

Brighton & Hove BCRP.
Terms & Conditions of Business

1.1 Definitions. In these Conditions, the following definitions apply:

Contract, means the form to be prepared by the Supplier and completed and signed by the Client and, in the absence of such form, the specifications as shall be agreed between the Supplier and the Client in writing from time to time.

Business Day, means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Client, means the person or firm who purchases Services from the Supplier as set out in the Booking Form.

Conditions, means these terms and conditions as amended from time to time in accordance with clause 16.9.

Contract, means the contract between the Supplier and the Client for the supply of Services in accordance with these Conditions, the Booking Form and any documents referred to herein (including but not limited to policies and procedures and the Data Integrity Agreement (defined below)) ("**Documents**") as may be signed by the Client from time to time and the signing of the Contract and/or the delivery of the Services by the Supplier to the Client shall be deemed to be unconditional acceptance by the Client of these Conditions and the Contract.

Intellectual Property Rights, means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Service Fees, means the fees payable by the Client for the supply of the Services in accordance with clause 6 and the Contract, including expenses incurred and Materials.

Services, means the services, provided by the Supplier to the Client as set out in the Contract or as may be agreed in writing between the parties from time to time.

Supplier, means the Supplier as defined in the Contract.

1.2 Construction. In these Conditions, the following rules apply:

1.2.1 a **person** includes a natural person, corporate or unincorporated body whether or not having separate legal personality;

1.2.2 a reference to a party includes its personal representatives, successors or permitted assigns;

1.2.3 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

1.2.4 any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

1.2.5 a reference to **writing** or **written** includes e-mails.

2. Basis of contract

2.1 The Contract constitutes an offer by the Client to purchase Services in accordance with these Conditions.

2.2 The offer to purchase the Services from the Supplier shall be deemed to be accepted and the Contract shall come into existence on the date on which the Client returned the signed Booking Form or, in the absence of a Booking Form, signed or otherwise, on the date in which the Supplier performed any act in the provision of any of the Services.

2.3 The Supplier's promotional printed matters, website, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

3. Supply of Services

3.1 The Supplier shall supply the Services to the Client in accordance with the Contract in all material respects.

3.2 The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Contract or otherwise, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3.3 The Supplier warrants to the Client that the Services will be provided using reasonable care and skill.

3.4 The Supplier shall have the right to make any changes to the Services upon notifying the Client:

3.4.1 where there are changes in how the Supplier accepts payment for the Client;

3.4.2 where there are changes in relevant laws, safety requirement or regulatory requirements;

3.4.3 to reflect changes in market conditions affecting the Supplier's business;

3.4.4 to reflect changes in technology; and

3.4.5 which do not materially affect the nature or quality of the Services.

3.5 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and we shall notify you in any such event.

4. Term

4.1 This Agreement shall, unless terminated in accordance with clause 14 continue for an initial period of 12 months, and thereafter continue on a rolling basis, unless terminated by either party providing the other with the notice set out in the Contract (**Term**).

5. Client's obligations

5.1 The Client shall:

5.1.1 ensure that the terms of the Contract (and any information it provides) are complete and accurate;

5.1.2 co-operate with the Supplier in all matters relating to the Services;

5.1.3 provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is accurate and up to date in all material respects;

5.1.4 Procure that all staff, or persons who use or have access to the Services review and comply with all protocols and procedures provided by the Supplier (as updated from time to time);

5.1.5 review and comply with all protocols and procedures provided by the Supplier (as updated from time to time);

5.1.6 ensure that all information they provide to the Supplier or upload in accordance with the Services is true, accurate, up to date and not misleading, complies with all applicable UK law and does not promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age; and

5.1.7 ensure compliance with the data integrity agreement ("**Data Integrity Agreement**") a copy of which has been provided to the Client.

5.2 The Client shall not sub-licence the Services or allow any third-party access to the Services, unless expressly permitted in accordance with the Contract.

5.3 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission of the Client or failure by the Client to perform any relevant obligation (**Client Default**):

5.3.1 the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations to the extent the Client Default prevents or delays the Supplier's performance of any of its obligations;

5.3.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in clause 5.1; and

5.3.3 the Client shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Client Default, regardless of whether the Services are completed.

6. Service Fees and payment

6.1 The Service Fees for the Services shall be invoiced by the Supplier annually and paid by the Client as set out in the Contract, in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract.

6.2 The Supplier reserves the right to increase its Service Fee, provided that such charges cannot be increased more than once in any 12 month period. The Supplier will give the Client written notice of

any such increase 1 month before the proposed date of the increase. If such increase is not acceptable to the Client, it shall notify the Supplier in writing within 2 weeks of the date of the Supplier's notice and the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving 2 weeks written notice to the Client.

