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COMMISSION DECISION

*N° 01/1-70-163-97574
om 12.10.2004*

of 27 December 2004

amending Decision 2001/497/EC as regards the introduction of an alternative set of standard contractual clauses for the transfer of personal data to third countries

(notified under document number C(2004) 5271)

(Text with EEA relevance)

(2004/915/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽¹⁾, and in particular Article 26(4) thereof,

Whereas:

- (1) In order to facilitate data flows from the Community, it is desirable for data controllers to be able to perform data transfers globally under a single set of data protection rules. In the absence of global data protection standards, standard contractual clauses provide an important tool allowing the transfer of personal data from all Member States under a common set of rules. Commission Decision 2001/497/EC of 15 June 2001 on standard contractual clauses for the transfer of personal data to third countries under Directive 95/46/EC ⁽²⁾ therefore lays down a model set of standard contractual clauses which ensures adequate safeguards for the transfer of data to third countries.
- (2) Much experience has been gained since the adoption of that Decision. In addition, a coalition of business associations ⁽³⁾ has submitted a set of alternative standard contractual clauses designed to provide a level of data protection equivalent to that provided for by the set of standard contractual clauses laid down in Decision 2001/497/EC while making use of different mechanisms.
- (3) Since the use of standard contractual clauses for international data transfers is voluntary as standard contractual clauses are only one of several possibilities under Directive 95/46/EC, for lawfully transferring personal data to a third country, data exporters in the Community and data importers in third countries should be free to choose any of the sets of standard contractual clauses, or to choose some other legal basis for data transfer. As each set as a whole forms a model, data exporters should not, however, be allowed to amend these sets or totally or partially merge them in any manner.
- (4) The standard contract clauses submitted by the business associations aim at increasing the use of contractual clauses among operators by mechanisms such as more flexible auditing requirements and more detailed rules on the right of access.

- (5) Moreover, as an alternative to the system of joint and several liability provided for in Decision 2001/497/EC, the set now submitted contains a liability regime based on due diligence obligations where the data exporter and the data importer would be liable vis-à-vis the data subjects for their respective breach of their contractual obligations; the data exporter is also liable for not using reasonable efforts to determine that the data importer is able to satisfy its legal obligations under the clauses (*culpa in eligendo*) and the data subject can take action against the data exporter in this respect. The enforcement of clause I(b) of the new set of standard contractual clauses is of particular importance in this regard, in particular in connection with the possibility for the data exporter to carry out audits on the data importers' premises or to request evidence of sufficient financial resources to fulfil its responsibilities.
- (6) As regards the exercise of third party beneficiary rights by the data subjects, greater involvement of the data exporter in the resolution of data subjects' complaints is provided for, with the data exporter being obliged to make contact with the data importer and, if necessary, enforce the contract within the normal period of one month. If the data exporter refused to enforce the contract and the breach by the data importer still continues, the data subject may then enforce the clauses against the data importer and eventually sue him in a Member State. This acceptance of jurisdiction and the agreement to comply with a decision of a competent court or data protection authority does not prejudice any procedural rights of data importers established in third countries, such as rights of appeal.
- (7) In order, however, to prevent abuses with this additional flexibility, it is appropriate to provide that data protection authorities can more easily prohibit or suspend data transfers based on the new set of standard contractual clauses in those cases where the data exporter refuses to take appropriate steps to enforce contractual obligations against the data importer or the latter refuses to cooperate in good faith with competent supervisory data protection authorities.
- (8) The use of standard contractual clauses will be made without prejudice to the application of national provisions adopted pursuant to Directive 95/46/EC or to Directive 2002/58/EC of the European Parliament and of the Council concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)⁽⁴⁾, in particular as far as the sending of commercial communications for the purposes of direct marketing is concerned.
- (9) On that basis, the safeguards contained in the submitted standard contractual clauses can be considered as adequate within the meaning of Article 26(2) of Directive 95/46/EC.
- (10) The Working Party on the Protection of Individuals with regard to the Processing of Personal Data established under Article 29 of Directive 95/46/EC has delivered an opinion⁽⁵⁾ on the level of protection provided under the submitted standard contractual clauses which has been taken into account.
- (11) In order to assess the operation of the amendments to Decision 2001/497/EC, it is appropriate that the Commission evaluates them three years after their notification to the Member States
- (12) Decision 2001/497/EC should be amended accordingly.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Committee established under Article 31 of Directive 95/46/EC,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2001/497/EC is amended as follows:

1. In Article 1 the following paragraph is added:

‘Data controllers may choose either of the sets I or II in the Annex. However, they may not amend the clauses nor combine individual clauses or the sets.’

2. In Article 4 paragraphs 2 and 3 are replaced by the following:

‘2. For the purposes of paragraph 1, where the data controller adduces adequate safeguards on the basis of the standard contractual clauses contained in set II in the Annex, the competent data protection authorities are entitled to exercise their existing powers to prohibit or suspend data flows in either of the following cases:

- (a) refusal of the data importer to cooperate in good faith with the data protection authorities, or to comply with their clear obligations under the contract;
- (b) refusal of the data exporter to take appropriate steps to enforce the contract against the data importer within the normal period of one month after notice by the competent data protection authority to the data exporter.

For the purposes of the first subparagraph, refusal in bad faith or refusal to enforce the contract by the data importer shall not include cases in which cooperation or enforcement would conflict with mandatory requirements of the national legislation applicable to the data importer which do not go beyond what is necessary in a democratic society on the basis of one of the interests listed in Article 13(1) of Directive 95/46/EC, in particular sanctions as laid down in international and/or national instruments, tax-reporting requirements or anti-money-laundering reporting requirements.

For the purposes of point (a) of the first subparagraph cooperation may include, in particular, the submission of the data importer’s data processing facilities for audit or the obligation to abide by the advice of the data protection supervisory authority in the Community.

3. The prohibition or suspension pursuant to paragraphs 1 and 2 shall be lifted as soon as the reasons for the prohibition or suspension no longer exist.

