

**Arbor Finance User Terms & Conditions**  
**(Effective September 2023)**

**BY USING OR ACCESSING ARBOR FINANCE AND THE SERVICE YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS (THE "AGREEMENT") GOVERNING YOUR USE OF THE ARBOR FINANCE SERVICE ("THE SERVICE").**

**THIS AGREEMENT SHALL APPLY TO YOUR USE OF THE SERVICE, REGARDLESS OF ANY OTHER TERMS AND CONDITIONS THAT YOU MAY HAVE PROPOSED AND/OR ANY OTHER TERMS THAT MAY HAVE BEEN AGREED BETWEEN YOU AND SESL (OTHER THAN THE SESL TERMS AND CONDITIONS OF SALE).**

**IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THE TERMS OF THIS AGREEMENT AND ANY OTHER TERMS, THE TERMS OF THIS AGREEMENT SHALL PREVAIL. BY ACCESSING AND USING THE SERVICE, YOU CONFIRM YOUR AGREEMENT TO THESE TERMS.**

**1. DEFINITIONS**

**Affiliate** means, in relation to SESL, its holding company or subsidiary company of it or that holding company, respectively;

**Arbor Finance** means the Arbor Finance management information system and all related software including any maintenance releases, developed, operated, and maintained by SESL, and accessible via a designated web site or IP address, to which you and your Users are granted access under this Agreement;

**Arbor Finance Approved Support Partner** means a partner named on the Arbor Finance approved partner list;

**Arbor Finance Support** a support contract between you and SESL to provide ongoing support for the use of Arbor Finance;

**Data Protection Legislation** means all applicable data protection and privacy legislation in force from time to time a) in the UK (including, but not limited to, the UK GDPR, the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426)) and/or b) to the extent that the General Data Protection Regulation EU 2016/679 ("EU GDPR") applies, the law of the European Union or any member state of the European Union to which you are subject, which relates to the protection of personal data;

**Effective Date** the earlier of the date this Agreement is accepted or the date you begin using the Service;

**Initial Term** the initial period during which you are obliged to pay for the Service;

**IPR** means any and all patents, patents applications, unpatented inventions, trademarks, service marks, trade names, domain name rights, mask work rights, copyright, moral rights, rights in design, know-how, confidential information and all or any other intellectual or industrial property rights or derivatives thereof, and forms of protection of a similar nature, whether or not registered or capable of registration and whether now or in the future subsisting in the United Kingdom or any other part of the world together with all or any goodwill and accrued rights of action;

**Partner Support** a support contract between you and an Arbor Finance Approved Support Partner to provide ongoing support for the use of the Service;

**Service** means all services provided by SESL to you in accordance with the terms of this Agreement including: (i) access to and use of the Arbor Finance as the case may be; (ii) provision of any documentation made available to you by SESL for the Service; (iii) the support services provided in accordance with

	clause 8; and (iv) to the extent relevant, any related activities to the foregoing;
SESL (or we or us)	is Schools Educational Software Ltd, Floor 8, Hylo 103-105 Bunhill Row, London, EC1Y 8LZ
Third Party Applications'	applications provided by third parties which are accessible via, or alongside, the Service;
'UK GDPR'	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018;
Unacceptable Content	means any material of any nature whatsoever which is or contains any material that: (i) is or may be defamatory, libellous, obscene, in contempt of court or in contravention of any law or regulation or infringes the rights of any third party; and/or (ii) promotes violence or discrimination based on race, sex, sexual orientation, religion, national origin, physical disability, mental disability, age or which promotes any illegal activities; and/or (iii) is a Virus;
User	means your employees, representatives, consultants, contractors or agents who are authorised by you to use the Service and have been supplied with user identifications and passwords by you, or by SESL at your request;
'User Software	shall have the meaning given in clause 5.2;

Virus any virus, worm, Trojan horse, logic bomb, time bomb, back door, trap door or any other similar form of code intended, or having that effect, to cause harm, damage or to prevent or restrict the use of any computer system or data; and

you or your means the "Customer" who is subject to without limitation and inter alia, the SESL Terms and Conditions of Sale, together with this Agreement and may be any person, school, local authority, multiple academy trust or other organisation that is accessing the Service.