6.3 The Supplier reserves the right to update and amend the procedures and protocols the Client agrees to abide by as set out in clause 5.1.5. The Supplier will give the Client written notice of any such change 2 weeks before the proposed date of the change. If such change is not acceptable to the Client, it shall notify the Supplier in writing within 1 week of the date of the Supplier's notice and the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving 1 week written notice to the Client.

6.4 Without limiting any other right or remedy of the Supplier, if the Client fails to make any payment due to the Supplier under the Contract by the due date for payment (**Due Date**), the Supplier shall have the right to charge interest on the overdue amount at the rate of four per cent per annum above the then current NatWest Bank's base rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.

6.5 The Client shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Client shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Client against any amount payable by the Supplier to the Client.

7. Intellectual property rights

7.1 The Supplier is the owner or licensee of all Intellectual Property Rights used in the provision of the Services.

7.2 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.

7.3 The Client acknowledges that, in respect of any Intellectual Property Rights owned by a third party, the Client's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Client.

8. Confidentiality

8.1 A party (**Receiving Party**) shall keep in strict confidence all data, information, technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 8 shall survive termination of the Contract.

8.2 The Client, and all users authorised by the Client, shall be entitled to print off copies or download the information provided on the Secure Intranet Site(s) providing such printing is solely for the

purpose of the prevention of crime and disorder and is stored safely and not disclosed to any third party who does not have access to the Secure Intranet Site(s) (unless expressly authorised by the Supplier).

9. Limitation of liability: THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

9.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

9.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

9.1.2 fraud or fraudulent misrepresentation; or

9.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

9.2 Subject to clause 9.1:

9.2.1 the Supplier shall under no circumstances whatsoever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and

9.2.2 the Supplier's total liability to the Client in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the value of the Service Fees paid under the Contract.

9.3 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

9.4 This clause 9 shall survive termination of the Contract.

10. Eligibility and Passwords

10.1 In order to have access and benefit from the use of the Services the Client shall procure that all those it permits to access the Services shall:

10.1.1 Be at least 16 years of age;

10.1.2 Have received, read, signed and agreed to adhered to the Data Integrity Agreement, and all protocols and procedures provided by the Supplier;

10.1.3 Not be the subject of an ASBO or Exclusion Notice, excluding that individual from any premise.

10.2 In order to have access to the Secure Intranet Site(s) each user on behalf of or as permitted by the Client will be required to set up an account by inserting a valid email address and password.

10.3 The Supplier reserves the right to require any user who has access to the Secure Intranet Site(s) to update their password at any time. Failure to update a password will result in access to the Secure Intranet Site(s) being denied.

11. Anti-Bribery

11.1 The Supplier shall:

- 11.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);
- 11.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- 11.1.3 have and shall maintain in place throughout the term of this Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate; and
- 11.1.4 promptly report to the Client any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this Contract.

12. Problem with Services

12.1 In the unlikely event that there is any defect with the Services:

- 12.1.1 the Client shall notify the Supplier as soon as reasonably possible;
 - 12.1.2 the Client shall give the Supplier a reasonable opportunity to repair or fix any defect;
 - 12.1.3 the Supplier will use reasonable efforts to repair or fix a defect which has occurred due to a fault of the Supplier, as soon as reasonably practicable; and
 - 12.1.4 where a defect arises as a result of information or an omission of information by a third party, the Supplier will use reasonable efforts to ensure the defect is remedied.
- 12.2 The Supplier shall not charge the Client for periods where the Services cannot be used by the Client due to a defect caused by the Supplier.
- 12.3 The Supplier will exercise reasonable care to ensure that the Secure Intranet Site(s) are free of any viruses, errors and bugs and will indemnify the Client for any loss suffered as a result of the Supplier's failure to exercise such reasonable care. In the event that the Supplier has exercised such reasonable care but the Client experience viruses, errors or bugs the Supplier will not be responsible or liable for any loss suffered and this will not constitute a breach of the Contract.

13. Suspension of Services

13.1 We may suspend or reduce any or all of the Services immediately without notice if:

- 13.1.1 The Supplier is required to do so by law;
- 13.1.2 The Client breaches a provision of clause 5 or any obligations on the Client set out in the Contract;
- 13.1.3 The Client fails to make payment in accordance with clause 6;
- 13.1.4 The Supplier has reason to believe that the Client has provided the Supplier with inadequate, false, inaccurate or misleading information either for the purpose of obtaining the Services or at any time during the provision of the Services;

- 13.1.5 The Supplier believes that the Client or another person involved with the Client has committed, or may be committing, any fraud against the Supplier, and/or any other person or organisation by using the Services;
- 13.1.6 The Supplier has reason to believe that the Data Integrity Agreement has been breached in contravention of the Data Protection Act 1998.
- 13.2 The Supplier may suspend or reduce any or all of the Services, prior to giving the Client reasonable notice, where maintenance repairs or improvements to any part of the Services are required.
- 13.3 If the Services are suspended as a result of clauses 13.1.2-13.1.5 the Supplier may make a charge to reflect the Supplier's costs in connection with the Clients reconnection to the Services. The Client must pay this charge before the Client can use the Services again.

