

Data Processing Agreement

Between

The Data Controller

Merton Music Foundation

c/o Merton Abbey Primary School, High Path, London

SW19 2JY

United Kingdom

and

The Data Processor

SpeedAdmin ApS

CVR – 34 59 01 76

Under Broen 3

6400 Sønderborg

Denmark



SpeedAdmin
SPEED BY DESIGN

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1. Data Processing Agreement preamble

- 1.1 This Data Processing Agreement sets out the rights and obligations that apply to the Data Processor's handling of personal data on behalf of the Data Controller.
- 1.2 This Agreement has been designed to ensure the Parties' compliance with Article 28, sub-section 3 of *Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation)*, which sets out specific requirements for the content of data processing agreements.
- 1.3 The Data Processor's processing of personal data shall take place for the purposes of fulfilment of the Parties' 'Master Agreement'. "License Agreement" commencing on 03.05.2022.
- 1.4 The Data Processing Agreement and the 'Master Agreement' shall be interdependent and cannot be terminated separately. The Data Processing Agreement may however – without termination of the 'Master Agreement' – be replaced by an alternative valid data processing agreement.
- 1.5 This Data Processing Agreement shall take priority over any similar provisions contained in other agreements between the Parties, including the 'Master Agreement'.
- 1.6 Four appendices are attached to this Data Processing Agreement. The Appendices form an integral part of this Data Processing Agreement.
- 1.7 Appendix A of the Data Processing Agreement contains details about the processing as well as the purpose and nature of the processing, type of personal data, categories of data subject and duration of the processing.
- 1.8 Appendix B of the Data Processing Agreement contains the Data Controller's terms and conditions that apply to the Data Processor's use of Sub-Processors and a list of Sub-Processors approved by the Data Controller.
- 1.9 Appendix C of the Data Processing Agreement contains instructions on the processing that the Data Processor is to perform on behalf of the Data Controller (the subject of the processing), the minimum security measures that are to be implemented and how inspection with the Data Processor and any Sub-Processors is to be performed.
- 1.10 Appendix D of the Data Processing Agreement contains the Parties' provisions for activities that are not contained in this Data Processing Agreement or the Parties' 'Master Agreement'.
- 1.11 The Data Processing Agreement and its associated Appendices shall be retained in writing as well as electronically by both Parties.
- 1.12 This Data Processing Agreement shall not exempt the Data Processor from obligations to which the Data Processor is subject pursuant to the General Data Protection Regulation or other legislation.

2. The rights and obligations of the Data Controller

- 2.1 The Data Controller shall be responsible to the outside world (including the data subject) for ensuring that the processing of personal data takes place within the framework of the General Data Protection Regulation.
- 2.2 The Data Controller shall therefore have both the right and obligation to make decisions about the purposes and means of the processing of personal data.
- 2.3 The Data Controller shall be responsible for ensuring that the processing that the Data Processor is instructed to perform is authorized in law.

3. The Data Processor acts according to instructions

- 4. The Data Processor shall solely be permitted to process personal data on documented instructions from the Data Controller unless processing is required under EU or Member State law to which the Data Processor is subject; in this case, the Data Processor shall inform the Data Controller of this legal requirement prior to processing unless that law prohibits such information on important grounds of public interest, cf. Article 28, sub-section 3, para a.
- 5. The Data Processor shall immediately inform the Data Controller if instructions in the opinion of the Data Processor contravene the General Data Protection Regulation or data protection provisions contained in other EU or Member State law.

4. Confidentiality

- 4.1 The Data Processor shall ensure that only those persons who are currently authorised to do so are able to access the personal data being processed on behalf of the Data Controller. Access to the data shall therefore without delay be denied if such authorisation is removed or expires.
- 4.2 Only persons who require access to the personal data in order to fulfil the obligations of the Data Processor to the Data Controller shall be provided with authorisation.
- 4.3 The Data Processor shall ensure that persons authorised to process personal data on behalf of the Data Controller have undertaken to observe confidentiality or are subject to suitable statutory obligation of confidentiality.
- 4.4 The Data Processor shall at the request of the Data Controller be able to demonstrate that the employees concerned are subject to the above confidentiality.