## 2. DURATION

- 2.1. This Agreement shall commence on the Effective Date and continue until the end of the Initial Term. At the end of the Initial Term, unless otherwise agreed, this Agreement shall automatically renew for either one year or a period equal to the Initial Term, whichever is the lesser, at the prevailing rate for the Service until a new rate is applied. SESL will provide you with a quotation for the new charges prior to the renewal date.
- 2.2. Either party may terminate this Agreement by giving not less than ninety (90) days notice prior to the end of the then current Initial Term.
- 2.3. In addition to any other increases (including for increases in third party costs), SESL have the right, each contract year, to increase the price of the Service to reflect indexation, on 30 days' notice given to you, to the higher of: (i) the price indexed to the Retail Prices Index; (ii) the price indexed to the Consumer Prices Index; or (iii) 3%.

### 3. **LICENCE GRANT AND RESTRICTIONS**

- 3.1. In consideration of your payment of the relevant fees, and subject to your and your Users' compliance with the terms of this Agreement, SESL agrees to provide you with access to the Service. Such access shall be solely to support your own internal business purposes of a non-commercial nature and limited to the number of concurrent Users as agreed between you and SESL.
- 3.2. Your access shall be limited only to you and your Users and you shall procure that all Users comply with the terms of this Agreement from time to time.
- 3.3. You may produce copies of any instructions provided by SESL and distribute such copies to Users to enable them to use the Service. This shall be without prejudice to the provisions of clause 5.

### 4. **YOUR RESPONSIBILITIES**

- 4.1. SESL may alter usernames or passwords upon reasonable notice. Your username(s) and any password(s) are non-transferable and you are not permitted to disclose or share the same with anyone else. No third party may share your account.
- 4.2. No part of the Service may be cached in proxy servers or accessed by individuals who have not registered with SESL as Users of the Service. If you do disclose or share your account with any third party or allow any third party to use the Service on your behalf, you agree to indemnify SESL for any losses or damages incurred by SESL as a result of your actions. If SESL reasonably believes that an account is being used in any way which is not permitted by this Agreement, SESL reserves the right to cancel access rights immediately without notice and to block access to all users from that account.
- 4.3. You are solely responsible for acquiring and maintaining all computer hardware and software, telephone and communications equipment needed for access to and use of the Service.

- 4.4. You own and have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and IPR ownership or right to use of all Customer Data and SESL shall not be responsible or liable for the deletion, correction, destruction, damage, loss of or failure to store any Customer Data.
- 4.5. You agree to ensure that no User will introduce any Virus into any computer equipment or system or software of SESL. You further agree to use virus-checking software before downloading any material from the Internet and, unless otherwise agreed, shall be responsible for applying anti-virus software to protect your machines and networks.
- 4.6. You agree to ensure that no User will use the Service for the purposes of storing, transmitting or receiving any Unacceptable Content.
- 4.7. You shall not transmit or allow to be transmitted large amounts of data so as to disrupt the Service or comprise a denial of service attack or otherwise so as to have a detrimental effect on the Service for you or other customers of SESL.
- 4.8. If any of your Users do not access their Arbor Finance account at least once every sixty (60) days, the account will be automatically deactivated. Your administrator has the ability to reactivate the User's account as required.
- 4.9. The Service can only be provided to you in conjunction with a valid support arrangement being in place. You agree to enter into a contract for support for the duration of this Agreement with one of the following: 1. Arbor Finance Support; or 2. Partner Support. Any support partner must be an Arbor Finance Approved Support Partner and information on this can be obtained from the Arbor Finance sales team. SESL reserves the right either to restrict, suspend or terminate the Service on 30 days notice should a support arrangement in accordance with the above is not put in place.

## 5. INTELLECTUAL PROPERTY

5.1. SESL owns or licenses and retains all title, IPR and other proprietary rights in the or otherwise in connection with the Service including any maintenance releases. Except as expressly stated in this Agreement, you acknowledge that SESL does not grant you or any of your Users any rights to or any form of assignment or ownership of any IPR or any other rights or licences in respect of the Service including without limitation Arbor Finance, and all related documentation and any other software that SESL develops from time to time.

5.2. Subject always to the provisions of clause 5.1, SESL agrees to grant to you a non-exclusive, non-transferable, non-sublicensable and revocable licence to the software provided to you (if any) by SESL for use with the Service (the "**User Software**"). You shall and shall ensure that Users shall treat the Service and any User Software like any other copyrighted material (e.g. a book or musical recording) except that you may either:

5.2.1. make one copy of the User Software solely for backup or archival purposes; or

5.2.2. transfer the User Software to a single hard disk, provided that you keep the original solely for backup or archival purposes.