4. When Member States adopt measures pursuant to paragraphs 1, 2 and 3, they shall without delay inform the Commission which will forward the information to the other Member States.’.

3. In Article 5 the first sentence is replaced by the following:

‘The Commission shall evaluate the operation of this Decision on the basis of available information three years after its notification and the notification of any amendment thereto to the Member States.’.

4. The Annex is amended as follows:

- 1. After the title the term ‘SET I’ is inserted.
- 2. The text set out in the Annex to this Decision is added.

Article 2

This Decision shall apply from 1 April 2005.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 27 December 2004.

For the Commission

Charlie McCREEVY

Member of the Commission

(1) OJ L 281, 23.11.95, p. 31. Directive as amended by Regulation (EC) No 1883/2003 (OJ L 284, 31.10.2003, p. 1).

(2) OJ L 181, 4.7.2001, p. 19.

(3) The International Chamber of Commerce (ICC), Japan Business Council in Europe (JBCE), European Information and Communications Technology Association (EICTA), EU Committee of the American Chamber of Commerce in Belgium (Amcham), Confederation of British Industry (CBI), International Communication Round Table (ICRT) and the Federation of European Direct Marketing Associations (FEDMA).

(4) OJ L 201, 31.7.2002, p. 37.

(5) Opinion No 8/2003, available at: <http://europa.eu.int/comm/privacy>

ANNEX

SET II

Standard contractual clauses for the transfer of personal data from the Community to third countries (controller to controller transfers)

Data transfer agreement

between

The University Court of the University of Edinburgh, incorporated under the Universities (Scotland) Acts, registered in Scotland as a charity with registration number SC005336

Address: Old College, South Bridge, Edinburgh, United Kingdom EH8 9YL

hereinafter "data exporter"

and

Federal State Budgetary Educational Institution of Higher Education "Saint-Petersburg State University" (hereinafter referred to as Saint-Petersburg University/SPbU)

Address: Universitetskaya emb. 7/9, St. Petersburg, Russia 199034

hereinafter "data importer"

each a "party"; together "the parties".

Definitions

For the purposes of the clauses:

(a) "personal data", "special categories of data/sensitive data", "process/processing", "controller", "processor", "data subject" and "supervisory authority/authority" shall have the same meaning as in Directive 95/46/EC of 24 October 1995 (whereby "the authority"

shall mean the competent data protection authority in the territory in which the data exporter is established);

- (b) "the data exporter" shall mean the controller who transfers the personal data;
- (c) "the data importer" shall mean the controller who agrees to receive from the data exporter personal data for further processing in accordance with the terms of these clauses and who is not subject to a third country's system ensuring adequate protection;
- (d) "clauses" shall mean these contractual clauses, which are a free-standing document that does not incorporate commercial business terms established by the parties under separate commercial arrangements.

The details of the transfer (as well as the personal data covered) are specified in Annex B, which forms an integral part of the clauses.

I. Obligations of the data exporter

The data exporter warrants and undertakes that:

- (a) The personal data have been collected, processed and transferred in accordance with the laws applicable to the data exporter.
- (b) It has used reasonable efforts to determine that the data importer is able to satisfy its legal obligations under these clauses.
- (c) It will provide the data importer, when so requested, with copies of relevant data protection laws or references to them (where relevant, and not including legal advice) of the country in which the data exporter is established.
- (d) It will respond to enquiries from data subjects and the authority concerning processing of the personal data by the data importer, unless the parties have agreed that the data importer will so respond, in which case the data exporter will still respond to the extent reasonably possible and with the information reasonably available to it if the data importer is unwilling or unable to respond. Responses will be made within a reasonable time.
- (e) It will make available, upon request, a copy of the clauses to data subjects who are third party beneficiaries under clause III, unless the clauses contain confidential information, in which case it may remove such information. Where information is removed, the data exporter shall inform data subjects in writing of the reason for removal and of their right to draw the removal to the attention of the authority. However, the data exporter shall abide by a decision of the authority regarding access to the full text of the clauses by data subjects, as long as data subjects have agreed to respect the confidentiality of the confidential information removed. The data exporter shall also provide a copy of the clauses to the authority where required.

II. Obligations of the data importer

The data importer warrants and undertakes that:

- (a) It will have in place appropriate technical and organisational measures to protect the personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, and which provide a level of security appropriate to the risk represented by the processing and the nature of the data to be protected.
- (b) It will have in place procedures so that any third party it authorises to have access to the personal data, including processors, will respect and maintain the confidentiality and security of the personal data. Any person acting under the authority of the data importer,

including a data processor, shall be obligated to process the personal data only on instructions from the data importer. This provision does not apply to persons authorised or required by law or regulation to have access to the personal data.

- (c) It has no reason to believe, at the time of entering into these clauses, in the existence of any local laws that would have a substantial adverse effect on the guarantees provided for under these clauses, and it will inform the data exporter (which will pass such notification on to the authority where required) if it becomes aware of any such laws.
 - (d) It will process the personal data for purposes described in Annex B, and has the legal authority to give the warranties and fulfil the undertakings set out in these clauses.
 - (e) It will identify to the data exporter a contact point within its organisation authorised to respond to enquiries concerning processing of the personal data, and will cooperate in good faith with the data exporter, the data subject and the authority concerning all such enquiries within a reasonable time. In case of legal dissolution of the data exporter, or if the parties have so agreed, the data importer will assume responsibility for compliance with the provisions of clause I(e).
 - (f) At the request of the data exporter, it will provide the data exporter with evidence of financial resources sufficient to fulfil its responsibilities under clause III (which may include insurance coverage).
 - (g) Upon reasonable request of the data exporter, it will submit its data processing facilities, data files and documentation needed for processing to reviewing, auditing and/or certifying by the data exporter (or any independent or impartial inspection agents or auditors, selected by the data exporter and not reasonably objected to by the data importer) to ascertain compliance with the warranties and undertakings in these clauses, with reasonable notice and during regular business hours. The request will be subject to any necessary consent or approval from a regulatory or supervisory authority within the country of the data importer, which consent or approval the data importer will attempt to obtain in a timely fashion.
 - (h) It will process the personal data, at its option, in accordance with:
 - (i) the data protection laws of the country in which the data exporter is established, or
 - (ii) the relevant provisions ⁽¹⁾ of any Commission decision pursuant to Article 25(6) of Directive 95/46/EC, where the data importer complies with the relevant provisions of such an authorisation or decision and is based in a country to which such an authorisation or decision pertains, but is not covered by such authorisation or decision for the purposes of the transfer(s) of the personal data ⁽²⁾, or
 - (iii) the data processing principles set forth in Annex A.
- Data importer to indicate which option it selects: ☐ ☐ ☐
- Initials of data importer:
- (i) It will not disclose or transfer the personal data to a third party data controller located outside the European Economic Area (EEA) unless it notifies the data exporter about the transfer and
 - (i) the third party data controller processes the personal data in accordance with a Commission decision finding that a third country provides adequate protection, or
 - (ii) the third party data controller becomes a signatory to these clauses or another data transfer agreement approved by a competent authority in the EU, or