14. Termination

- 14.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:
 - 14.1.1 The other party fails to make payment due in accordance with the Contract;
 - 14.1.2 the other party commits a material breach of the Contract and if such a breach is remediable fails to remedy that breach within seven days of that party being notified in writing of the breach;
 - 14.1.3 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or being a company is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or being an individual is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or being a partnership has any partner to whom any of the foregoing apply;
 - 14.1.4 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than where a company for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - 14.1.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party being a company other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - 14.1.6 the other party being an individual is the subject of a bankruptcy petition or order;
 - 14.1.7 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - 14.1.8 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party being a company;
 - 14.1.9 a floating charge holder over the assets of that other party being a company has become entitled to appoint or has appointed an administrative receiver;

- 14.1.10 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- 14.1.11 any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.1.3 to clause 14.1.10 inclusive;
- 14.1.12 the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- 14.1.13 the other party being an individual dies or, by reason of illness or incapacity whether mental or physical, is incapable of managing his own affairs.

15. Consequences of termination

15.1 On termination of the Contract for any reason:

- 15.1.1 the Client shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Client immediately on receipt;
- 15.1.2 access to the Secure Intranet Site(s) shall be immediately terminated for all users who have access to the Secure Intranet Site(s) by virtue of the Contract;
- 15.1.3 the Client shall ensure that all copies of information downloaded or printed in accordance with clause 8.2 of these Conditions, whether by the Client or any user authorised by the Client shall be destroyed or deleted in a secure manner (or returned in a secure manner to the Supplier);
- 15.1.4 the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- 15.1.5 clauses which expressly or by implication have effect after termination shall continue in full force and effect.

16. General

16.1 **Force majeure:**

- 16.1.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 16.1.2 The Supplier shall not be liable to the Client as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

16.2 **Assignment and subcontracting:**

- 16.2.1 The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

16.2.2 The Client shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

16.3 Notices:

16.3.1 Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office if a company or in any other case its principal place of business, or sent by email to the other party's main email address.

16.3.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or recorded delivery, at 9:00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by email, on the next Business Day after transmission.

16.3.3 This clause 16.3 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall include e-mails.

16.4 Waiver:

16.4.1 A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

16.4.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

16.5 Severance:

16.5.1 If a court or any other competent authority finds that any provision or part of any provision of the Contract is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

16.5.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

16.6 **Conflict:** if at any time, any provisions of the Conditions, conflict with the Contract the provisions of the Contract shall prevail. If at any time, any provisions of the Contract, conflict with the Documents the provisions of the Contract shall prevail and if at any time, any provisions of the Conditions, conflict with the Documents the provisions of the Conditions shall prevail.

16.7 **No partnership:** Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

16.8 **Third parties:** A person who is not a party to the Contract shall not have any rights under or in connection with it.

- 16.9 **Variation:** Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when agreed in writing and signed by the Supplier.
- 16.10 **Entire agreement:** The Contract constitutes the entire agreement between the parties. The Client acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.
- 16.11 **Implied terms:** These Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 16.12 **Data Protection:**
- 16.12.1 Each party will comply with the Data Protection Act 1998.
- 16.12.2 The Supplier shall indemnify the Client against any costs, loss, damages, fines or expenses (including legal expenses) suffered or incurred by the Client arising from the Supplier's failure to comply with the provisions of the Data Protection Act 1998.
- 16.12.3 The Client shall indemnify the Supplier against any costs, loss, damages, fines or expenses (including legal expenses) suffered or incurred by the Supplier arising from the Client's failure to comply with the provisions of the Data Protection Act 1998.
- 16.12.4 The Supplier will need to store personal information about the Client in order to provide the Client with the Services.
- 16.12.5 The Client has a right of access under the data protection legislation to the personal data that the Supplier holds about the Client. Information stored for marketing purposes will only be used as a means of contacting the Client, but if the Client would prefer the Supplier not to keep it at all, the Client should notify the Supplier in writing.

Data Processing Agreement

This Data Processing Agreement ("**Agreement**") forms part of the Contract for Services between the Parties

The Parties to this Agreement are the Parties to the Contract to which this Agreement is appended.

- (A) The Supplier [BCRP] may act as a joint Data Controller, when receiving data from the Client, and a Data Processor, when providing data to the Client via the secure intelligence platform[s].
- (B) The Client [the Member] may act as a joint Data Controller, when providing data to the Client, and a Data Processor, when receiving, reviewing and using data from the Supplier via the secure intelligence platform[s].
- (C) Depending upon which role the Client and Supplier assume at any one time, each Party will be subcontracting certain services, which imply the processing of personal data, to the other Party acting as Data Processors.
- (D) Both Parties seek to implement a data processing agreement that complies with the requirements of the current legal framework in relation to data processing and with the Regulation (EU) 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).