You must reproduce and include the copyright notice on any such copy. For the avoidance of doubt, the above paragraphs 5.2.1 and 5.2.2 shall only apply in relation to the User Software and not any other information, materials or other items provided or made accessible to you as part of the Service, save as expressly set out in clause 3.2 (above).

5.3. You undertake not to perform (nor allow any User to perform) any of the acts referred to in this clause 5.3 except to the extent and only to the extent permitted by law as a lawful user of the Service and/or User Software and only then for the specific limited purpose permitted by law or in this Agreement. You undertake (including on behalf of all Users):

5.3.1. not to copy the Service and/or User Software (other than for normal system operation and as expressly specified in this Agreement) nor otherwise reproduce the same;

5.3.2. not to translate, adapt, vary, or modify the Service and/or User Software;

5.3.3. not to disassemble, decompile or reverse engineer the Service and/or User Software;

5.3.4. not to remove, obscure or alter any notice of patent, copyright, trademark or other proprietary notice on the Service and/or User Software;

5.3.5. not to sub-license, distribute, rent, lease, or otherwise transfer the Service and/or User Software or any unique access code or copy the Service and/or User Software other than as expressly provided in this Agreement;

5.3.6. not to make the Service and/or User Software accessible by any type of broadcast or transmission, including but not limited to broadcast or transmission by cable, Internet, television, satellite, or telephone;

5.3.7. not to use the Service and/or User Software to attract customers away from SESL or to procure commercial advantage over SESL or to use it in any other way which is likely to be directly or indirectly detrimental to SESL or its business;

5.3.8. not to reproduce or transmit to or store in any website any part of the Service or User Software, nor disseminate in any electronic or non-electronic form any of the pages or parts thereof, nor include any of the foregoing in any public or private electronic retrieval system or service; and

5.3.9. not to enable a third party to do any of the acts set out in this clause 5.3.

5.4. If notified promptly in writing of any action (and all prior claims relating to such action) brought against you, based on a claim that any User's use of the Service infringes a United Kingdom patent or copyright, SESL will defend such action at its expense and pay the costs and damages awarded, provided that SESL shall have sole control of the defence of any such action and all negotiations for its settlement or compromise. At any time during the course of any litigation arising out of a claim of infringement for a United Kingdom patent or copyright, or if in SESL's opinion, the Service is likely to become the subject of a claim of infringement of a United Kingdom patent or copyright, SESL will at its option and expense either procure for you and any Users the right to continue using the Service, replace or modify the same so that it becomes non-infringing, or grant you a credit for the Service as depreciated and accept its return. Depreciation will be an equal amount over the lifetime of the Service as established by SESL. SESL will not have any liability to you under any provision of this clause if the infringement or claim thereof is based upon:

5.4.1. use of the Service in combination with other equipment or software not supplied by SESL; or

5.4.2. the use of the Service in carrying out any patented process; or

5.4.3. infringement as described in clause 5.6 (below).

5.5. Clause 5.4 (above) states the entire liability of SESL with respect to infringement of any IPR by the Service or any part thereof or by its operation. No costs or expenses will be incurred for the account of SESL without the prior written consent of SESL.

5.6. You will hold SESL harmless against any expense, judgment, liability or loss, or infringement of any IPR which results from SESL's compliance with your or any User's instructions or use by SESL of any Customer Data or other materials or information provided by you or any User.

## 6. LIMITATION OF LIABILITY

6.1. The Service and / or Third Party Applications have been manufactured or developed by SESL or third parties to standard specifications. You accept that SESL is acting only as a supplier and that it is your responsibility to verify that the Service and / or Third Party Applications will be suitable for your own requirements. There are no warranties, conditions, guarantees or representations as to description, merchantability or fitness for a particular purpose or other warranties, conditions, guarantees or representations relating to the Service and / or Third Party Applications, whether express implied by statute or otherwise oral or in writing except as provided in this Agreement and except as to statute implied terms as to title.

6.2. You agree that SESL will not be liable for any loss arising out of the provision of goods or services by any company, organisation or person other than SESL (including by Third Party Application providers) or for any loss caused by your failure to perform your obligations under this Agreement. In particular but without limitation to the generality of the foregoing, SESL shall not be responsible nor liable for your inability to access the Service and / or Third Party Applications, or any impairment in using the Service and / or Third Party Applications where such inability or impairment results from any incompatibility between any hardware or software used by you, unless such items have been supplied by SESL specifically for use with the Service.

