



## EVOLVE Deed of Variation of Contract

eduFOCUS Limited incorporated and registered in England and Wales with company number 05987706 and whose registered office is at 1 Vicarage Lane, Stratford, London E15 4HF ("eduFOCUS")

### GENERAL DETAILS

Customer Details (the "Customer")	
Company Name	
Registered Address	
Company Number	
Background	
Original licence date for the use of eduFOCUS' Services ("the Agreement"):	
The Agreement will be amended as set out in this deed with effect from:	
Reason for this deed:	The General Data Protection Regulation (GDPR) is coming into effect on 25 May 2018 and as such we are required to update our Agreements with our customers in order to ensure they are compliant with the new legislation.

Signed: ..... Signed: .....

Print name: ..... Print name: .....

Position: ..... Position: .....

Date: ..... Date: .....

For and on behalf of **eduFOCUS Limited**

For and on behalf of



## AGREED TERMS

### 1. Terms defined in the Agreement

In this deed, expressions defined in the Agreement and used in this deed have the meaning set out in the Agreement. The rules of interpretation set out in the Agreement apply to this deed.

### 2. Variation

With effect from the Variation Date the Parties agree the following amendments to the Agreement:

- 2.1. The entire text of the definition of DPA at Clause 1.1. of Part 2: Agreed Terms of the Agreement is deleted and replaced with the following:

*"Data Protection Legislation means as applicable and binding on the Customer, eduFOCUS and/or the Services, the Data Protection Act 1998 and any laws or regulations implementing Directive 95/46/EC (Data Protection Directive); and/or the General Data Protection Regulation (EU) 2016/679 (the GDPR) and/or any corresponding or equivalent national laws or regulations; and any laws replacing, amending, extending, re-enacting or consolidating any such laws from time to time."*

- 2.2. The entire text of Clause 18 of Part 2: Agreed Terms of the Agreement is deleted and replaced with the following:

*"18. Data protection*

*18.1. Each party will comply with its obligations under the provisions of the Data Protection Legislation in respect of the performance of its obligations under this agreement..*

*18.2. For the purposes of this agreement, the Customer and eduFOCUS agree that if eduFOCUS processes any personal data (as defined in the Data Protection Legislation) on the Customer's behalf when performing its obligations under this agreement, the Customer shall be the data controller and eduFOCUS shall be a data processor of such data..:*

*18.3. The Customer warrants, represents and undertakes that all data sourced by the Customer for use in connection with the Services (including the Customer Data) shall comply in all respects, including in terms of its collection, storage and processing (which shall include the Customer providing all of the required fair processing information to, and obtaining all necessary consents from, data subjects (as defined in the Data Protection Legislation)), with the Data Protection Legislation and all instructions given by it to eduFOCUS in respect of personal data shall at all times be in accordance with the Data Protection Legislation. The Customer shall indemnify and keep indemnified eduFOCUS in respect of all costs (including legal costs), claims, expenses, losses, damages, administrative fines, penalties, sanctions and other liabilities suffered or incurred by, awarded against or agreed to be paid by eduFOCUS arising from or in connection with a breach by the Customer of this clause.*

*18.4. The subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data, the categories of data subjects and the obligations and rights of the Customer are set forth in Schedule 4. Without prejudice to the generality of this clause 18, eduFOCUS shall, in relation to any personal data processed under this agreement:*

*18.4.1. process the personal data only on documented written instructions from the Customer as set out in this clause and Schedule 4, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by applicable law to which eduFOCUS is subject and in such a case eduFOCUS shall inform the Customer of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;*

