

# STANDARD SUBSCRIPTION AGREEMENT TERMS (INTERNATIONAL 2024:1)

## Kognity Teaching & Learning Platform Service

### 1 INTRODUCTION

- 1.1 These standard subscription agreement terms (the “**Standard Terms**”) shall apply to the delivery of the Service to the Subscriber and Users and their use thereof.
- 1.2 Kognity reserves the right, in its discretion, to amend, modify or alter these Standard Terms and the Subscription Agreement at any time. The Subscriber will be notified of any material amendment to these Standard Terms or the Subscription Agreement. By continuing to use the Service, or by allowing Users to do so, the Subscriber expresses and acknowledges 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 labeled as “confidential” or “proprietary”; (ii) if disclosed orally, is designated confidential at disclosure; or (iii) regardless of its form (written or oral) or explicit designation as confidential, by its nature, or the circumstances of its disclosure, makes it reasonably likely that it is confidential;

“**Data Protection Laws**” means 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 the 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 Kognity 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;

“**Kognity**” means Kognity AB, a Swedish limited liability company, reg. no. 559023-5080, with address Linnégatan 87D, 115 23 Stockholm, Sweden, and its affiliates;

“**Order**” means the written order form, order confirmation or renewal confirmation entered into by Kognity and Subscriber setting out, *inter alia*, the Subscription Plan and pricing, and referencing these Standard Terms;

“**Privacy Notice**” means Kognity’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 materials, including but not limited to textbooks, videos, assessments, practice centers, laboratories, animations and other digital media, provided by Kognity from time to time for different subjects and curricula;

“**Subscriber**” means the subscriber set out in the Order;

“**Subscription Agreement**” means the Order, these Standard Terms and any supplementary documents referred to in such documents;

“**Subscription Period**” means the subscription period for each Subscription Plan as defined by the access start and end dates set out in the Order;

“**Subscription Plan**” means, depending on the context, each individual or all subscription plan(s) for Subscriber and Users’ use of the Service, as specified in the Order (for clarity, each subscription plan type (e.g. curricula) will be regarded as one individual subscription plan);

“**Terms of Use**” means Kognity’s “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 Users for purposes of evaluating the Service, for such parts of the Service and for the duration as specified in the Order;

“**Users**” means individual students, teachers and other Subscriber staff

authorized by Subscriber to use the Service.

### 3 SUPPLY OF SERVICE

- 3.1 Subject to the Subscriber’s compliance with the Subscription Agreement, Kognity will make the Service available to the Subscriber in accordance with the Subscription Agreement during the Subscription Period. Kognity 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 the Subscription Agreement.
- 3.2 By subscribing to the Service, Subscriber warrants and represents that its representatives are authorized to bind Subscriber to the Subscription Agreement. Subscriber further warrants and represents that: (i) it is registered and validly existing under the laws of its jurisdiction of registration and will only grant Users access to the Service in that territory; (ii) any information that it submits to Kognity is true, accurate and complete, and it agrees to keep it that way at all times; (iii) it is authorized to grant all permissions and licenses provided in the Subscription Agreement to Users; (iv) it shall comply with any laws and regulations that apply to its use of the Service (in particular local regulatory regimes on privacy and data protection); (v) it shall not provide any information to Kognity that it is not permitted to provide under applicable law, regulation or contract, or that would require Kognity to undertake separate measures such as obtaining consent from a User, a User’s parent or guardian, or any other third party; and (vi) it shall not use the Service for any other use than set forth herein and shall not allow any third party to do so.
- 3.3 Use of the Service requires User registration. Upon valid User registration, the Users will receive access to the applicable Subscription Plan for the Subscription Period.
- 3.4 Subscriber confirms that it will accept and comply with Kognity’s Terms of Use and other relevant terms for the use of the Service. Subscriber is responsible for ensuring that Users at all times comply with the terms of the Subscription Agreement and adhere to Kognity’s requirements and guidelines in relation to the use of the Service, as communicated by Kognity from time to time, including the Terms of Use and applicable instructions.
- 3.5 Subscriber and the Users are responsible for all hardware, communication networks and other equipment necessary for use of Service, and the due installation thereof. Subscriber is solely responsible for all activities conducted by Users. 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.
- 3.6 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 Kognity’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 Kognity; or (v) use, or allow any third party to use, the Service in any unauthorized manner or in breach of the Subscription Agreement.
- 3.7 Kognity will: (i) authorize Users access to and assign unique User passwords and usernames; (ii) grant Users access to the Subscription Plan relevant to each User in accordance with the Subscription Agreement; and (iii) endeavor to ensure that the use of the Service is secure, error-free, and 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. Kognity will use its reasonable endeavors to resolve any issues related to the Service as part of its technical support obligations.
- 3.8 Kognity 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, provided that Kognity 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 Kognity’s reasonable commercial interests.
- 3.9 TO THE FULLEST EXTENT POSSIBLE UNDER APPLICABLE LAW, KOGNITY 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 pricing and conditions for the Subscription Plan are based on the Subscriber's choices as set out in the Order. The User numbers in the Order 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 pricing and conditions for each Subscription Plan are however subject to review from time to time in connection with renewals, and Kognity reserves the right to propose adjustments to the pricing no later than two months prior to the expiration of a Subscription Period. Unless Subscriber cancels the subscription pursuant to Section 5.3, the adjusted pricing will apply.
- 4.2 For new subscriptions, Kognity will invoice Subscriber for the full Subscription Period at the start of the Subscription Period, unless otherwise agreed in writing. For renewed Subscription Plans, 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 a Subscription Plan (e.g. due to exceeding the allocated number of student Users), Kognity reserves the right to issue additional invoices for such excess use, subject to Section 4.4, based on the same pricing structure as the current Subscription Plan. Additional invoices may be issued at the end of the Subscription Period or during it. Subscriber will however be permitted up to 5 per cent good faith excess use for each Subscription Plan without additional fees. If the excess use is more than five per cent, Kognity'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), Kognity may, at its own discretion, temporarily restrict Subscriber's or 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 PERIOD, TRIAL ACCESS AND CANCELLATION