6.3. SESL's liability shall be unlimited in respect of (a) any death or personal injury caused by its negligence or that of its employees, agents or contractors; (b) fraud; or (c) for any other matter in respect of which law prescribes that liability may not be excluded or limited.

- 6.4. Subject to clause 6.3 (above), SESL shall not in any event be liable whether in tort (including for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for: any loss of profits; loss or corruption of data; loss of use; loss of goodwill; anticipated savings; loss of amenity; or any indirect, special, consequential or pure economic loss, costs, damages, charges or expenses, in each case howsoever arising, in connection with or arising out of the supply, functioning or use of the Service even if SESL shall have been advised of the possibility of such potential loss and shall not be liable for any loss except as provided for in this Agreement.
- 6.5. Subject to clauses 5.4 and 6.3 (above), the maximum aggregate liability of SESL whether in contract, tort, negligence, statutory duty or otherwise, for any loss or damage whatever arising from or in any way connected with the Service shall be limited to the fees paid or payable in respect of the Service. This limit shall also apply in the event that any exclusion or other provision contained in this Agreement is held to be invalid for any reason and SESL becomes liable for loss or damage that could otherwise have been limited.
- 6.6. Where digital content supplied by SESL is proven to have caused damage to your device or other digital content, SESL may choose to either repair the device or digital content, or offer you compensation. Any compensation shall: (a) be reasonable in all the circumstances and you have taken reasonable steps to mitigate your losses; and (b) only be payable where the damage would not have occurred if SESL had exercised reasonable care and skill.
- 6.7. SESL and any Third Party Application provider will not be liable to you whether in tort (including for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for any Third Party Applications which are provided free-of-charge.

## 7. DATA PROTECTION

- 7.1. In the Agreement, the terms Controller, Processor, Data Subject, Personal Data, Special Categories of Personal Data, Processing, Data Protection Impact Assessment and Personal Data Breach shall be as defined in the Data Protection Legislation and "Data" shall mean the Personal Data and Special Categories of Personal Data provided to SESL by you in connection with the Agreement.
- 7.2. You acknowledge that you are a Controller and that SESL is a Processor.
- 7.3. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 7 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 7.4. SESL shall:
- 7.4.1 ensure that its employees shall, Process the Data only on your instructions as set out or referred to in this Agreement and any other data sharing agreement as applicable to the Service;
- 7.4.2 provide appropriate technical and organisational measures:
- a) to ensure the protection of the rights of the Data Subjects; and
  - b) ensure an appropriate level of security, assessing, in particular, the risks that are presented by Processing, to protect the Data against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Data transmitted, stored or otherwise Processed;
- 7.4.3 take reasonable steps to ensure the reliability of any of its staff who have access to and/or process Data in connection with the Services, including duties of confidentiality under any employment contracts;
- 7.4.4 assist you, at your own cost, in responding to any request from a Data Subject and in ensuring compliance with applicable obligations under the Data Protection Legislation with respect to security of Processing, Personal Data Breach notifications and communications, Data Protection Impact Assessments and

consultations with supervisory authorities or regulators;

7.4.5 notify the Customer without undue delay after becoming aware of a Personal Data Breach;

7.4.6 notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation;

7.4.7 at the written direction of the Customer, delete or return the Data to the Customer after the end of the provision of the Services relating to Processing, except that:

- a) SESL may keep any Data, if required by any applicable laws to store the Personal Data; and
- b) SESL may keep Data stored in any system back-ups; and

7.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 7 and provide access to the same for the purpose of a Customer conducted audit. Any audits must be no more than once in a twelve (12) month period and must be on not less than thirty (30) days' notice.

7.5. The parties acknowledge that SESL will also use services and/or products from sub-processors in order to provide the Service under the Agreement and that, in doing so, SESL may transfer Customer Data to such sub-processors. Accordingly:

7.5.1 Customer consents to the appointment by SESL of the sub-processors listed in Schedule 1;

7.5.2 SESL may appoint new sub-processors or make changes to the list in Schedule 1 from time to time provided that it informs Customer in writing (which may be by email) at least 14 days before a new sub-processor is granted access to Customer Data.