*18.4.2. ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;*

- 18.4.3. *ensure that it has in place appropriate technical and organisational measures to ensure a level of security appropriate to the risk to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);*
- 18.4.4 *where applicable, save for PaymentSense and Text Marketer, whom the Customer consents to being appointed as a third-party processor of personal data under this agreement, not engage another processor without the prior written authorisation of the Customer (such authorisation not to be unreasonably withheld, conditioned or delay) and any sub-processors shall be appointed under a written contract containing materially the same obligations as under this agreement and eduFOCUS shall remain fully liable to the Customer for all acts and omissions of any sub-processors appointed pursuant to this agreement;*
- 18.4.5. *taking into account the nature of the processing, assist the Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfillment of the Customer's obligation to respond to requests by data subjects exercising their rights under the Data Protection Legislation;*
- 18.4.6. *provide such reasonable assistance as the Customer reasonably requires (taking into account the nature of processing and the information available to eduFOCUS) to the Customer in ensuring compliance with the Customer's obligations under Data Protection Legislation with respect to security of processing, data protection impact assessments (as defined in the Data Protection Legislation), prior consultation with a supervisory authority regarding high risk processing and notifications to the supervisory authority and/or communications to the data subjects by the Customer in response to any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, any protected data;*
- 18.4.7. *at the choice of the Customer, delete or return all the personal data to Customer after the end of the provision of Services relating to processing, and delete existing copies unless applicable law requires storage of the personal data;*
- 18.4.8. *make available to Customer all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the GDPR and allow for and contribute to audits, including inspections, conducted by Customer or another auditor mandated by Customer, provided:*
- 18.4.8.1. *the Customer provides reasonable prior written notice of such information request, audit and/or inspection;*
- 18.4.8.2. *all information obtained or generated by the Customer or its auditor(s) in connection with such information requests, inspections and audits is kept strictly confidential unless otherwise required by applicable law;*
- 18.4.8.3. *the Customer ensures that such audit or inspection is undertaken during normal business hours, with minimal disruption to eduFOCUS's business; and*
- 18.4.8.4. *the Customer pays eduFOCUS's reasonable costs for assisting with the provision of information and allowing for and contributing to inspections and audits; and*
- 18.4.8.5. *not transfer any personal data outside of the European Economic Area without the Customer's prior written consent.*

18.5. *The Customer acknowledges and accepts that once Customer Data has been inputted into the information fields of the Software it will be accessible by all users including Authorised Users. It is the Customer's sole responsibility to ensure that any sensitive data or data subject to restrictions (including data protection and safeguarding restrictions) are, where appropriate, not uploaded to the Software.*

18.6. *From time to time, eduFOCUS may make available to the Customer features within the Services which allow for the exportation of Customer Data. This may include exportation to management information systems; applications provided by third parties such as calendars and payment gateways; and other application programming interface links. The Customer has sole responsibility for ensuring that it complies with any procedures, policies, guidelines, regulations or laws that may apply to the Customer and/or Establishments and/or Customer Data (including those related to data protection, educational visits, safeguarding, information sharing and consent, acceptable use of ICT and health and safety) in relation to such exportation. Where any Customer Data is being exported to applications provided by third parties, the Customer agrees and acknowledges that this is a third party application and that eduFOCUS shall have no liability or obligation in relation to the use of Customer Data on any such third party application."*

2.3. A new Schedule is inserted into the Agreement at Schedule 4 of the Agreement and which is at Appendix 1 of this deed.

2.4. Except as set out in clause 2, the Agreement shall continue in full force and effect.

### **3. Acceptance**

In the absence of written agreement, the Authority's continued use of the Services will signify deemed acceptance of these terms unless EDUFOCUS is notified in writing to the contrary within 14 days of the date of this deed.

### **4. Governing law**

This deed 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.

### **5. 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 this deed or its subject matter or formation.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

## APPENDIX ONE

### SCHEDULE 4 - DATA PROCESSING DETAILS

#### 1. Subject-matter of processing:

The Supplier will Process Personal Data as necessary to perform the Services pursuant to the Agreement, as further specified in the Documentation, and as further instructed by Customer in its use of the Services.

#### 2. Duration of the processing:

eduFOCUS Limited will Process Personal Data for the duration of the Agreement, unless otherwise requested by the Customer.

#### 3. Nature and purpose of the processing:

The Supplier will Process Personal Data as necessary to perform the Services pursuant to the Agreement, as further specified in the Documentation, and as further instructed by Customer in its use of the Services. This will include but will not be limited to collection, storage, use, disclosure, organisation, erasure, destruction.