- 5.1 Unless set out otherwise in the Order, the Subscription Period shall be twelve months commencing on the Effective Date. Unless Subscriber cancels the subscription pursuant to Section 5.3, the Subscription Plan will automatically renew for a subsequent successive Subscription Period of twelve months and, subject to Section 4.1, otherwise based on the same Subscription Plan (e.g. same number of students and pricing) excluding any introductory or otherwise time-limited discounts.
- 5.2 From time to time Kognity may grant Trial Access to Subscriber. During Trial Access, Subscriber and Users are granted access to use the Service on a trial basis, in each case as specified in the Order. 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 Subscription Plan with a start date on or before the last day of the trial period. Trial Access is free-of-charge, provided, however, that Kognity may charge 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 Plan 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 the Subscription Agreement by submitting a cancellation notice to Kognity no later than one calendar month prior to the expiration of the 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](mailto:am@kognity.com).
- 5.5 Upon the termination of the Subscription Agreement for any reason, any sum owing or due to Kognity shall be immediately payable and the rights of Subscriber and Users herein shall be immediately canceled.

#### 6 INTELLECTUAL PROPERTY RIGHTS

- 6.1 Kognity 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 Kognity's and its licensors' proprietary rights.
- 6.2 Kognity's trademarks, service marks, trade names, logos, domain names, and any other features of the Service are the sole property of Kognity or its licensors. The license granted to Subscriber and Users herein does not grant any rights to use such Intellectual Property Rights or any other features of the Service, whether for commercial or non-commercial use, except as explicitly set out in the Subscription Agreement.