7.6. You may reasonably object in writing to any new sub-processor appointed by SESL under clause 7.5.2 provided it does so in accordance with this clause 7.6:

7.6.1 you, acting in good faith, must raise any reasonable objections within the 14-day period mentioned in clause 7.5.2. You acknowledges that it will be deemed to have consented to the appointment if does not object within such timeframe;

7.6.2 If, You having objected to the appointment as set out above, the parties cannot agree on a solution within 14 days of the objections being raised (the "**Negotiation Period**"), either party may terminate this Agreement effective immediately provided it notifies the other party within seven (7) days of the end of the Negotiation Period (the "**Termination Window**"); and

7.6.3 If the party wishing to terminate under clause 7.6.2 does not notify the other party of its intention to terminate within the Termination Window, the appointment of the new sub-processor shall be deemed to be accepted by that party and the Agreement shall otherwise continue on the same terms.

7.7. SESL shall:

7.7.1 agree written contractual obligations with each sub-processor which are at least equivalent to the obligations imposed on SESL pursuant to this clause 7; and

7.7.2 if applicable, ensure that appropriate safeguards are in place before making any International Transfer of Personal Data to its sub-processors.

You agree that, to provide the Service under the Agreement, SESL will transfer the Customer Data to sub-processors (including Affiliates) as set out in this clause 7.8 which may be located outside of the United Kingdom and the European Economic Area (“**EEA**”). One such sub-processor is an Affiliate of SESL, TKey Education Solutions Private Ltd which is located in India (“**TKey India**”), which will entail transfer of the Customer Data outside the EEA to third countries which have not been approved by the Information Commissioner’s Office or the European Commission as having adequate protections in place for the purpose of the transfer of personal data pursuant to the Data Protection Legislation (each a “**Restricted Transfer**”). For each Restricted Transfer, SESL shall:

7.7.1. carry out appropriate due diligence on the sub-processor and the relevant jurisdiction to assess the adequacy of the sub-processor and its jurisdiction in light of the Court of Justice of the European Union judgment in the case of C-311/18 Facebook Ireland and Schrems and International Transfer Requirements;

7.7.2. ensure that an agreement is in place with the relevant sub-processor(s) which shall incorporate either of the following restricted transfer mechanisms: (i) EU Standard Contractual Clauses together with the UK International Data Transfer Addendum for the transfer of Personal Data (the “**EU SCCs and UK Addendum**”); or (ii) the UK International Data Transfer Agreement issued by the Information Commissioner for parties making Restricted Transfers (“**IDTA**”), (each a “**Restricted Transfer Agreement**”); and

7.7.3. complying and procuring the sub-processor complies with SESL’s or the sub-processor’s respective obligations under the Restricted Transfer Agreement.

7.8. Subject to complying with clause 7.8, SESL may make Restricted Transfers to any of its Affiliates including TKey India, as well as to the sub-processors located outside EEA as set out in Schedule 1 or appointed hereunder pursuant to clause 7.6.3. Details of the applicable Restricted Transfer Agreement agreed between SESL and its Affiliate, TKey India, can be found [here](#).

7.10 Subject to clauses 7.11– 7.13, SESL shall remain fully liable to you for the performance of any sub-processor appointed by it pursuant to clause 7.5.

7.11 You agree to comply with its obligations under Data Protection Legislation and warrants that it has all necessary consents and notices in place in relation to its collection, processing and provision of Customer Data, to enable the lawful transfer of the Customer Data to SESL in connection with, and for the duration of, the Services provided under the Agreement.

7.12 You shall indemnify and hold harmless SESL against all costs, claims, losses, damages and expenses (including legal expenses) arising out of, or in connection with, any breach of this clause 7 by you and/or your employees, agents and/or sub-contractors.

7.13 You acknowledges that SESL is reliant on you for direction as to the extent to which SESL is entitled to use and process the Customer Data. Consequently, SESL will not be liable for any claim brought by you or your Users or any Data Subject arising from any action or omission by SESL to the extent that such action or omission resulted from your or your Users’ instructions.

7.14 SESL may also use the Customer Data in accordance with its Privacy Policy which can be found in the product help pages.

7.15 Schedule 1 sets out the following information regarding the Data: subject-matter; duration of the Processing; nature and purpose of the Processing; type of Data; categories of Data Subjects; and the obligations and rights of SESL.

## 8. **SUPPORT SERVICES**

8.1. SESL agrees to provide support services (“Support”) in the form of notification of changes within Arbor Finance, to explain the following, (which is a non-exhaustive list): functionality enhancement; user guides; training manuals; Service update explanations; and general support information.