- (iii) data subjects have been given the opportunity to object, after having been informed of the purposes of the transfer, the categories of recipients and the fact that the countries to which data is exported may have different data protection standards, or
- (iv) with regard to onward transfers of sensitive data, data subjects have given their unambiguous consent to the onward transfer

III. Liability and third party rights

- (a) Each party shall be liable to the other parties for damages it causes by any breach of these clauses. Liability as between the parties is limited to actual damage suffered. Punitive damages (i.e. damages intended to punish a party for its outrageous conduct) are specifically excluded. Each party shall be liable to data subjects for damages it causes by any breach of third party rights under these clauses. This does not affect the liability of the data exporter under its data protection law.
- (b) The parties agree that a data subject shall have the right to enforce as a third party beneficiary this clause and clauses I(b), I(d), I(e), II(a), II(c), II(d), II(e), II(h), II(i), III(a), V, VI(d) and VII against the data importer or the data exporter, for their respective breach of their contractual obligations, with regard to his personal data, and accept jurisdiction for this purpose in the data exporter's country of establishment. In cases involving allegations of breach by the data importer, the data subject must first request the data exporter to take appropriate action to enforce his rights against the data importer; if the data exporter does not take such action within a reasonable period (which under normal circumstances would be one month), the data subject may then enforce his rights against the data importer directly. A data subject is entitled to proceed directly against a data exporter that has failed to use reasonable efforts to determine that the data importer is able to satisfy its legal obligations under these clauses (the data exporter shall have the burden to prove that it took reasonable efforts).

IV. Law applicable to the clauses

These clauses shall be governed by the law of the country in which the data exporter is established, with the exception of the laws and regulations relating to processing of the personal data by the data importer under clause II(h), which shall apply only if so selected by the data importer under that clause.

V. Resolution of disputes with data subjects or the authority

- (a) In the event of a dispute or claim brought by a data subject or the authority concerning the processing of the personal data against either or both of the parties, the parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.
- (b) The parties agree to respond to any generally available non-binding mediation procedure initiated by a data subject or by the authority. If they do participate in the proceedings, the parties may elect to do so remotely (such as by telephone or other electronic means). The parties also agree to consider participating in any other arbitration, mediation or other dispute resolution proceedings developed for data protection disputes.
- (c) Each party shall abide by a decision of a competent court of the data exporter's country of establishment or of the authority which is final and against which no further appeal is possible.

VI. Termination

(a) In the event that the data importer is in breach of its obligations under these clauses, then the data exporter may temporarily suspend the transfer of personal data to the data importer until the breach is repaired or the contract is terminated.

(b) In the event that:

- (i) the transfer of personal data to the data importer has been temporarily suspended by the data exporter for longer than one month pursuant to paragraph (a);
- (ii) compliance by the data importer with these clauses would put it in breach of its legal or regulatory obligations in the country of import;
- (iii) the data importer is in substantial or persistent breach of any warranties or undertakings given by it under these clauses;
- (iv) a final decision against which no further appeal is possible of a competent court of the data exporter's country of establishment or of the authority rules that there has been a breach of the clauses by the data importer or the data exporter; or
- (v) a petition is presented for the administration or winding up of the data importer, whether in its personal or business capacity, which petition is not dismissed within the applicable period for such dismissal under applicable law; a winding up order is made; a receiver is appointed over any of its assets; a trustee in bankruptcy is appointed, if the data importer is an individual; a company voluntary arrangement is commenced by it; or any equivalent event in any jurisdiction occurs

then the data exporter, without prejudice to any other rights which it may have against the data importer, shall be entitled to terminate these clauses, in which case the authority shall be informed where required. In cases covered by (i), (ii), or (iv) above the data importer may also terminate these clauses.

- (c) Either party may terminate these clauses if (i) any Commission positive adequacy decision under Article 25(6) of Directive 95/46/EC (or any superseding text) is issued in relation to the country (or a sector thereof) to which the data is transferred and processed by the data importer, or (ii) Directive 95/46/EC (or any superseding text) becomes directly applicable in such country.
- (d) The parties agree that the termination of these clauses at any time, in any circumstances and for whatever reason (except for termination under clause VI(c)) does not exempt them from the obligations and/or conditions under the clauses as regards the processing of the personal data transferred.

VII. Variation of these clauses

The parties may not modify these clauses except to update any information in Annex B, in which case they will inform the authority where required. This does not preclude the parties from adding additional commercial clauses where required.

VIII. Description of the Transfer


The details of the transfer and of the personal data are specified in Annex B. The parties agree that Annex B may contain confidential business information which they will not disclose to third parties, except as required by law or in response to a competent regulatory or government agency, or as required under clause I(e). The parties may execute additional annexes to cover

additional transfers, which will be submitted to the authority where required. Annex B may, in the alternative, be drafted to cover multiple transfers.

