

DATA PROCESSING AGREEMENT

THIS AGREEMENT is made on April 10, 2020 ("**Effective Date**") **BETWEEN:**

- (1) **Unifrog** registered in England under number 08231699, of Brickfields, Unit 215, 37 Cremer Street, E2 8HD ("**Unifrog**"); and
- (2) **THE COMMON APPLICATION, INC.**, a section 501(c)(3) non-profit corporation incorporated under the laws of the Commonwealth of Virginia, with its principal offices at 3003 Washington Blvd, Suite 1000, Arlington, VA 2201 ("**TCA**").

WHEREAS

- A. The parties entered into an integrated services agreement dated February 14, 2020 ("**Services Agreement**") under which the parties agreed, amongst other things, to collaborate and, where requested by a school, integrate their respective software-as-a-service solutions to improve user experience and functionality.
- B. Where integration of the parties' solutions is requested by a school, Unifrog is required to exchange certain data, including personal data, with TCA to enable an application to be made to a school or university customer of TCA.
- C. In order to comply with the obligations imposed on each party by the General Data Protection Regulation 2016/679, the parties have agreed to enter into this data processing agreement. This agreement shall be supplemental to, and, in the event of a conflict, take precedence over the Services Agreement.

IT IS AGREED AS FOLLOWS

1. DEFINITIONS

"Data Protection Legislation"	means any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re-enacted from time to time) which relates to the protection of individuals with regards to the Processing of Personal Data to which a party is subject, including the GDPR and/or any applicable local implementation including the Data Protection Act 2018 (and in the event that the United Kingdom leaves the European Union, all subsequent legislation enacted in the United Kingdom in respect of the protection of personal data);
"Data Subject" and "Processing" ¹¹	shall have the respective meaning given to such terms in the Data Protection Legislation and " Process " and " Processed " shall be construed accordingly;
"Personal Data"	means any personal data or special categories of personal data (as defined in the Data Protection Legislation) which are subject to, or intended to be subject to, Processing by the Sub- Processor for or on behalf of the Data Processor under or in connection with this agreement;
"Data Controller"	shall have the meaning given to ii in the Data Protection Legislation and specifically in the context of this agreement means Unifrog and schools which are using the Platform and wish to submit applications to schools using the TCA Service;
"Data Processing Particulars"	means, in relation to any Processing under this agreement:

- (a) the subject matter and duration of the Processing;
- (b) the nature and purpose of the Processing;
- (c) the type of Personal Data being Processed; and
- (d) the categories of Data Subjects;

"Data Processor"	shall have the meaning given to it in the Data Protection Legislation.
"GDPR"	means Regulation (EU) 2016/679 (General Data Protection Regulation);
"Personal Data Breach"	means any breach of security leading to the accidental or unauthorized destruction, loss, alteration, disclosure of, or access to, Personal Data;
"Platform"	means Unifrog's intelligent university and course matching software platform;
"Staff"	means the employees, officers, independent contractors, agency workers and agents of a party;
"Sub-Processor"	shall have the meaning given to it in the Data Protection Legislation and specifically in the context of this agreement means TCA;
"TCA Service"	means the platform owned and/or operated by TCA which processes applications to schools and universities which are customers of TCA.

2. PROCESSING OF PERSONAL DATA

- 2.1 The parties acknowledge that the factual arrangement between them dictates the classification of each party in respect of the Data Protection Legislation. Notwithstanding the foregoing, nor any provision of the Services Agreement, the parties anticipate that:
- 2.1.1 the relevant school shall be the Data Controller in respect of the Processing of any Personal Data;
 - 2.1.2 Unifrog shall be a Data Controller and TCA its Sub-Processor in respect of the Processing of Personal Data provided by the school.
- 2.2 Each of the Parties acknowledges and agrees that the Schedule of this agreement is an accurate description of the Data Protection Particulars.
- 2.3 The Sub-Processor shall:
- 2.3.1 act only in accordance with the Data Controller's instructions from time to time regarding the Processing of Personal Data pursuant to this agreement. In the event that a legal requirement prevents the Sub-Processor from complying with such instructions, the Sub-Processor shall, unless such legal requirement prohibits it from doing so, inform the Data Controller of the relevant legal requirement before carrying out the relevant processing activities;
 - 2.3.2 ensure that any of its Staff who may have access to the Personal Data are bound by obligations of confidentiality;