- 8.2. Incidents where the Service fails should be reported directly to SESL Customer Support, details of which can be found on [Arbor Finance Online Help](#). You should expect to carry out reasonable levels of diagnostics and assistance to SESL Customer Support in rectifying any reported failures.
  - 8.3. SESL agrees to provide 1st line Arbor Finance Support, namely remote helpdesk support via internet or telephone, to you via the SESL Customer Support helpdesk, if you have purchased a 1st line Support contract with SESL. In receiving this Arbor Finance support, you agree that a SESL employee or agent may access the Customer Data in order to log on and resolve any issues.
  - 8.4. If you have purchased Partner Support, SESL will support your Arbor Finance Approved Support Partner and you agree to escalate all issues via them. SESL will provide 2nd line support to your Arbor Finance Approved Partner.
  - 8.5. A Fair Usage Policy applies to the use of the Service and in particular the number of service calls that can be opened by you and the Users. The current version of the Fair Usage Policy can be found on the product help pages.
  - 8.6. If the number of service calls opened exceeds the number permitted by the Fair Usage Policy, SESL may contact you to request that you modify the manner in which you and/or your Users use the Arbor Finance Support and/or the resources used to deliver the Arbor Finance Support. This may include (by way of example only and without any limitation) asking you to reduce the number of calls logged, the number of change requests made and/or the service management time requested. It may also include asking you to provide training for Users, staff or employees. You may also purchase additional training from SESL for an additional fee. You agree to honour any such request and agree to ensure that the use of Arbor Finance Support and/or the resources used to deliver the Arbor Finance Support is modified accordingly. SESL may also, at its absolute discretion, refuse to open new service calls until the earlier of (i) the beginning of any renewed term; or (ii) the purchase of an additional Service. SESL's refusal to open any new service call will not affect the status of any service call already opened and without prejudice to SESL's rights under this Agreement.
9. **THIRD PARTY APPLICATIONS**

- 9.1. SESL has the right to amend, add to, change, substitute, withdraw, cease support to or discontinue any Third Party Applications. Where the Third Party Application is provided free of charge, SESL reserves the right to charge for such Third Party Application at any time and for any reason.
- 9.2. SESL does not guarantee that any particular Third Party Applications will continue to be available. Should the Third Party Application provider cease providing the Third Party Application (either due to liquidation or otherwise), SESL will assist you in sourcing an alternative. However, SESL is unable to guarantee an alternative or no increase in the charges for the alternative Third Party Application.
- 9.3. SESL has no liability for any Third Party Applications you may choose to use, including if they are defective or deficient, and any dispute with a Third Party Application will not affect your obligation to pay charges for the Service hereunder.

## 10. **TERMINATION**

10.1. Either party may terminate this Agreement:

10.1.1. in accordance with clause 2.2 or clause 4.9 (above);

10.1.2. if the other party commits any material breach of this Agreement;

10.1.3. if the other party commits any other breach of this Agreement which is not remedied within thirty (30) days of a notice requiring such breach to be remedied; or

10.1.4. if the other party ceases to carry on business or substantial part thereof, commits an act of bankruptcy or is adjudicated bankrupt or enters into liquidation whether compulsory or voluntary other than for the purposes of amalgamation or reconstruction or compounds with its creditors generally or has a receiver or manager appointed over all or any part of its assets or suffers execution or distress or takes or suffers any similar action in consequence of debt or becomes unable to pay its debts as they fall due.

10.2. SESL may terminate this Agreement forthwith (which would automatically terminate any related licence(s)) if you fail to pay any sums to SESL in respect of the Service on the due date of payment.

10.3. Subject to clause 10.4 (below), prior to termination, you are able to access the Service to download the Customer Data. At the date of termination, your access to the Service will be revoked and you will no longer be able to access the Customer Data. SESL will delete all live data from the Arbor Finance system sixty (60) days following the date of termination. After this point, the Customer Data will not be recoverable.

10.4. Where this Agreement has been terminated by SESL pursuant to clauses 10.1.2 to 10.1.4 or clause 10.2 (above), your right to access or use Customer Data shall immediately cease and SESL may withhold, remove and/or discard Customer Data without notice. Additionally, SESL shall have no obligation to maintain or forward any Customer Data in such circumstances.