Dated: 15.06.2019

FOR DATA IMPORTER

*Anna Porocling Deputy
Director for International
Affairs*



FOR DATA EXPORTER

DocuSigned by:
Professor James Smith
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ANNEX A

DATA PROCESSING PRINCIPLES

1. Purpose limitation: Personal data may be processed and subsequently used or further communicated only for purposes described in Annex B or subsequently authorised by the data subject.
2. Data quality and proportionality: Personal data must be accurate and, where necessary, kept up to date. The personal data must be adequate, relevant and not excessive in relation to the purposes for which they are transferred and further processed.
3. Transparency: Data subjects must be provided with information necessary to ensure fair processing (such as information about the purposes of processing and about the transfer), unless such information has already been given by the data exporter.
4. Security and confidentiality: Technical and organisational security measures must be taken by the data controller that are appropriate to the risks, such as against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, presented by the processing. Any person acting under the authority of the data controller, including a processor, must not process the data except on instructions from the data controller.
5. Rights of access, rectification, deletion and objection: As provided in Article 12 of Directive 95/46/EC, data subjects must, whether directly or via a third party, be provided with the personal information about them that an organisation holds, except for requests which are manifestly abusive, based on unreasonable intervals or their number or repetitive or systematic nature, or for which access need not be granted under the law of the country of the data exporter. Provided that the authority has given its prior approval, access need also not be granted when doing so would be likely to seriously harm the interests of the data importer or other organisations dealing with the data importer and such interests are not overridden by the interests for fundamental rights and freedoms of the data subject. The sources of the personal data need not be identified when this is not possible by reasonable efforts, or where the rights of persons other than the individual would be violated. Data

subjects must be able to have the personal information about them rectified, amended, or deleted where it is inaccurate or processed against these principles. If there are compelling grounds to doubt the legitimacy of the request, the organisation may require further justifications before proceeding to rectification, amendment or deletion. Notification of any rectification, amendment or deletion to third parties to whom the data have been disclosed need not be made when this involves a disproportionate effort. A data subject must also be able to object to the processing of the personal data relating to him if there are compelling legitimate grounds relating to his particular situation. The burden of proof for any refusal rests on the data importer, and the data subject may always challenge a refusal before the authority.

6. Sensitive data: The data importer shall take such additional measures (e.g. relating to security) as are necessary to protect such sensitive data in accordance with its obligations under clause II.
 7. Data used for marketing purposes: Where data are processed for the purposes of direct marketing, effective procedures should exist allowing the data subject at any time to "opt-out" from having his data used for such purposes.
 8. Automated decisions: For purposes hereof "automated decision" shall mean a decision by the data exporter or the data importer which produces legal effects concerning a data subject or significantly affects a data subject and which is based solely on automated processing of personal data intended to evaluate certain personal aspects relating to him, such as his performance at work, creditworthiness, reliability, conduct, etc. The data importer shall not make any automated decisions concerning data subjects, except when:
 - (a)(i) such decisions are made by the data importer in entering into or performing a contract with the data subject, and
 - (ii) (the data subject is given an opportunity to discuss the results of a relevant automated decision with a representative of the parties making such decision or otherwise to make representations to that parties.
- or
- (b) where otherwise provided by the law of the data exporter.

ANNEX B

DESCRIPTION OF THE TRANSFER

(To be completed by the parties)

Data Subjects

The personal data transferred concern the following categories of data subjects:

Any potential student being assisted, in contact or referred to by the data importer.

Purposes of the transfer(s)

The transfer is made to enable the nominated students to go on St. Petersburg University on exchange.

Categories of data

The personal data transferred concern the following categories of data:

Name, address, contact e-mail and telephone number, passport number, educational background, academic achievements, and emergency contact details, personal statement.

Recipients

The personal data transferred may be disclosed only to the following recipients or categories of recipients:

Sensitive Data

The personal data transferred concern the following categories of sensitive data:

Data protection registration information of data exporter (where applicable)

University of Edinburgh: Z6426984

Additional useful information (storage limits and other relevant information)

Contact points for data protection enquiries

Data importer

Ms. Anna V. Porodina
Deputy Vice-Rector for International Affairs
Saint-Petersburg University
199034 St. Petersburg
Universitetskaya emb. 7/9
Russia

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+7 (812) 326 49 43

Data exporter

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ILLUSTRATIVE COMMERCIAL CLAUSES (OPTIONAL)

Indemnification between the data exporter and data importer:

"The parties will indemnify each other and hold each other harmless from any cost, charge, damages, expense or loss which they cause each other as a result of their breach of any of the provisions of these clauses. Indemnification hereunder is contingent upon (a) the party(ies) to be indemnified (the "indemnified party(ies)") promptly notifying the other party(ies) (the "indemnifying party(ies)") of a claim, (b) the indemnifying party(ies) having sole control of

the defence and settlement of any such claim, and (c) the indemnified party(ies) providing reasonable cooperation and assistance to the indemnifying party(ies) in defence of such claim.”.

Dispute resolution between the data exporter and data importer (the parties may of course substitute any other alternative dispute resolution or jurisdictional clause):

“In the event of a dispute between the data importer and the data exporter concerning any alleged breach of any provision of these clauses, such dispute shall be finally settled under the rules of arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules. The place of arbitration shall be []. The number of arbitrators shall be [].”

Allocation of costs:

“Each party shall perform its obligations under these clauses at its own cost.”

Extra termination clause:

“In the event of termination of these clauses, the data importer must return all personal data and all copies of the personal data subject to these clauses to the data exporter forthwith or, at the data exporter’s choice, will destroy all copies of the same and certify to the data exporter that it has done so, unless the data importer is prevented by its national law or local regulator from destroying or returning all or part of such data, in which event the data will be kept confidential and will not be actively processed for any purpose. The data importer agrees that, if so requested by the data exporter, it will allow the data exporter, or an inspection agent selected by the data exporter and not reasonably objected to by the data importer, access to its establishment to verify that this has been done, with reasonable notice and during business hours.”