5. Security of processing

- 5.1 The Data Processor shall take all the measures required pursuant to Article 32 of the General Data Protection Regulation which stipulates that with consideration for the current level, implementation costs and the nature, scope, context and purposes of processing and the risk of varying likelihood and severity for the rights and freedoms of natural persons, the Data Controller and Processor shall

implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk.

- 5.2 The above obligation means that the Data Processor shall perform a risk assessment and thereafter implement measures to counter the identified risk. Depending on their relevance, the measures may include the following:
- a. Pseudonymisation and encryption of personal data
 - b. The ability to ensure 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.
 - d. A process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.
- 5.3 The Data Processor shall in ensuring the above – in all cases – at a minimum implement the level of security and the measures specified in Appendix C to this Data Processing Agreement.
- 5.4 The Parties' possible regulation/agreement on remuneration etc. for the Data Controller's or the Data Processor's subsequent requirement for establishing additional security measures shall be specified in the Parties' 'Master Agreement'.

6. Use of Sub-Processors

- 6.1 The Data Processor shall meet the requirements specified in Article 28, sub-section 2 and 4, of the General Data Protection Regulation in order to engage another processor (Sub-Processor).
- 6.2 In the event of general written consent, the Data Processor shall inform the Data Controller of any planned changes with regard to additions to or replacement of other data processors and thereby give the Data Controller the opportunity to object to such changes within 30 (thirty) days.
- 6.3 The Data Controller's requirements for the Data Processor's engagement of other sub-processors shall be specified in to this Data Processing Agreement.
- 6.4 The Data Controller's consent to the engagement of specific sub-processors, if applicable, shall be specified in to this Data Processing Agreement.
- 6.5 When the Data Processor has the Data Controller's general written consent to use a sub-processor, the Data Processor shall ensure that the Sub-Processor is subject to the same data protection obligations as those specified in this Data Processing Agreement on the basis of a contract or other legal document under EU law or the national law of the Member States, in particular providing the necessary guarantees that the Sub-Processor will implement the appropriate technical and organisational measures in such a way that the processing meets the requirements of the General Data Protection Regulation.

The Data Processor shall therefore be responsible – on the basis of a sub-processor agreement – for requiring that the sub-processor at least comply with the obligations to which the Data Processor is

subject pursuant to the requirements of the General Data Protection Regulation and this Data Processing Agreement and its associated Appendices.

- 6.6 A copy of such a sub-processor agreement and subsequent amendments shall – at the Data Controller’s request – be submitted to the Data Controller who will thereby have the opportunity to ensure that a valid agreement has been entered into between the Data Processor and the Sub-Processor. Commercial terms and conditions, such as pricing, that do not affect the legal data protection content of the sub-processor agreement, shall not require submission to the Data Controller.

7. Transfer of data to third countries or international organizations

- 7.1 The Data Processor shall solely be permitted to process personal data on documented instructions from the Data Controller, including as regards transfer (assignment, disclosure and internal use) of personal data to third countries or international organisations, unless processing is required under EU or Member State law to which the Data Processor is subject; in such a case, the Data Processor shall inform the Data Controller of that legal requirement prior to processing unless that law prohibits such information on important grounds of public interest, cf. Article 28, sub-section 3, para a.
- 7.2 Without the instructions or approval of the Data Controller, the Data Processor therefore cannot – within the framework of this Data Processing Agreement:
- a. disclose personal data to a data controller in a third country or in an international organisation
 - b. assign the processing of personal data to a sub-processor in a third country
 - c. have the data processed in another of the Data Processor’s divisions which is located in a third country.

8. Assistance to the Data Controller

- 8.1 The Data Processor, taking into account the nature of the processing, shall, as far as possible, assist the Data Controller with appropriate technical and organisational measures, in the fulfilment of the Data Controller’s obligations to respond to requests for the exercise of the data subjects’ rights pursuant to Chapter 3 of the General Data Protection Regulation.