- 2.3.3 implement appropriate technical and organizational measures to protect any Personal Data against unauthorized or unlawful processing and accidental loss, disclosure, access or damage;
- 2.3.4 only engage a sub-processor with the prior consent of the Data Controller and on a written contract that complies with the Data Protection Legislation;
- 2.3.5 assist the Data Controller in ensuring compliance with its obligations pursuant to Articles 32 to 36 of the GDPR, including notifying the Data Controller and Data Processor without undue delay after becoming aware of a Personal Data Breach and assisting the Data Controller and Data Processor with any investigation into and remediation of a Personal Data Breach. Sub-Processor shall also provide the Data Controller and the Data Processor with reasonable assistance with any notifications made to relevant authorities and/or Data Subjects in relation to a Personal Data Breach;
- 2.3.6 co-operate with and provide such information and access to any facilities, premises or equipment from or on which Personal Data is, has been, or is to be Processed pursuant to this agreement (including any such facilities, premises or equipment used by Staff) as the Data Controller or Data Processor may reasonably require to enable it to monitor compliance by Sub-Processor with the obligations in this agreement;
- 2.3.7 at the choice of the Data Controller, delete or return all Personal Data after the end of the provision of services relating to Processing, and delete existing copies unless applicable law requires continued storage of the Personal Data;
- 2.3.8 make available to the Data Controller and Data Processor all information necessary to demonstrate compliance with the obligations laid down by Article 28 of the GDPR.

3. DATA TRANSFERS TO A THIRD COUNTRY

- 3.1 Subject to Clause 3.2 and 3.3, the Sub-Processor shall:
 - 3.1.1 not transfer any Personal Data to any country or territory outside the European Economic Area (other than to a country, territory or sector within a country which has been subject to a finding of an adequate level of protection by the European Commission) ("**Third Countries**") without, and subject to, the express prior written consent of the Data Controller; and
 - 3.1.2 comply with the Data Controller's written instructions in relation to transfers of Personal Data to Third Countries unless the Sub-Processor is required pursuant to applicable laws to transfer Personal Data outside the European Economic Area, in which case Sub-Processor shall inform the Data Controller and Data Processor in writing of the relevant legal requirement before any such transfer occurs unless the relevant law prohibits such notification on important grounds of public interest.
- 3.2 TCA Processes Personal Data under or in connection with this agreement in the United States of America. The transfer of Personal Data to TCA takes place on the basis of Article 49(1)(c) GDPR, namely that it is necessary for the conclusion or performance of a contract concluded in the interest of the Data Subject between the Data Controller and Unifrog.
- 3.3 Unifrog Processes Personal Data under or in connection with this agreement in the European Union and the United States of America. To the extent that Unifrog Processes Personal Data in the United States of America, the transfer takes place on the basis that Unifrog's suppliers adhere to Privacy Shield.
- 3.4 The Data Processor shall be entitled to suspend or withdraw its consent to the transfer of Personal Data to Third Countries immediately if the adequacy mechanism that is relied upon for the purposes of the Data Protection Legislation is deemed to be invalid for any reason or if the Data Processor is required to do so by any regulatory authority.

4. WARRANTIES

4.1 The Data Processor warrants to the Sub-Processor that:

- 4.1.1 it has the lawful right to disclose and transfer the Personal Data provided to the Sub-Processor to be Processed under or in connection with this agreement;
- 4.1.2 lawful grounds exist for the Processing of Personal Data by the Sub-Processor under or in connection with this agreement;
- 4.1.3 it shall promptly notify the Sub-Processor in the event that that lawful grounds cease to exist, including any withdrawal of any relevant consent by any Data Subject whose Personal Data is Processed under or in connection with this agreement, giving sufficient details to enable the Sub-Processor to comply with its obligations under the Data Protection Legislation.