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(1) “Relevant provisions” means those provisions of any authorisation or decision except for the enforcement provisions of any authorisation or decision (which shall be governed by these clauses).

(2) However, the provisions of Annex A.5 concerning rights of access, rectification, deletion and objection must be applied when this option is chosen and take precedence over any comparable provisions of the Commission Decision selected.

STUDENT EXCHANGE AGREEMENT BETWEEN

THE UNIVERSITY COURT OF THE UNIVERSITY OF EDINBURGH, incorporated under the Universities (Scotland) Acts, registered in Scotland as a charity with registration number SC005336 and having its principal office at Old College, South Bridge, Edinburgh, United Kingdom EH8 9YL;
AND

Federal State Budgetary Educational Institution of Higher Education «Saint-Petersburg State University» (hereinafter referred to as “Saint-Petersburg University/SPbU”) and having its principal office at Universitetskaya emb. 7/9, Saint Petersburg, Russia 199034;

BACKGROUND

Both parties have agreed to work together and co-operate with each other on the basis of this agreement in order to develop and deliver a student exchange programme more fully described below.

It is agreed as follows:

1 Definitions and interpretation

1.1 In this agreement, unless the context otherwise requires:

1.1.1 “**Commencement Date**” means the date on which this agreement will come into force and which is the date set out opposite this term in the Schedule;

1.1.2 “**Data Protection Law**” means any Law that applies from time to time to the Processing of Personal Data by either Party under this Agreement, including the EU Data Protection Directive 95/46/EC, the EU Privacy & Electronic Communications Directive 2002/58/EC, Regulation (EU) 2016/679 (if and from the date that it comes into force in the United Kingdom), all national legislation (including the Data Protection Act 1998) and subordinate legislation in the United Kingdom and any applicable decisions and guidance made under any of them;

1.1.3 “**Home University**” means the institution at which a student is enrolled and from which the student intends to graduate;

1.1.4 “**Host University**” means the institution which receives students from the Home University;

1.1.5 “**Law**” means any statute, directive, other legislation, law or regulation in whatever form, delegated act (under any of the foregoing), rule, order of any court having valid jurisdiction or other binding restriction, decision or guidance in force from time to time;

1.1.6 “**Party**” means a party to this agreement;

1.1.7 “**Personal Data**” and “**Processing**” each have the meanings given to them in Data Protection Law and “**Process**” and any other tense or part of that verb will be interpreted accordingly;

1.1.8 “**Programme**” means the student exchange programme described in clause 2 and the Schedule;

1.1.9 “**Schedule**” means the schedule attached to this agreement;

1.1.10 “**Term**” means the term of this agreement referred to in Clause 11 and set out in the Schedule;

1.2 The following provisions shall be used to interpret this agreement:

1.2.1 any reference to a provision of a statute includes references to that provision as it may later be amended, extended or re-enacted;

1.2.2 words used in the singular should be interpreted to include the plural and vice versa;

1.2.3 the headings in this agreement do not affect its interpretation;

1.2.4 in the event of any conflict or inconsistency between them, the terms of the main body of this agreement will prevail over the terms of the Schedule;

1.2.5 the Schedule is incorporated into and forms part of this agreement and the Parties will comply with the terms of it as if it were set out in the main body of this agreement.

2 Student Exchange Programme

2.1 Each Party agrees to participate in a student exchange programme under which each Party will receive students of the other on the basis of this agreement.

- 2.2 The Programme is administered by the Parties to enable students to participate in programmes of study (either taught or non-taught/research), but not to pursue a degree from, the Host University.
 - 2.3 The exchange periods that can apply to students, the schools and colleges participating and the nature of the courses to be provided by each are set out in the Schedule. The exchange of students between Host University and Home University should be balanced in each year of the Term and the Parties acknowledge that two students enrolling for one semester/term each is the equivalent to one student for one academic year. The exchange is based upon the anticipated number of students exchanging each year as set out in the Schedule. If there is an imbalance in one year this will be rectified by adjusting numbers of students in the following year of the Term.
 - 2.4 Each Party acknowledges and accepts the other Party's fee level, standard of residential accommodation, length of academic year, teaching methods and standards for the purposes of the Programme. Each student participating in the Programme is expected to undertake a usual academic load at the Host University; usual academic loads that are applicable to the Programme are set out in the Schedule.
 - 2.5 Each Party will make such reasonable adjustments as may be required in its provision, criterion or practices, the physical features of its premises and auxiliary aids available to avoid any disabled student participating in the Programme being put at a substantial disadvantage in comparison to other students participating on the Programme who are not disabled.
 - 2.6 Each Party has nominated a person to act as its Exchange co-ordinator. The purpose of this role is to be responsible for the day to day collaboration between the Parties in relation to the Programme. The first Exchange co-ordinators are set out in the Schedule; changes may be made to such personnel by written notification to the other Party.
 - 2.7 At the end of each year of this agreement, the Exchange co-ordinators will review its effectiveness and will recommend any changes they consider desirable to improve effectiveness to each of the Parties.
- 3 Recruitment, admissions and enrolment**
- 3.1 The Host University will process applications from amongst its students who wish to participate in the Programme and select those it wishes to put forward for participation. The application form of each selected student, together with such supporting documents as the Host University may require, will be sent to the Host University. The Host University, acting reasonably, may reject selected students but it is expected that the Host University will not reject a selected student unless he or she does not meet established admission requirements or unless it cannot guarantee that the courses selected will be available. Admission requirements are set out in the Schedule.
 - 3.2 Students must meet the language proficiency standards in line with the policy of the Host University. These standards and the language of instruction of each Party are set out in the Schedule. Students participating in the Programme remain enrolled students of the Home University. The Host University will enrol participating students as visiting students.
 - 3.3 The Host University may require visiting students to enrol in a normal course load; where it does so this is set out in the Schedule. The Host University will endeavour to place students in all selected courses for which they meet the Host University's admissions criteria. However, there may be restrictions on course choice and there is no guarantee of a place on a particular course. A transcript of grades for each of the participating students will be sent to the Home University after completion of the period of study if applicable.
- 4 Financial Arrangements**
- 4.1 Tuition fees are not charged by the Host University to students participating in the Programme from the Host University. Each student will pay tuition fees to the Home University and be exempt from payment of tuition fees to the Host University. Participating students are responsible for meeting any other costs associated with the Programme including accommodation, insurance, subsistence, travel, books and materials.
- 5 Student matters**
- 5.1 Each Party will make available to students on the Programme access to student facilities and services available to its other students. If housing cannot be guaranteed to students on the