This entails that the Data Processor should as far as possible assist the Data Controller in the Data Controller’s compliance with:

- a. notification obligation when collecting personal data from the data subject
- b. notification obligation if personal data have not been obtained from the data subject
- c. right of access by the data subject
- d. the right to rectification
- e. the right to erasure (‘the right to be forgotten’)
- f. the right to restrict processing
- g. notification obligation regarding rectification or erasure of personal data or restriction of processing

- h. the right to data portability
- i. the right to object
- j. the right to object to the result of automated individual decision-making, including profiling

8.2. The Data Processor shall assist the Data Controller in ensuring compliance with the Data Controller's obligations pursuant to Articles 32-36 of the General Data Protection Regulation taking into account the nature of the processing and the data made available to the Data Processor, cf. Article 28, sub-section 3, para f.

This entails that the Data Processor should, taking into account the nature of the processing, as far as possible assist the Data Controller in the Data Controller's compliance with:

- a. the obligation to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk associated with the processing
- b. the obligation to report personal data breaches to the supervisory authority (Danish Data Protection Agency) without undue delay and, if possible, within 72 hours of the Data Controller discovering such breach unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons
- c. the obligation – without undue delay - to communicate the personal data breach to the data subject when such breach is likely to result in a high risk to the rights and freedoms of natural persons
- d. the obligation to carry out a data protection impact assessment if a type of processing is likely to result in a high risk to the rights and freedoms of natural persons
- e. the obligation to consult with the supervisory authority (Danish Data Protection Agency) prior to processing if a data protection impact assessment shows that the processing will lead to high risk in the lack of measures taken by the Data Controller to limit risk

8.3 The Parties' possible regulation/agreement on remuneration etc. for the Data Processor's assistance to the Data Controller shall be specified in the Parties' 'Master Agreement'.

9. Notification of personal data breach

9.1 On discovery of personal data breach at the Data Processor's facilities or a sub-processor's facilities, the Data Processor shall without undue delay notify the Data Controller.

The Data Processor's notification to the Data Controller shall, if possible, take place within 48 hours after the Data Processor has discovered the breach to enable the Data Controller to comply with his obligation, if applicable, to report the breach to the supervisory authority within 72 hours.

9.2 According to Clause 9.2., para b, of this Data Processing Agreement, the Data Processor shall – taking into account the nature of the processing and the data available – assist the Data Controller in the reporting of the breach to the supervisory authority.

This may mean that the Data Processor is required to assist in obtaining the information listed below which, pursuant to Article 33, sub-section 3, of the General Data Protection Regulation, shall be stated in the Data Controller's report to the supervisory authority:

- a. The nature of the personal data breach, including, if possible, the categories and the approximate number of affected data subjects and the categories and the approximate number of affected personal data records
- b. Probable consequences of a personal data breach
- c. Measures which have been taken or are proposed to manage the personal data breach, including, if applicable, measures to limit its possible damage

10. Erasure and return of data

10.1 On termination of the processing services, the Data Processor shall be under obligation, at the Data Controller's discretion, to erase or return all the personal data to the Data Controller and to erase existing copies unless EU law or Member State law requires storage of the personal data.

11. Inspection and audit

11.1 The Data Processor shall make available to the Data Controller all information necessary to demonstrate compliance with Article 28 of the General Data Protection Regulation and this Data Processing Agreement, and allow for and contribute to audits, including inspections performed by the Data Controller or another auditor mandated by the Data Controller.

11.2 The Data Controller's inspection of sub-processors, if applicable, shall as a rule be performed through the Data Processor.

11.3 The Data Processor shall be required to provide the supervisory authorities, which pursuant to applicable legislation have access to the Data Controller's and Data Processor's facilities, or representatives acting on behalf of such supervisory authorities, with access to the Data Processor's physical facilities on presentation of appropriate identification.

12. The Parties' agreement on other terms

12.1 (Separate) terms relating to the consequences of the Parties' breach of this Data Processing Agreement, if applicable, shall be specified in the Parties' 'Master Agreement'.