## 11. **ANTI-BRIBERY**

11.1. You shall ensure that you and all of your staff, agents, contractors and any other party performing your obligations or exercising your rights under or in connection with this Agreement and/or any other agreement that you may have with SESL, complies at all times with all applicable anti-bribery and/or corruption laws, regulations and codes of conduct in all jurisdictions. You shall, whenever requested by SESL, provide evidence of the measures, steps and processes that it takes to ensure compliance with the provisions of this clause and the relevant laws, regulations and codes of conduct.

## 12. **NOTICE**

12.1. Any notices You may wish to serve on SESL must be sent by first class registered post to SESL's registered office, be marked for the attention of the Company Secretary, Schools Educational Software Ltd, 8th Floor, Hylo 103 105 Bunhill Row, London, United Kingdom, EC1Y 8LZ , England and also be sent by email to [accountmanagement@arbor-education.com](mailto:accountmanagement@arbor-education.com). Any such notice will be deemed delivered on receipt.

12.2. SESL may give notice to you by means of a general notice on the Service, electronic mail to your e-mail address on record in SESL's account information, or by first class mail to the address on your record held by SESL. Any such correctly addressed notices shall be deemed to have been given upon the expiration of 48 hours after posting (if sent by first class mail) or 12 hours after sending (if sent by email).

## 13. **MODIFICATIONS TO TERMS**

13.1. SESL may add to or change the terms of this Agreement. It is your responsibility as a User to refer to the terms of this Agreement on accessing the Service. Changes will be effective immediately after posting to the Service and you will be deemed to have accepted any change if you continue to access the Service after that time.

## 14. **FORCE MAJEURE**

14.1. Neither party shall be liable to the other for any delay in or failure to perform its obligations under this Agreement (other than a payment of money) provided that such delay or failure is due to causes beyond its reasonable control. Such causes shall include but are not limited to acts of God, natural disaster, lightning, flood, subsidence, earthquake, weather conditions, epidemic, pandemic, fire, explosion, war, civil disorder, acts of terrorism, industrial disputes, change of law, acts or omissions of local government or other competent authorities.

15. **NON-WAIVER**

15.1. Failure by either party to exercise or delay exercising any of the terms of this Agreement shall not constitute or be deemed to be a waiver of its rights under this Agreement nor prejudice its rights to take subsequent action.

16. **NON-ENFORCEABILITY**

16.1. The invalidity or unenforceability for any reason of any part of this Agreement shall not prejudice the continuation in force of any other part of this Agreement.

17. **ASSIGNMENT**

This Agreement may not be assigned by you without the prior written consent of SESL (which SESL shall be entitled to refuse at its absolute discretion). SESL shall be entitled to assign the benefit of this Agreement upon giving notice to you to that effect without prejudice to the validity of any such assignment. SESL shall also be entitled to subcontract the performance of its obligations under this Agreement entirely at its discretion.

18. **CUSTOMER MORE THAN ONE PERSON**

Where any order for the Service has been made by two or more legal persons jointly, the liability of such persons and their obligations to SESL under this Agreement shall be joint and several.

19. **THIRD PARTY RIGHTS**

Nothing in this Agreement shall confer on any third party any right or benefit under the provisions of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

**OPEN SOURCE SOFTWARE**

SESL makes use of certain third-party Open Source Software ("**OSS**") which are subject to third party open source licences as set out in Schedule 2 (below).

**GOVERNING LAW**

This Agreement shall be governed by English law. The parties hereby submit to the exclusive jurisdiction of the English courts .

**Schedule 1**  
**Processor information – Arbor Finance**

You acknowledge that SESL and its sub-processors may have access to Customer Data in the provision of the Service to you and your Users during the term of this Agreement.

Below, SESL has set out certain information regarding SESL's Processing of the Customer Data as required by Article 28(3) of the UK GDPR.