- Programme, the Host University will provide reasonable assistance through its own student accommodation service to participating students.
- 5.2 Students will have individual responsibility for applying for and maintaining the correct immigration status and meeting visa requirements which may be appropriate to admission and continued participation on the Programme. If a Party is responsible for Tier 4 sponsorship of a student under UK immigration licensing (or whatever immigration rules or scheme applies if either University is not UK based) then both Parties shall put in place student attendance and engagement arrangements to enable the obligated Party to fulfil its obligations under its Tier 4 licence (or such other obligations as may be applicable in its country of jurisdiction) and, in addition, the other Party shall provide the obligated Party with such information it may request to fulfil said obligations.
- 5.3 Students will be required to adhere to the relevant regulations, rules, policies and procedures of the Host University while at the Host University.
- 5.4 Students shall be required to notify the Home University of withdrawal from the Programme or of any changes in the details supplied by them at registration. The Home University shall be responsible for reporting all such changes to the Host University and, where appropriate, to external agencies. The Host University shall report to the Home University any such changes that are reported directly to it.
- 5.5 Students will be subject to the disciplinary codes of the appropriate Party such that if an alleged offence is committed by a student within the precincts of one Party, the code of conduct and/or discipline of that Party will normally apply. When the site of the alleged offence is elsewhere than within the precincts of one of the Parties, the Home University's code will apply. There will be consultation between both Parties to ensure a consistent approach to discipline offences.
- 5.6 A student who wishes to complain about any general aspect of the Programme or his or her participation in it will invoke the complaints procedure of the Home University.
- 5.7 A student who wishes to complain about any specific service or facility provided by one of the Parties, or about a student or member of staff from one of the Parties, will invoke the complaints procedure of that Party.
- 5.8 There will be consultation between both Parties to ensure a consistent approach to complaints.
- 5.9 Students will be required to possess appropriate medical insurance (including repatriation) and the Host University will not assume any financial obligations for any health, dental or medical treatment.
- 6 Academic Matters**
- 6.1 Examinations and assessment procedures and conditions of the Party responsible for any specific part of the Programme shall be applied to that part of the Programme.
- 6.2 The academic appeals procedure of the Host University will apply to appeals against decisions relating to students attending there.
- 7 Quality Assurance**
- 7.1 Each Party shall ensure that the part of the Programme it delivers satisfies the requirements of any academic quality assurance regime and/or the requirements of any regulatory, professional or funding body to which each Party is subject. In order to ensure this happens each Party will disclose to the other such quality assurance regime and requirements with which it complies together with any changes from time to time.
- 7.2 Each Party shall be entitled to monitor the other Party's fulfilment of clause 7.1 and each Party will provide the other with all reasonable assistance and information to allow such monitoring to take place; such reasonable assistance will include participating in any academic review of the Programme as may be required.
- 7.3 Each Party will comply with any additional specific quality assurance requirements set out in the Schedule.
- 8 Marketing, Publicity and Branding**
- 8.1 Recruitment activity, marketing and publicity for the Programme may be undertaken by each Party but each Party will ensure that any marketing and/or publicity is accurate and not misleading. Each Party may use the branding or logo of the other Party in recruitment, marketing and publicity materials related to the Programme but will not otherwise use the branding or logo of the other Party without that other Party's prior written consent.

9 Intellectual Property

9.1 For the purposes of this clause 9:

9.1.1 **"Background Intellectual Property"** means all Intellectual Property, information, data, software and materials belonging to a Party that are provided by that Party to the other for use in the Programme (whether before or after the date of this agreement), but not Intellectual Property in the Foreground Intellectual Property;

9.1.2 **"Foreground Intellectual Property"** means all Intellectual Property, information, data, software and materials identified, created or first reduced to practice or writing in the course of the Programme;

9.1.3 **"Intellectual Property"** means all patents and other rights in inventions, whether or not those inventions are patented or patentable; rights in confidential know-how; design rights and other rights in designs; copyrights; database rights; registered and unregistered trademarks; and all other intellectual property rights, in each case whether registered or unregistered, and including applications for the grant of any such rights and rights of renewal in respect of any such rights; and all other forms of protection having similar or equivalent effect in any part of the world.

9.2 Any Background Intellectual Property shall remain the sole and exclusive property of the Party to whom that Background Intellectual Property belonged prior to the commencement of this agreement. Each Party grants to the other a non-exclusive, non-transferable licence to use that Party's Background Intellectual Property to the extent necessary to fulfil the other Party's obligations under this agreement.

9.3 Any Foreground Intellectual Property shall be, subject to written agreement to the contrary by the Parties, the sole and exclusive property of the Party creating or developing it (or whose employee created or developed it). Each of the Parties grants to the other Party a non-exclusive, non-transferable licence to use that Party's Foreground Intellectual Property to the extent necessary to fulfil the other Party's obligations under this agreement.

9.4 Unless stated otherwise in the Schedule, any Intellectual Property developed by a student will be owned by the student.