12.2 Regulation of other terms between the Parties shall be specified in the Parties' 'Master Agreement'.

13. Commencement and termination

13.1 This Data Processing Agreement shall become effective on the date of both Parties' signature to the Agreement.

13.2 Both Parties shall be entitled to require this Data Processing Agreement renegotiated if changes to the law or inexpediency of the provisions contained herein should give rise to such renegotiation.

13.3 The Parties' agreement on remuneration, terms etc. in connection with amendments to this Data Processing Agreement, if applicable, shall be specified in the Parties' 'Master Agreement'.

13.4 This Data Processing Agreement may be terminated according to the terms and conditions of termination, incl. notice of termination, specified in the 'Master Agreement'.

13.5 This Data Processing Agreement shall apply as long as the processing is performed. Irrespective of the termination of the 'Master Agreement' and/or this Data Processing Agreement, the Data Processing Agreement shall remain in force until the termination of the processing and the erasure of the data by the Data Processor and any sub-processors.

13.6 Signature

On behalf of the Data Controller

Name: Elisabeth Wigley

Position: C.E.O

Date: May 12, 2022

Signature: 
Elisabeth Wigley (May 12, 2022 12:13 GMT+1)

On behalf of the Data Processor

Name: Torben D. Rasmussen

Position: Director

Date: May 9, 2022

Signature: 

14. Data Controller and Data Processor contacts/contact points

14.1 The Parties may contact each other using the following contacts/contact points:

14.2 The Parties shall be under obligation continuously to inform each other of changes to contacts/contact points.

Name: David Rees

Position: Operations' Director

Telephone number: 02086405546

Email: David.rees@mmf.org.uk

Name: Torben D. Rasmussen

Position: Director

Telephone number: 20 80 687 615

Email: info@speedadmin.com

Appendix A information about the processing

The purpose of the Data Processor's processing of personal data on behalf of the Data Controller is:

The Data Controller is able to use Speedadmin which is owned and managed by the Data Processor to collect and process data about the Data Controller's members and offers support for use of the system.

The Data Processor's processing of personal data on behalf of the Data Controller shall mainly pertain to (the nature of the processing):

The Data Processor makes available Speedadmin to the Data Controller and hereby stores personal data about the Data Controller's members on the company servers and offers support for use of the system.

The processing includes the following types of personal data about data subjects:

- Student/applicant: name, address, date of birth, gender, school, class, telephone number and e-mail address
- Guardian: Name, address, birth number (optional), telephone number and e-mail address
- Employees: name, address, social security number (optional), telephone number and e-mail address as well as payroll (optional)

Processing includes the following categories of data subject:

The information includes the following categories registered:

1. Student
2. Guardian
3. Employees

The Data Processor's processing of personal data on behalf of the Data Controller may be performed when this Data Processing Agreement commences. Processing has the following duration:

Processing shall not be time-limited and shall be performed until this Data Processing Agreement is terminated or cancelled by one of the Parties.

Appendix B Terms of the Data Processor's use of sub-processors and list of approved sub-processors

Terms of the Data Processor's use of sub-processors, if applicable

The Data Processor has the Data Controller's general consent for the engagement of sub-processors. The Data Processor shall, however, inform the Data Controller of any planned changes with regard to additions to or replacement of other data processors and thereby give the Data Controller the opportunity to object to such changes. Such notification shall be submitted to the Data Controller a minimum of 30 days prior to the engagement of sub-processors or amendments coming into force. If the Data Controller should object to the changes, the Data Controller shall notify the Data Processor of this within 30 days of receipt of the notification. The Data Controller shall only object if the Data Controller has reasonable and specific grounds for such refusal.

