MEASURES

5.1 Taking into account the state of the art, the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Processor shall implement

appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including *inter alia* as appropriate:

- (a) the pseudonymisation and encryption of personal data;
- (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- (c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident; or
- (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.

5.2 Immediately, and in any case within seventy 72 hours from becoming aware of a personal data breach in the Service, Processor should notify Controller in writing thereof, providing a description of the personal data breach and the actions taken by Processor to mitigate its effects. Processor shall assist Controller in fulfilling the obligations to inform the data subjects about the personal data breach and to notify the personal data breach to applicable supervisory authorities.

6 SUBCONTRACTORS

- 6.1 Processor has the right to engage subcontractors as sub-processors in order to provide the Services.
- 6.2 Processor shall ensure that any processing of the personal data by a subcontractor complies with the requirements set out under this DPA and Processor shall ensure that a data processing agreement is entered into between Processor and a subcontractor. The data processing agreement shall ensure that such subcontractor is subject to requirements that are as stringent and that offer at least the equivalent level of protection to Controller and the data subjects as the requirements that are imposed on Processor under this DPA.
- 6.3 Processor shall be responsible for all actions or omissions by a subcontractor under this DPA, as if they were Processor's own actions or omissions.
- 6.4 When providing the Service, Controller acknowledges and agrees that Processor may need to transfer personal data outside the EU/EEA. In case Processor transfers personal data to a third country, Processor should ensure that there is a valid transfer mechanism in place in accordance with Data Protection Laws, such as (i) an adequacy decision by the EU Commission, the UK or the Swiss data commissioner of the Federal Council, as applicable, or (ii) the EU Commission's standard contractual clauses for the transfer of personal data to third countries (the "EUSCC"), UK's international data transfer agreement (IDTA) or the international data transfer addendum to the EUSCC's, as applicable from time to time.
- 6.5 Processor shall maintain a list of all sub-processors it engages in providing Service, which will be available from time to time at <https://kognity.com/privacy/subprocessor-list>, and Processor will notify Controller of any changes to the sub-processor list (excluding changes where any sub-processor is removed from the list due to it no longer being a subprocessor). To the extent Controller has a reasonable objection to a change or addition of sub-processors, Controller shall so notify Processor in writing within 30 days of the notification being sent to subscribers of sub-processor updates. If Controller has objected to a new sub-processor in accordance with the foregoing, Processor may in its discretion decide to (i) provide an alternative arrangement to exclude such sub-processor from the provisioning of Services to Controller, even if doing so has an adverse effect on the provisioning of Services, or (ii) provide an alternative arrangement to exclude such sub-processor from provisioning the Service to Controller, at Controller's expense. If Controller does not agree with the proposed solution, Controller's sole remedy shall be to terminate the Agreement by notice to Processor without any liability for Processor except reimbursement of fees already paid but due for the remaining part of the Subscription Period.

7 COMPENSATION

Processor is entitled to reasonable compensation for direct costs when assisting Controller with obligations set out in 4.6-7, 5.2 and 8.2 regarding the return of personal data.

8 TERM AND TERMINATION

- 8.1 This DPA is effective from the Effective Date and is effective as long as Processor is processing personal data on behalf of Controller. If the Subscription Agreement is amended or terminated, this DPA will remain valid provided that, and for as long as, Processor is still processing personal data on behalf of Controller.
- 8.2 Upon termination of the Subscription Agreement, Processor shall discontinue the processing of all personal data that it has received as part of the Services.

Processor shall ensure that the personal data in its possession or control, in accordance with Controller's instructions and safely, either are returned to Controller or destroyed, depending on what Controller decides. Processor shall, at Controller's request, confirm in writing that Processor has returned or destroyed all copies of such personal data.

9 LIABILITY

Processor shall indemnify and hold harmless Controller from and against claims against Controller by a third party arising from or relating to any breach of Processor's obligations under this DPA or under Data Protection Law, subject to Controller notifying Processor as soon as Controller becomes aware of such claims. The liability of Processor is limited in accordance with sections 8.1-2 of the Subscription Agreement which shall apply to this DPA as if it was included herein.

10 GOVERNING LAW AND VENUE

- 10.1 The parties agree that the provisions on governing law and jurisdiction as set out in the Subscription Agreement shall be applicable to this DPA as if they were included herein.
 - 10.2 Where a dispute concerns personal data from more than one country, the dispute shall be settled taking into account the legislation on the personal data of the respective countries.
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SUB-APPENDIX 1 Processing instructions

Processing	
The purposes and nature of the processing	<p>The personal data are processed for the purpose of supplying the Services under the Subscription Agreement.</p> <p>The Processor will perform the following processing operations:</p> <ul style="list-style-type: none"> - Storage - Administration - Access in connection with support
Categories of data subjects	<ul style="list-style-type: none"> - Teachers - Students - Schools/community administrators
Categories of personal data	<ul style="list-style-type: none"> - Contact information/User ID information, including name, e-mail address, name of school etc. - User data, including tests, test results, classes, etc. - IT administrative data such as data related to the Services, including technical features, user names, location, communication data and metadata as well as technical events related to the Services including system and application logs - Security data such as security logs, facility and system surveillance data and information about security breaches - Service data, such as IP address, how the visitor has interacted with the website, etc. - Other personal data the data subject provides when using the Service, e.g., through use of the Kogbot support
Geography	
The personal data will be processed (e.g., stored or accessed) in the following locations	<p>As set out in the Processor's sub-processor list (https://kognity.com/privacy/subprocessor-list), applicable from time to time.</p>