10 Regulatory and Governance Matters

10.1 Each Party is subject to certain laws, regulation, and governance requirements. Accordingly, each Party agrees that:

10.1.1 it will not treat any person or group of people less favourably than another on the grounds of race, colour, religion or philosophical belief, ethnicity, sex, gender reassignment, age, disability, nationality, marital status or sexual orientation;

10.1.2 it will comply with all applicable laws and regulation relating to anti-bribery and anti-corruption including the Bribery Act 2010 of the United Kingdom and the anti-corruption policy of the other Party (if notified to it) and each will not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010 if such activity or practice had been carried out in the United Kingdom;

10.1.3 it will maintain those policies of insurance covering negligent acts and omissions with appropriate limits of indemnity as set out in the Schedule;

10.1.4 it will keep confidential information of the other Party which is confidential information and not disclose that to any third party or make use of it except to fulfil its obligations under this agreement. This clause shall not apply to information which enters the public domain through no fault of the Party disclosing that information or if the disclosing Party is required by law to disclose or where such disclosure is expressly contemplated by this agreement;

10.1.5 it will comply with Data Protection Law. In particular, the Host University is responsible for obtaining the consent from students on a Programme to the Processing of their Personal Data by or on behalf of each Party for the purposes of administering and delivering the Programme, monitoring and evaluating the Programme and feedback on student performance and any immigration licence requirements. Such consents shall include consent to the transfer of Personal Data for these purposes outside the European Economic Area where a Party is located outside the European Economic Area. The intention is that each Party is a data controller, however, if one

Party is processing any Personal Data on behalf of the other Party, it shall (i) take appropriate technical and organisational security measures to prevent unauthorised or unlawful processing of such information and to prevent accidental or unlawful loss, alteration or destruction of, or damage or access to such information; and (ii) comply with the reasonable instructions of the relevant other Party in relation to that data; and (iii) not transfer any such information out of the European Economic Area unless appropriate consent from the student has been obtained;

10.1.6 where a Party is subject to the Freedom of Information (Scotland) Act 2002 (or equivalent legislation) it may be required to disclose information relating to this agreement following a request from the public and that Party will not require the consent of the other Party to do so as it is required by law to adhere to that legislation notwithstanding clause 10.1.4;

10.1.7 each Party will comply with any health and safety legislation to which it is subject;

10.1.8 it will not take any action or omit to take any action which could, in the reasonable opinion of the other Party, affect the good reputation of the other Party because of the association between the Parties;

10.1.9 each Party (an "indemnifying party") shall indemnify the other Party (an "indemnified party") against any and all expenses, liabilities, losses, claims, damages and proceedings (excluding any indirect or consequential loss or loss of profit) suffered by the indemnified party and arising as a result of a breach of this agreement by the indemnifying party or from complaints from students in respect of the Programme where the indemnifying party is responsible in relation to such complaint or any other negligent act or omission of the indemnifying Party in relation to the Programme or this agreement.

11 Term and Termination

11.1 This agreement takes effect on the Commencement Date and shall continue until expiry of the time period set out in the Schedule unless terminated earlier in accordance with clause 11.2.

11.2 This agreement may be terminated:

11.2.1 on either party giving the other party 6 months' prior written notice; or

11.2.2 on written notice by one of the Parties if the other Party has committed a breach of this agreement and if the breach is capable of remedy, that breach is not remedied within 30 days of receipt of notice from the non-defaulting Party notifying the breach and requiring its remedy; or

11.2.3 on written notice by one of the Parties if the other Party has committed a material breach of this agreement and such breach is not capable of remedy (and a breach of clause 10.1.8 may be treated as such a breach for the purposes of this clause)

11.3 If this agreement is terminated or expires then each Party undertakes to put in place arrangements to ensure that each student at that time participating in the Programme is able to complete and be assessed for participating in the Programme and the provisions of this agreement will continue in force to the extent necessary to give effect to that undertaking.

11.4 Notwithstanding termination or expiry of this agreement then clauses 10.1.4, 10.1.9 and 11.3 of this agreement will continue in force.

12 Dispute Resolution

12.1 If a dispute arises between the Parties in connection with this agreement or any matter relating to it then:

12.1.1 either Party may give the other written notice of the dispute setting out particulars of the dispute. Following service of such notice the Exchange co-ordinators will attempt in good faith to resolve the dispute;

12.1.2 if the Exchange co-ordinators are unable to resolve the dispute within 30 days of service of the notice, the dispute will be referred to the Head of School (or equivalent) with responsibility for the Programme in each Party who will attempt to resolve it; and

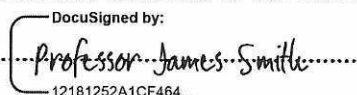
12.1.3 if such persons are unable to resolve the dispute within 30 days of it being referred to them, either Party make take such steps as it considers appropriate to resolve and deal with the dispute.

13 General

- 13.1 This agreement contains all the terms of the agreement between the Parties relating to the matters covered by it and supersedes any other agreement, representation or understanding between the Parties on the subject matter.
- 13.2 Changes or additions to this agreement will only be valid if they are in writing and signed by a representative of each Party who has authority to agree contractual changes.
- 13.3 Neither Party may assign, sub-contract or transfer this agreement or any of its rights or obligations under it (in whole or in part) without the prior written consent of the other Party.
- 13.4 This agreement does not create a partnership or joint venture between the Parties and except as expressly provided in this agreement neither Party will enter into or have authority to enter into any engagement or make any representations or warranties on the other Party's behalf nor will they seek to otherwise bind or oblige the other Party in any way.
- 13.5 Any notice required to be given under this agreement shall be served on the recipient party by recorded delivery (where both Parties have their principal office in the United Kingdom) or by international courier (where one of the Parties has its principal office outside the United Kingdom) addressed to the other Party at the address given in this agreement and marked for the attention of the Director of Legal Services or the equivalent post holder with such responsibility.
- 13.6 If any provisions of this agreement should be found not to be valid, lawful or enforceable by a court having proper authority or if the law changes so that it becomes invalid, unlawful or not enforceable to any extent then this clause will apply. The provision (or part affected) will be treated as having been deleted from the remaining terms of this agreement which will continue to be valid. In addition, the Parties will use reasonable efforts to replace the deleted provision with a valid replacement provision which is as close as possible to the one that has been deleted.
- 13.7 If either Party delays or fails to exercise its rights under this agreement on the occurrence of any event it does not prevent that Party from exercising those rights at any time afterwards in relation to that or another event. In addition, if a Party waives its right on one occasion this does not mean that the Party has lost (or waived) these rights on a later occasion.
- 13.8 This agreement is written in English and the English language will be the language used to determine interpretation. Any notice given under this agreement will only be effective if written in English.
- 13.9 This agreement is governed by the laws of Scotland and the Scottish courts have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement including any non- contractual disputes or claims.