Approved sub-processors

The Data Controller shall on commencement of this Data Processing Agreement approve the engagement of the following sub-processors:

Name	CVR. No.	Address	Description of processing
Link Mobility	30077520	Birkemose Allé 37, DK-Kolding	Subcontractor for SMS sending. All processing of data in connection with SMS generation and storage of these are done in the Speedadmin administration program. Link Mobility is used as a "gateway" for the sending of text messages. Link Mobility stores data which is located in Stockholm, Sweden. The data will be automatically deleted after 3 months. In addition, log files will be stored in an encrypted form for 12 months as per the anti-terrorism legislation.
Unit IT	15660945	Strandvejen 7, DK-Middelfart	Subcontractor for hosting of SpeedAdmin ApS servers. SpeedAdmin ApS's physical servers, owned by SpeedAdmin ApS, are located in the secured server room at Unit IT A/S. Unit IT does not process data, but servicing the physical servers hardware. Processing of customer data is done solely in connection with respectively. Customer Web Access to Own Data, or Speedware ApS Trusted Staff. All data is on SpeedAdmin ApS's own physical servers hosted at Unit-IT A/S https://unit-it.dk/english . The hosting centre is physically located in Middelfart, Denmark. Customer data is NOT transferred to any third party unless done at the customer's request or upon the customer's prior acceptance.
Zendesk	30801830	Snaregade 12, DK-1205 København	Subcontractor for SpeedAdmin's support system. Zendesk data is stored in a data center in Ireland
Microsoft	13612870	Kanalvej 7, DK-2800 København	Microsoft is a subcontractor for SpeedAdmin's mail system and the Teams feature. Teams is used in connection with the start-up and implementation of new customers and online meetings. Microsoft's data is stored within the EU.

Appendix C Instruction pertaining to the use of personal data

Data Processor's processing of personal data on behalf of the Data Controller shall be carried out by the Data Processor performing the following:

See "IT Security Policy"

Security of processing

The level of security shall reflect:

See "IT Security Policy"

Storage period/erasure procedures

See "IT Security Policy"

Processing location

Processing of the personal data under this Data Processing Agreement cannot be performed at other locations than the following without the Data Controller's prior written consent:

Instruction for or approval of the transfer of personal data to third countries

See "IT Security Policy"

Procedures for the Data Controller's inspection of the processing being performed by the Data Processor

The Data Processor shall once a year at the Data Processor's expense obtain an inspection report from an independent third party with regards to the Data Processor's compliance with this Data Processing Agreement and its associated Appendices.

The Parties have agreed that the following types of inspection report may be used: ISAE 3000-II

The inspection report shall without delay be submitted to the Data Controller for information purposes through Speedadmin login.

The Data Controller or the Data Controller's representative shall in addition have access to inspecting, including physically inspecting, the processing at the Data Processor's facilities when the Data Controller deems that this is required."









Data processing agreement - Merton

Final Audit Report

2022-05-12

Created:	2022-05-09
By:	SpeedAdmin ApS (info@speedadmin.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAALR_U7hTDmIHbl5IP60JzfB8pKz472Wlr

"Data processing agreement - Merton" History

-  Document created by SpeedAdmin ApS (info@speedadmin.com)
2022-05-09 - 8:01:37 AM GMT- IP address: 46.32.44.201
-  Document emailed to Torben Rasmussen (torben@speedadmin.com) for signature
2022-05-09 - 8:02:38 AM GMT
-  Email viewed by Torben Rasmussen (torben@speedadmin.com)
2022-05-09 - 9:31:40 AM GMT- IP address: 46.32.44.201
-  Document e-signed by Torben Rasmussen (torben@speedadmin.com)
Signature Date: 2022-05-09 - 9:31:49 AM GMT - Time Source: server- IP address: 46.32.44.201
-  Document emailed to Elisabeth Wigley (elisabeth.wigley@mmf.org.uk) for signature
2022-05-09 - 9:31:50 AM GMT
-  Email viewed by Elisabeth Wigley (elisabeth.wigley@mmf.org.uk)
2022-05-09 - 11:41:13 AM GMT- IP address: 92.3.213.222
-  Document e-signed by Elisabeth Wigley (elisabeth.wigley@mmf.org.uk)
Signature Date: 2022-05-12 - 10:13:09 AM GMT - Time Source: server- IP address: 92.3.213.222
-  Agreement completed.
2022-05-12 - 10:13:09 AM GMT