4.2 The Sub-Processor warrants to the Data Processor that it shall comply with all applicable Data Protection Legislation.

5. TERM AND TERMINATION

5.1 This agreement shall take effect on the Effective Date and shall continue unless the Services Agreement is terminated, in which case this agreement shall automatically terminate, or until this agreement is terminated in accordance with Clause 5.2

5.2 Either party terminate this agreement if the other party commits a material breach of any term of this agreement 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.

6. ASSIGNMENT

Neither party shall assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.

7. VARIATION

No addition to or modification of any provision of this agreement shall be binding upon the parties unless made in writing signed by a duly authorized representative of each of the parties.

8. ENTIRE AGREEMENT

The agreement (as amended from time to time) together with any document expressly referred to in any of its terms, contains the entire agreement between the parties relating to the subject matter covered and supersedes any previous agreements, arrangements, undertakings or proposals, written or oral, between the parties in relation to such matters. No oral explanation or oral information given by any party shall alter the interpretation of the agreement.

9. RIGHTS OF THIRD PARTIES

9.1 Subject to clause 9.2, nothing in this agreement shall be construed as conferring any rights (including the right to rely on any exclusion or limitation clause contained within it) or obligations on any person or class of persons whether in existence now or at any time in the future that is not a party to the agreement, for the avoidance of doubt, the Contract (Rights of Third Parties) Act 1999 shall not apply to the agreement.

9.2 Notwithstanding clause 9.1, TCA acknowledges and agrees that Data Subjects and Data Controller customers of Unifrog shall be entitled to enforce any provision of this agreement as if they were a party to it.


10. LAW AND JURISDICTION

The agreement (including any related non-contractual obligations) shall be governed by and construed in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the English courts in respect of any dispute or matter arising out of or connected with the agreement (including any related non-contractual obligations).

THIS AGREEMENT has been executed by or on behalf of the parties on the date at the top of page

TCA

PARTNER

By: Printed Name: Title: Date:	By: Printed Name:  Title: Date:	Alex Kelly Director 16 April 2020
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SCHEDULE - DATA PROCESSING PARTICULARS

<p>The subject matter and duration of the Processing</p>	<p><u>Subject matter:</u> The integration of software-as-a-service systems.</p> <p><u>Duration:</u> The Sub-Processor will Process Personal Data for the duration of the systems integration,</p>
<p>The nature and purpose of the Processing</p>	<p><u>Nature of Processing:</u> The Sub-Processor will Process Personal Data of Data Subjects in order to integrate its system with the Data Processor's system.</p> <p><u>Purpose of Processing:</u> To improve user experience and functionality by the integration of systems.</p>
<p>The type of Personal Data being Processed</p>	<p>The types of Personal Data Processed by Unifrog and/or any of its sub-contractors will be as follows:</p> <ul style="list-style-type: none"> • Counselor: name, role, email, gender; date of birth; contact details; photo; school details (school name, address); • Teacher: name; role, email; gender; date of birth; contact details; photo; school details (school name, address); and • Student: name; email; gender; date of birth; contact details; photo; nationality / languages; enrolment status; school details (school name, address, year group, dates, student ID). <p>The types of Personal Data Processed by TCA will be as follows:</p> <ul style="list-style-type: none"> • Counselor: name, role, email, gender; date of birth; contact details; photo; school details (school name, address); • Teacher: name; role, email; gender; date of birth; contact details; photo; school details (school name, address); and • Student: name; email; gender; date of birth; contact details; photo; nationality / languages; enrolment status; school details (school name, address, year group, dates, student ID).
<p>The categories of Data Subjects</p>	<p>Advisors, students, teachers.</p>