#### 4. Type of personal data:

Customer may submit Personal Data to the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:

Data Type	Why
<b>Student Data</b>	
MIS ID/Admission Number/UPN	Used as a unique identifier. Prevents duplicate records being created.
Surname	Used in reporting and for staff members to create registers.
Forename	Used in reporting and for staff members to create registers.
Email address	Used for communication purposes.
Gender	Used by schools to identify appropriate staff:pupil ratios
<b>Staff Data</b>	
Surname	Used to identify staff members for reporting. Also creates staff accounts.
Forename	Used to identify staff members for reporting. Also creates staff accounts.
Work Email	Used to identify a staff member on activation of their account. Used for communication purposes and to reset forgotten passwords. Can also be used as username.
Work Contact Telephone	Used for communication purposes.

Active Employment	Used to determine if account should still be active in EVOLVE (True/False)
Staff Code	Used as unique identifier.
Gender	Used by schools to identify appropriate staff:pupil ratios.
Date of Birth	Used for identification purposes.
iSAMS Username	iSAMS Only. Used to create Staff EVOLVE username
<b>Group Data</b>	
Group name	Identifies name of a group stored in the school's MIS so that staff members can report on groupings of students.
Group ID	Unique identifier for a group.
Registration Group	Identifies registration group types to help identification for the user.
Year group	Identifies year group types to help identification for the user. Used for reporting purposes.
Class name	Identifies class group types to help identification for the user. Used for reporting purposes.
<b>Optional Data (EVOLVElink)</b>	
Date of Birth	Used for identification and reporting purposes.
Surname	Used for communication purposes.
Forename	Used for communication purposes.
Relationship of Contact	Used for communication purposes.
Telephone Number	Used for communication purposes.
Email Address	Used for communication purposes.
Pupil Premium indicator	Used to help school measure impact of key demographics.
In LEA Care	Used to help school measure impact of key demographics.
Special Educational Need	Used to help school measure impact of key demographics and if additional support is required for educational visit or club.
Eligible for Free School Meals	Used to help school measure impact of key demographics. Also used to determine eligibility for free school meals on trips and clubs.
FSM Ever 6	Used to help school measure impact of key demographics. Also used to determine eligibility for free school meals on trips and clubs.
Ethnicity	Used to help school measure impact of key demographics.
First Language	Used to help school measure impact of key demographics.
Consent – Trips	Used to help school identify where additional consent forms are required.
Consent – Photo	Used to help school identify where consent for photos to be taken is granted, for use on educational visits and clubs.
Student Home Address	Used to allow school to display this data on a register, for use on educational visits and clubs.

Gifted	Used to help school measure impact of key demographics
English as an additional language	Used to help school measure impact of key demographics
Gender	Used by staff members to analyse equality of opportunity and staff:pupil ratios
Dietary Needs	Used to display on registers for clubs and visits. Also used in EVOLVEaccidentbook when adding incident forms.
Medical Conditions	Used to display on registers for clubs and visits. Also used in EVOLVEaccidentbook when adding incident forms.
Medical Conditions with Notes	Used to display on registers for clubs and visits. Also used in EVOLVEaccidentbook when adding incident forms.
Passport Number	Used to display on registers for use on educational visits.
Paramedical Support	SIMS Only. Used to help school identify where specified medication can be given.
SIMS User Defined Field	SIMS Only. Allows schools to sync any available exportable SIMS field into EVOLVE for monitoring, reporting, display purposes.
Student UserID / UserCode / SchoolCode / School ID	iSAMS Only. Used as a unique identifier. Prevents duplicate records being created. Can also be used to display on register for identification purposes.
PupilType	iSAMS Only. Used to help school for identification purposes e.g. Boarder, Day School only.
Health Notes	iSAMS Only. Used to display on registers. Also used in EVOLVEaccidentbook when adding incident forms.
Trip Notes	iSAMS Only. Used to display on registers. Also used in EVOLVEaccidentbook when adding incident forms.
Preferred Name	iSAMS Only. Used to display on registers for identification purposes. Also used in EVOLVEaccidentbook when adding incident forms.
Health Custom Field	iSAMS Only. Used to display on registers for identification purposes. Also used in EVOLVEaccidentbook when adding incident forms.

A full and current list of types of personal data can be found on your EVOLVE link set up page.

## 5. Categories of data subjects:

Authorised Users and the Customer may submit Personal Data to the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of data subjects:

- Students
- Staff
- Volunteers
- Parents/Carers