<b>Article</b>	<b>Description</b>	<b>Details</b>
<b>28 (3)</b>	<b>Subject matter of the processing</b>	The subject matter is the provision of Arbor Finance to you.
	<b>Nature and purposes of the processing</b>	SESL will process Personal Data in accordance with the applicable Agreement and the instructions of the Controller in relation to the Services until the expiry or valid termination of the applicable Agreement. Such Processing shall include: <ul style="list-style-type: none"> <li>- Recording of Data</li> <li>- Organisation of Data</li> <li>- Storage of Data</li> <li>- Retrieval of Data</li> <li>- Disclosure of Data via API service to third parties</li> <li>- Statutory reporting</li> <li>- Destruction of Data</li> </ul>
	<b>Type of Personal Data</b>	SESL processes the following Data in order to provide the Services: <ul style="list-style-type: none"> <li>• Supplier information which could include personal information such as name, contact information, bank account details, job role, organisation, finance data and any other Personal Data entered by you and/or your Users or collected by SESL during the Initial Term of this Agreement and any renewals.</li> </ul> <p>Note that the list above is not exhaustive and may change from time to time as products and services evolve.</p>
	<b>Categories of Data Subject</b>	School employees Suppliers Parents Pupils (including children)
	<b>Duration of the processing</b>	Processing will be carried out for the duration of the Agreement. SESL has a Disconnect Process which includes the destruction and deletion of data at contract end.
<b>28 (3) (a)</b>	<b>Documented instructions</b>	All processing carried out by SESL will be done in accordance with this Agreement.
<b>28 (3) (b)</b>	<b>Confidentiality</b>	All SESL staff are required to agree to a confidentiality clause in their contracts.

<b>28 (3) (c)</b>	<b>Security</b>	<p>The development of, and support for, Arbor Finance are within the scope of an ISMS (Information Security Management System) that is certified to ISO 27001:2013.</p> <p>A wide range of technical controls are used, including but not limited to:</p> <ul style="list-style-type: none"> <li>• Data encryption</li> <li>• Anti-virus and anti-malware software</li> <li>• Network monitoring</li> <li>• Access management</li> <li>• Vulnerability scanning and penetration testing</li> </ul> <p>A wide range of non-technical controls are used, including but not limited to:</p> <ul style="list-style-type: none"> <li>• Physical security controls at SESL offices</li> <li>• Security policies, including Data Classification &amp; Handling, Data Protection, etc.</li> </ul>
<b>28 (3) (d)</b>	<b>Other processors</b>	See Table 1 below.
<b>28 (3) (e)</b>	<b>Data subject's rights</b>	SESL's approach to supporting the controller's obligation to respond to requests for exercising the data subject's rights are set out in its Privacy Policy.
<b>28 (3) (f)</b>	<b>Compliance</b>	Data processing carried out by SESL will be compliant with Data Protection Legislation. Where appropriate, SESL will assist data controllers in demonstrating such compliance.
<b>28 (3) (g)</b>	<b>Data deletion</b>	Prior to termination, customers are able to access the Service to download the Customer Data. At the date of termination, access to the Service will be revoked and customers will no longer be able to access the Customer Data. SESL will delete all live data from the Arbor Finance system sixty (60) days following the date of termination. After this point, the Customer Data will not be recoverable.
<b>28 (3) (h)</b>	<b>Transparency</b>	SESL will make available to the controller all information necessary to demonstrate compliance with its obligations.

**Table 1: Sub-processors**

<b>Name</b>	<b>Activity</b>	<b>Location</b>	<b>Type of Data Processed</b>
Microsoft	Storage of personal data (Microsoft Azure) and other Microsoft products and services.	Main hosting location: EU. Data may be accessed from the US and various other locations namely countries in which Microsoft group companies operate.	All types of Personal Data listed above.
RM Education Ltd	RM Education Ltd for provision of RM Unify business and development services	UK	All types of Personal Data listed above
TKey Education Solutions Private Ltd (TKey India)	Support, business and development services	India	All types of Personal Data listed above.
Mailjet SAS	Simple Mail Transfer Protocol (SMTP) relay service used to email End Users	EU	All types of Personal Data listed above.

The Key Support Services Ltd (Affiliate)	General business support services including financial, support and operational services	UK	All types of Personal Data listed above.
Maytech Communications Ltd	Secure cloud storage and transfer of sensitive electronic files	EEA and UK	Personal data in the files shared.
Zendesk Inc.	Ticketing system used for the logging and resolving of support tickets	EEA, US, Singapore, Brazil, the Philippines, Canada, India, South Korea and Mexico	Communication data (e.g. email, telephone number), name and address. There may occasionally be other Personal Data provided by the user in relation to the support issue such as screenshots.
MIMASM Limited trading as Appamondo	Configuring and implementing Zendesk software	UK and EEA	All types of Personal Data accessible to Zendesk (as stated above).

**Schedule 2**  
**Open Source Software (OSS)**

The following OSS are subject to the MIT License as replicated beneath the table:

<b>Component Name &amp; Version</b>	<b>Copyright</b>	<b>Website</b>
React 15.6.2	Copyright 2022 Meta Platforms, Inc.	<a href="https://reactjs.org/">https://reactjs.org/</a>

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