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

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

#### 7 CONFIDENTIALITY AND PRIVACY

- 7.1 All Confidential Information exchanged between Kognity, 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 the Subscription Agreement.
- 7.2 Notwithstanding Section 7.1, the Subscription Agreement shall not prohibit the disclosure of Confidential Information as permitted or required by law, regulation or order of a court or other governmental authority. Furthermore, Kognity 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 confidence and use it only to facilitate the performance of their services in connection with the Service.
- 7.3 Subscriber and 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 Kognity Intellectual Property Rights, without Kognity's written consent.
- 7.4 If required by Data Protection Laws, Subscriber confirms that: (i) Users consent to the processing of any personal data as set forth in the Subscription Agreement; or (ii) it is authorized under applicable law to consent to the processing of any personal data as set forth in the Subscription Agreement on the Users' behalf.
- 7.5 Without prejudice to Section 7.4, in providing the Service, Kognity will comply with Data Protection Laws as well as the 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. Kognity will process any such personal data in accordance with the Data Processing Agreement between Kognity and Subscriber set out in [Appendix 1](#). For the sake of clarity, Kognity may process personal data collected from the Service for its own business purposes, for example to improve the Service, in which case Kognity 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, KOGNITY 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 THE SUBSCRIPTION AGREEMENT WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, SAVE WHERE SUCH LOSS OR DAMAGE IS DUE TO KOGNITY'S WILLFUL VIOLATION OF THE TERMS OF THE SUBSCRIPTION AGREEMENT.
- 8.2 IN ADDITION TO ANY OTHER LIMITATIONS OF LIABILITY SET FORTH IN THE SUBSCRIPTION AGREEMENT AND TO THE FULLEST EXTENT POSSIBLE UNDER APPLICABLE LAW, KOGNITY'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 THE SUBSCRIPTION AGREEMENT EXCEED THE SUBSCRIPTION FEES PAID OR PAYABLE BY THE SUBSCRIBER UNDER THE SUBSCRIPTION AGREEMENT IN THE TWELVE MONTH TERM IN WHICH THE INCIDENT GIVING RISE TO LIABILITY OCCURRED AND KOGNITY'S AGGREGATE LIABILITY ARISING OUT OF OR IN RELATION TO THE 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 KOGNITY'S WILLFUL VIOLATION OF THE TERMS OF THE SUBSCRIPTION AGREEMENT. SUBSCRIBER SHALL NOT HAVE THE RIGHT TO TERMINATE THE SUBSCRIPTION AGREEMENT UNLESS SUCH LOSS OR DAMAGE IS DUE TO KOGNITY'S WILLFUL VIOLATION OF THE TERMS OF THE SUBSCRIPTION AGREEMENT.
- 8.3 Kognity shall not be liable for damages for any delay or default in performance of its undertakings or obligations under the 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 Kognity, and Subscriber shall not have the right to terminate the 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, Kognity 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 the Subscription Agreement.

## **9 MISCELLANEOUS**

- 9.1 Unless otherwise notified by Subscriber to Kognity, Subscriber agrees to Kognity using the Subscriber's name and logo in its marketing materials, including on its website, and as a reference in communications with potential customers, in each case to identify the Subscriber as a user of the Service.
- 9.2 Any notice or other communication to be given or served under or in connection with the Subscription Agreement shall be in writing and shall be sent by e-mail to the other party's contact person set forth in the Order.
- 9.3 Subscriber may not assign, mortgage, charge any of its rights or sub-contract or otherwise delegate any of its obligations under the Subscription Agreement, except with the written consent of Kognity.
- 9.4 The Subscription Agreement constitutes the entire agreement between the parties and supersedes any previous agreement and no modification of the Subscription Agreement shall be effective unless it is made in writing and executed by or on behalf of the parties or otherwise set forth in the Standard Terms. Issuance by Kognity of an Order, and Subscriber's acceptance of any Order, quotation or proposal by Kognity, is expressly limited to and conditioned upon these Standard Terms. The Subscription Agreement shall prevail over any additional, conflicting, or inconsistent terms and conditions, which may appear on any purchase order or any other similar document furnished by Subscriber, and any additional terms and conditions in any such documents shall have no force and effect, notwithstanding Kognity's acceptance or execution thereof.
- 9.5 No failure or delay by any party in exercising any of its rights under the 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 the Subscription Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision of the Subscription Agreement.
- 9.6 All provisions of the 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 The 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 the 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 meanings set out in the Subscription Agreement. Kognity (the "Processor") and Subscriber (the "Controller") have, under the Subscription Agreement, agreed that Processor shall provide the Service to Controller. Processor will process personal data on behalf of Controller when providing the Service. This DPA specifies the terms and conditions applicable to the processing of personal data performed by Processor when providing the Service.

### 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 in fulfilling 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 organizational 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 organizational 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 Service.
- 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"), the 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).
- 6.6 To the extent Controller has a reasonable objection to a change or addition of sub-processors, Controller shall 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, Processor may in its discretion decide to (i) provide an alternative arrangement to exclude such sub-processor from the provisioning of the Service to Controller, even if doing so has an adverse effect on the provisioning of the Service, (ii) provide an alternative arrangement to exclude such sub-processor from provisioning the Service to Controller, at Controller's expense, or (iii) if (i)-(ii) are not reasonably practicable for Processor, terminate the Subscription Agreement. 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.

### 7 COMPENSATION

Processor is entitled to reasonable compensation for direct costs when assisting Controller with obligations set out in Sections 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 Service. 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. The foregoing shall however not restrict Processor from retaining system logs that may include personal data in the form of IP addresses for a period of up to one year for the purposes of ensuring security, confidentiality, integrity, availability and resilience of its systems and services.

## **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

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