IN WITNESS WHEREOF THIS AGREEMENT IS SIGNED AS FOLLOWS:

Signed for and on behalf of the University Court of the University of Edinburgh

by..........
DocuSigned by:
12181252A1CF464...

Authorised signatory

Professor James Smith, Vice-Principal International
 Name Printed

At (insert town/city) Edinburgh

04-Mar-2021 | 11:01 GMT
 Date.....

before this witness

.....Witness

Anna Creery

.....Name printed

33 Buccleuch Place, Edinburgh

.....Address

.....
Signed for and on behalf of Federal State Budgetary Educational Institution of Higher Education
«Saint-Petersburg State University»

by.....

Authorised signatory

Sergey Andryushin, Vice-Rector for International Affairs

Name Printed

At (insert town/city) Saint- Petersburg Date.....

before this witness

..... Witness

..... Name printed

199034 St. Petersburg, Universitetskaya nab. 7/9 Address

SCHEDULE

Clause Number	Required Detail	Insert correct detail or, if not applicable, insert "N/A"
Definitions		
1.1	Commencement Date	June 1, 2019
Student Exchange Programme		
2	Level of participants and mode of study	Undergraduate and Graduate taught
	Exchange Period	Full year or single semesters where 2 semesters equal 1 full year.
	Schools/colleges participating	For the University of Edinburgh: School of Russian Languages and Cultures For Saint-Petersburg University: Linguistics, Economics, Law, Management, Earth Sciences
	Number of credits taken per semester/year	Include for under graduate programmes: Exchange students will be expected to enrol in a normal course load: -At the University of Edinburgh a normal academic load for a full year of study is 120 credits (equivalent to 60 ECTS) or 60 credits (equivalent to 30 ECTS) for a single semester. The majority of courses are worth 20 credits but there are full year courses worth 40 credits and others worth 10 credits. The number of courses can therefore vary and students can generally take three courses per semester. At Saint-Petersburg University a normal academic load for a full year of study is 60 ECTS or 30 ECTS for a single semester. The majority of courses are worth 5 ECTS. Students generally take up to 6 courses per semester.
	The nature of the exchange courses	Undergraduate taught courses.
	Restricted /high pressure subject areas (if any).	All Agreements: At the University of Edinburgh certain subject areas are competitive and entry is subject to meeting strict prerequisite study requirements, as well as available space. The most up to date list is available on our Study Abroad website: www.ed.ac.uk/global/study-abroad/courses-credits
	Anticipated number of students each year	Each party shall send up to 3 students studying for a single semester each.
	Number of students in first year of the Programme	As above.

	Exchange Co-ordinator – of The University of Edinburgh	<p>Thomas Ozer & Anna Creery Go Abroad Office Edinburgh Global, The University of Edinburgh 33 Buccleuch Place, Edinburgh, EH8 9JS, UK Email: exchange.agreements@ed.ac.uk Phone: +44 (0)131 651 5097</p>
	Exchange Co-ordinator at SPbU	<p>For the agreement: Ms. Veronica E. Koytova The Head of the International Academic Cooperation Department Phone: +7 8123287562 Universitetskaya emb., 7/9 199034, St. Petersburg Russia Email: v.koytova@spbu.ru For outgoing students from SPbU : Mr. Maksim A. Kireev Outgoing Mobility Coordinator, Phone: +7 812 328 75 62 Universitetskaya emb., 7/9 199034, St. Petersburg, Russia Email: m.a.kireev@spbu.ru For incoming students to SPbU : Ms. Ekaterina Y. Petryanina Incoming mobility Coordinator, Phone: +7 812 328 75 62 Universitetskaya emb., 7/9 199034, St. Petersburg, Russia Email: e.petryanina@spbu.ru</p>
Recruitment, admission and enrolment 3.1 and 3.3	Admission Requirements	<p>Entry requirements for the University of Edinburgh are as follows: •A good academic record (US students should have a GPA of 3.0 or over on a 4.0 scale) •A good academic reference from your home institution Full details can be viewed on the following website: http://www.ed.ac.uk/global/study-abroad/how-to-apply</p>

		<p>Entry requirements for Saint-Petersburg University are as follows: GPA above average, foreign language proficiency</p> <p>At the University of Edinburgh the minimum English language test scores we accept are as follows: IELTS (Academic module) overall 6.5 with 5.5 in each component TOEFL iBT 92 or above with 20 in each section Full details are available here: http://www.ed.ac.uk/global/study-abroad/how-to-apply/english-language-requirements</p> <p>At Saint- Petersburg University to apply for the courses taught in Russian students need to provide a certificate proving their level of the Russian language – B2 minimum.</p>	N/A
3.2	English requirements	language	
3.2	Other requirements	language	N/A
Quality Assurance			
7.3	Additional assurance requirements that are applicable	quality requirements	N/A
Intellectual Property			
9	If student IPR in material is not to be owned by student insert agreement here		N/A
Regulatory and Governance Matters			
10	Policies of insurance to be maintained		<p>For the University of Edinburgh: Employers' Liability or equivalent cover in country of jurisdiction with a cover of £5m Public Liability or equivalent cover in country of jurisdiction with a cover of £10m For Saint-Petersburg University: N/A</p>
Term and Termination			
11	Term of Agreement –insert end date		This agreement shall be valid from the date of the final signature for a period of five years (till December 31, 2023).