IT IS AGREED AS FOLLOWS:

1. Definitions and Interpretation

Unless otherwise defined herein, capitalized terms and expressions used in this Agreement shall have the following meaning:

"**Agreement**" means this Data Processing Agreement and all Schedules;

"**Personal Data**" means any Personal Data Processed by a Contracted Processor on behalf of the Controller pursuant to or in connection with the Contract between the Parties;

"**Contracted Processor**" means a Sub-processor;

"**Data Protection Laws**" means UK Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;

"**EU Data Protection Laws**" means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR;

"**GDPR**" means UK General Data Protection Regulation;

"**Data Transfer**" means

a transfer of Personal Data from either Party to a Contracted Processor; or

an onward transfer of Personal Data from a Contracted Processor to a Subcontracted Processor,

or between two establishments of a Contracted Processor,

in each case, where such transfer would be prohibited by Data Protection Laws (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Data Protection Laws);

"**Sub-processor**" means any person appointed by or on behalf of the Processor to process Personal Data on behalf of Controller in connection with the Agreement.

The terms, "**Commission**", "**Controller**", "**Data Subject**", "**Member State**", "**Personal Data**", "**Personal Data Breach**", "**Processing**" and "**Supervisory Authority**" shall have the same meaning as in the GDPR, and their cognate terms shall be construed accordingly.

2. Processing of Company Personal Data

When acting as a Processor, the Parties shall:

- a. comply with all applicable Data Protection Laws in the Processing of Personal Data; and
- b. not Process Personal Data other than on the Controller's documented instructions.
- c. only accept instructions from the Controller to process Personal Data.

3. Processor Personnel

Processor shall take reasonable steps to ensure the reliability of any employee, agent or contractor of any Contracted Processor who may have access to the Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Personal Data, as strictly necessary for the purposes of the Principal Agreement, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

4. Security

- a. **Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes** of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the Processor shall in relation to the Personal Data implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.
- b. In assessing the appropriate level of security, the Processor shall take account in particular of the risks that are presented by Processing, in particular from a Personal Data Breach.

5. **Sub-processing**

The appointment of any Sub-processor must be agreed between the Parties.

6. **Data Subject Rights**

- a. Taking into account the nature of the Processing, the Processor shall assist the Controller by implementing appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the obligations to respond to requests to exercise Data Subject rights under the Data Protection Laws.

The Processor shall:

- b. promptly notify the Controller if it receives a request from a Data Subject under any Data Protection Law in respect of Personal Data; and
- c. not respond to any requests in its role as a Processor.

7. **Personal Data Breach**

- a. The Processor shall notify the Controller without undue delay upon the Processor becoming aware of a Personal Data Breach affecting Personal Data, providing the Controller with sufficient information to allow the Company to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the Data Protection Laws.
- b. The Processor shall co-operate with the Controller and take reasonable commercial steps as are directed by the Controller to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

8. **Data Protection Impact Assessment and Prior Consultation**

Processor shall provide reasonable assistance to the Controller with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which the Controller reasonably considers to be required by article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law.

9. **Deletion or return of Company Personal Data**

- a. Subject to this section 9 the Processor shall promptly and in any event within 10 business days of the date of cessation of any Services involving the Processing of Personal Data (the "**Cessation Date**"), delete and procure the deletion of all copies of those Personal Data.
- b. The Processor shall provide written certification to Controller that it has fully complied with this section 9 within 10 business days of the Cessation Date.

10. **Audit rights**

Subject to this section 10, the Processor shall make available to the Controller on request all information necessary to demonstrate compliance with this Agreement, and shall allow for and contribute to audits, including inspections, by the Controller or an auditor mandated by the Controller in relation to the Processing of the Personal Data by the Processor.

11. **Data Transfer**

The Processor may not transfer or authorize the transfer of Data to countries outside the UK.

12. **General Terms**

Confidentiality. Each Party must keep this Agreement and information it receives about the other Party and its business in connection with this Agreement ("**Confidential Information**") confidential and must not use or disclose that Confidential Information without the prior written consent of the other Party except to the extent that:

- a. disclosure is required by law;
- b. the relevant information is already in the public domain.

13. **Notices.**

All notices and communications given under this Agreement must be in writing and will be delivered personally, sent by post or sent by email to the address or email address set out in the heading of the contract to which this Agreement is appended or at such other address as notified from time to time by the Parties changing address.

14. **Governing Law and Jurisdiction**

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation including non-contractual disputes or claims, shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales