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WEBSITE DESIGN, DEVELOPMENT & HOSTING AGREEMENT

THIS AGREEMENT is made the

BETWEEN:

- (1) <<Name of Developer>> [a company registered in <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at] **OR** [of <<Name of Developer>> a company registered in <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at] <<insert Address>> (“the Developer”)
- (2) <<Name of Client>> [a company registered in <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at] **OR** [of <<Name of Client>> a company registered in <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at] <<insert Address>> (“the Client”)

WHEREAS:

- (1) The Developer carries on the business of design, development, hosting, and related services.
- (2) The Client wishes to engage the Developer to provide website design, development, hosting, and related services on the terms and conditions set out in this Agreement.

IT IS AGREED as follows:

1. Definitions and Interpretation

- 1.1 In this Agreement, unless the context otherwise requires, the following expressions have the meanings set out below:

“**Acceptance Retests**”

to be carried out in the event of a failure to meet the requirements of Clause 5 and Schedule 2;

“**Acceptance Tests**”

to be carried out on the Website as set out in Clause 5 and Schedule 2;

“**Business Day**”

any day other than Saturday or Sunday) on which the Client's offices are open for their full range of business activities at <<insert location>>;

“**Client Site Materials**”

any content provided by the Client to be incorporated into the Website;

“**Commencement Date**”

the date of the Agreement>>;

“**Confidential Information**”

any information, whether or not confidential, disclosed by either Party, information which is confidential by the other Party pursuant to this Agreement (whether orally or in writing, in any form or medium, and whether or not the information is expressly stated to be confidential or

**“Data Protection
Legislation”**

**“personal data”
“data subject”
“data controller”
“data processor” and
“personal data breach”**

“Defect Report”

“Defect”

“Developer Site Material”

“Hosting Fees”

“Hosting Specification”

**“Intellectual Property
Rights”**

“Non-Developer Defect”

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the legislation in force from time to time in the United Kingdom applicable to data protection including, but not limited to, the current EU law version of the General Data Protection Regulation ((EU) 2016/679), as it applies in England and Wales, Scotland, and Northern Ireland (and by virtue of section 3 of the European Union (Withdrawal) Act 2018); the Data Protection Act 2018 (and regulations made under it); the Privacy and Electronic Communications Regulations 2003 as amended;

the meaning defined in Article 4 of the

Defects compiled by the Developer in Clause 5.3;

the Website that causes it to fail Acceptance Tests;

Content provided or created by the Client for incorporation into the Website;

to be paid by the Client to the Hosting Services, as agreed by the Client in Schedule 5;

setting out the particulars of the Hosting Specification the Client requires the Developer to provide as Schedule 4;

rights to inventions, copyright and related rights (including moral rights), trade marks, domain names, rights in get-up and goodwill and the right to sue for passing off, rights in computer software, rights to use and protect the Confidential Information (including trade secrets) and all other intellectual property rights whether registered or unregistered, applications and rights to apply for renewals or extensions of, and rights in, such rights and all similar or related forms or protection which either exist now or in the future in any part of

the Website that causes it to fail Acceptance Tests that has been caused by the omission of the Client, or by any other person engaged with the Client for whom the Developer is not responsible;

“Project Fees”

“Project Manager”

“Project Milestone”

“Project Specification”

“Retest Period”

“Server”

“Services”

“Testing Period”

“User Content”

“Website”

1.2 Unless the context of

1.2.1 “writing”, and
communicat
similar mean

1.2.2 a statute or
provision as
include all su

1.2.3 “this Agree
Schedules a

1.2.4 a Schedule i

1.2.5 a Clause or
(other than
and

1.2.6 a “Party” or t

1.3 The headings used
no effect upon the i

1.4 Words imparting the

1.5 References to any g

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to be paid by the Client to the
Developer’s Services, as agreed by
in Schedule 3;

anager appointed by either Party
1;

iple phases that the design and
Website shall be divided into, as
Specification;

setting out in detail the work which
the Developer to perform, attached

thin which the Acceptance Retests
as specified in sub-Clause 5.7;

operated and administered by the
ed in Schedule 4;

design and development services
the Developer to the Client pursuant

within which the Acceptance Tests
as specified in sub-Clause 5.1;

content uploaded or otherwise
osite by its users; and

e [at <<insert URL>>] to be
d, and hosted by the Developer
ement.

reference in this Agreement to:

tion, includes a reference to any
onic or facsimile transmission or

e is a reference to that statute or
d at the relevant time and shall
de from time to time;

this Agreement and each of the
nted at the relevant time;

ement;

ce to a Clause of this Agreement
agraph of the relevant Schedule;

parties to this Agreement.

r convenience only and shall have
ement.

clude the plural and vice versa.

other gender.

- 1.6 References to persons shall be construed to include corporations, partnerships, limited liability partnerships, trusts, or other legal entities.
2. **Scope of Services, Project Management, and Client Site Materials**
- 2.1 The Parties have agreed upon the Project Specification and Hosting Specification set out in Schedules 1 and 4 respectively.
- 2.2 The Developer shall develop, design, and implement the Website in accordance with the Project Specification and in accordance with the Project Milestones set out therein.
- 2.3 The Developer shall host the Website on the Server in accordance with the Hosting Specification.
- 2.4 The Client may request amendments to the Project Specification and/or to the Hosting Specification. Proposed amendments must be made in writing.
- 2.5 Within <<insert period>> of receipt of a request or proposal under sub-Clause 2.4, the Developer shall notify the Client in writing of the amendments to be accommodated, including the effect on the Project Specification, the Hosting Specification, the Hosting Fees, and/or the Hosting Schedule.
- 2.6 Within <<insert period>> of receipt of the Developer's notice of proposed amendments, the Client shall notify the Developer in writing of its acceptance of the amendments to the Project Fees, Project Specification, Hosting Specification, or shall request a meeting with the Developer to discuss the amendments.
- 2.7 The Client Site Materials shall be provided by the Client in accordance with the Project Specification. Upon completion and acceptance of the Website as determined by the Client, the Client shall be fully responsible for the content, accuracy, and completeness of the Client Site Materials. The Client shall be responsible for any and all damages, losses, and expenses resulting from any claims or proceedings on the grounds that the Client Site Materials are unlawful or in any material that is unlawful or defamatory, libelous, obscene, threatening, incites violence, or that breaches the Intellectual Property Rights of any third party).
3. **Project Management and Reporting**
- 3.1 [For the duration of the Website is deemed to be in development (that is, until the Client notifies the Developer under sub-Clause 5.9), each Party shall] **OR** [Each Party shall appoint a Project Manager who shall be responsible for liaising with the other Party on all matters under this Agreement. Each Party shall ensure that the Project Manager has the necessary knowledge and experience of all relevant matters and the authority to commit the Party by whom they are appointed.]
- 3.2 The Developer shall provide the Client with regular progress reports detailing the progress of the design and development of the Website [and the hosting of the Website]. In particular, the Developer shall indicate any important matters requiring the Client's attention.

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against all damages, losses, and
 edings brought by a third party for
 ual Property Rights by any part of
 eveloper:

of the claim or proceedings;
 s without the Client's prior written

on and assistance that the Client

defend or settle the claim or

all not apply to the extent that the

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Agreement (Pro-Client)

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Agreement (Pro-Client)	8
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8.6 The indemnities set

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Site Materials, any Developer Agreement, [or] any part of the look and feel of the Website or any of any website or other material

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it has the full power and authority
er, this Agreement.

ons under this Agreement with
with generally established and
prevailing in the website design,

shall be free of errors, viruses, and in accordance with the Project >> from the date that acceptance event that the Website does not specification, the Developer shall project Specification without undue

shall not apply to the extent that any
arises out of modifications made
by without the direct involvement of

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for any loss of profit, anticipated
will, or business opportunity, or for
e.

Party's liability under sub-Clause hereunder shall count towards the e 10.3.

al liability to the other in respect of
calendar year arising out of or in
her in contract, tort (including
<<insert sum>>.

include either Party's liability for death, negligence; fraud; any breach of the Consumer Goods Act 1979 or by Section 2 of the Consumer Protection Act 1982; the deliberate or wilful acts, or sub-contractors; or for any acts not excluded by law.



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12.5.4 not transfer
written cons
satisfied:

- a) the Client and
for the trans
- b) affected dat
remedies;
- c) the Develop
Legislation,
personal dat
- d) the Develop
advance by
data.

12.5.5 assist the C
requests fro
Data Prote
notifications,
authorities o
Commission

12.5.6 notify the Cl
data breach;

12.5.7 on the Clie
return all pe
termination o
personal dat

12.5.8 maintain cor
technical an
demonstrate
the Client an

12.6 [The Developer sha
processing of perso

OR

12.6 [The Developer sha
processing of pers
consent of the Clie
processor, the Deve

12.6.1 enter into a
impose upon
upon the De
Developer a

12.6.2 ensure that
that agreem

12.7 [In the event that t
the processing of p
and the Developer
omissions of the su

12.8 Either Party may, a
this Clause 12, rep

side of the UK without the prior
only if the following conditions are

have provided suitable safeguards

ceable rights and effective legal

gations under the Data Protection
level of protection to any and all

reasonable instructions given in
to the processing of the personal

st, in responding to any and all
ensuring its compliance with the
respect to security, breach
and consultations with supervisory
but not limited to, the Information

on becoming aware of a personal

delete (or otherwise dispose of) or
all copies thereof to the Client on
it is required to retain any of the

ords of all processing activities and
ures implemented necessary to
ause 12 and to allow for audits by
d by the Client.

f its obligations with respect to the
ement.]

f its obligations with respect to the
reement without the prior written
Developer appoints such a sub-

n the sub-processor, which shall
same obligations as are imposed
2 and which shall permit both the
those obligations; and

lies fully with its obligations under
on Legislation.]

acts its obligations with respect to
Clause 12.6, as between the Client
remain fully liable for all acts and

ast <<insert period>> notice, alter
cable data processing clauses or

similar terms that for
shall apply and repl

certification scheme. Such terms
attachment to this Agreement.]

13. Network and Information

13.1 The Developer has
information systems
that the information
that it shall inform th

measures to protect its network and
1. The Developer hereby warrants
0 is accurate and up-to-date and
any changes made thereto.

13.2 The Developer shall
aware of any secur
that has the potenti
undue delay to any
any such incident,
by the Client or the
any reporting oblig
Information System
statutory or regulato

mediately in the event that it becomes
network and information systems
the Developer shall respond without
ists from the Client with respect to
that incident has been discovered
times keeping in mind the extent of
the Client under the Network and
("NIS Regulations") and any other
the Client is required to comply.

13.3 The Developer shall
ensure business co

s] OR [reasonable endeavours] to
all times.

13.4 The Developer shall
compliance with the
include, but not be
incidents (suspecte

fully with the Client with respect to
co-operation and compliance shall
information in the event of security
ns by regulatory authorities.

14. Confidentiality

14.1 Each Party underta
authorised in writing
this Agreement an
expiry:

provided by sub-Clause 14.2 or as
shall, at all times during the term of
> years] after its termination or

14.1.1 keep confide

information;

14.1.2 not disclose

tion to any other party;

14.1.3 not use any
contemplate

n for any purpose other than as
terms of this Agreement;

14.1.4 not make an
any Confide

ny way, or part with possession of

14.1.5 ensure that
contractors c
be a breach

officers, employees, agents, sub-
which, if done by that Party, would
Clauses 14.1.1 to 14.1.4 above.

14.2 Either Party may:

14.2.1 disclose any

to:

a) any sub-con

Party;

b) any governn

or regulatory body; or

c) any employe
persons, par

y or of any of the aforementioned

to such exte

for the purposes contemplated by

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mitted to, the design, development, required by law. In each case that party or body in question that the essential and (except where the order sub-Clause 14.2.1(b) or any (y) obtain and submit to the other taking from the party in question. Early as practicable in the terms of Confidential Information confidential and to the disclosure is made; and

any other purpose, or disclose it to
only that it is at the date of this
date becomes, public knowledge
making such use or disclosure, that
the Confidential Information which

continue in force in accordance with
 and of <<insert period>> after the
 notwithstanding the termination of

Commencement Date and, subject to
 terminate on the <<insert period>>
 unless renewed by the Client for a

medies which may be available to it,
with immediate effect by written

the other Party under any of the
not paid within <<insert period>>
payment;

or material breach of any of the
the breach is capable of remedy,
period>> Business Days after being
of the breach and requiring it

or where the other Party is a
of any of the property or assets of

arrangement with its creditors or, to an administration order (within 86);

or firm, has a bankruptcy order
y, goes into liquidation (except for
tion or re-construction):

foregoing under the law of any
her Party;

to cease, to carry on business; or

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15.2.8 control of the Website shall be exercised by any person or connected persons not connected to the Client or any other Party on the date of this Agreement. For the purposes of this Clause 15, "control" and "connected" shall have the meanings ascribed thereto by Sections 112 and 113 of the Corporation Tax Act 2010.

15.3 The termination or expiry of this Agreement shall be without prejudice to any rights, remedies, obligations or claims which have already accrued to either Party.

15.4 On the termination or expiry of this Agreement, the Client shall:

15.4.1 all licences granted to the Developer by the Client under this Agreement shall terminate immediately;

15.4.2 the Developer shall return to the Client all Site Materials and any and all copies of the same which are in its possession to the Client without undue delay;

15.4.3 the Developer shall provide such assistance as is reasonably required by the Client to enable the Client to transfer the Website to another host, subject to payment by the Client of any and all reasonable costs incurred by the Client in connection with such assistance;

15.4.4 any provisions of this Agreement which survive the termination or expiry of this Agreement shall remain in full force and effect.

16. Force Majeure

16.1 Neither Party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond their reasonable control.

16.2 In the event that a Party is prevented from performing their obligations hereunder by Force Majeure, the affected Party shall be entitled to a reasonable extension of time for performing those obligations [amounting to a period of <<insert period>>] during which their performance is prevented.

16.3 In the event that a Party is prevented from performing their obligations hereunder by Force Majeure for a continuous period of <<insert period>>, the affected Party may at its discretion terminate this Agreement by written notice at the end of that period.

17. Audit

17.1 The Client shall have the right to audit the Developer's compliance with this Agreement (including the Developer's compliance with the data processing provisions of Clause 12) on giving <<insert period>> written notice to the Developer. Audits under this Clause 17 may, at the Client's discretion, be conducted by the Client or its auditors or it may include an onsite audit of the Developer.

17.2 The Client shall inform the Developer of the identity of any auditors appointed by it under this Clause. The Client shall ensure that external third-party auditors are appointed, shall ensure that such auditors are subject to suitable obligations of confidentiality and shall ensure that such auditors are not connected to the Client or any other Party.

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18. **No Waiver**

No failure or delay by either Party shall be deemed to be a waiver of any provision of this Agreement or a breach of the same or any

of its rights under this Agreement or a waiver by either Party of a breach of the same or any subsequent breach of the same or any

19. **Further Assurance**

Each Party shall execute and do all such acts and things as may be necessary to carry out the intent of this Agreement.

deeds, documents and things as may be necessary to carry out the intent of this Agreement into full force and effect.

20. **Costs**

Subject to any provisions to the contrary, each Party shall bear its own costs of and incidental to the preparation, execution and carrying out of this Agreement.

Party to this Agreement shall pay its own costs of and incidental to the preparation, execution and carrying out of this Agreement.

21. **Assignment and Sub-Contracting**

21.1 [Subject to sub-Clause 21.2, the obligations under this Agreement are personal to the Party and shall not be assigned (otherwise than by operation of law) or otherwise delegated or its rights hereunder or its obligations hereunder assigned or otherwise delegated without the consent of the other Party, such consent not to be unreasonably withheld.]

Agreement] **OR** [This Agreement] may assign, mortgage, charge, sub-contract, or otherwise delegate any of its rights hereunder or its obligations hereunder without the consent of the other Party, such consent not to be unreasonably withheld.]

21.2 [Subject to sub-Clause 21.1, the obligations under this Agreement may be assigned (otherwise than by operation of law) or otherwise delegated or its rights hereunder or its obligations hereunder assigned or otherwise delegated through suitably qualified persons or contractors. Any act or omission of such other member of its group or contractors shall, for the purposes of this Agreement, be deemed to be the act or omission of the Developer.]

shall be entitled to perform any of the obligations under this Agreement through any other member of its group or contractors. Any act or omission of such other member of its group or contractors shall, for the purposes of this Agreement, be deemed to be the act or omission of the Developer.]

22. **Relationship of the Parties**

Nothing in this Agreement shall be deemed to constitute a partnership, joint venture, agency, or other relationship between the Parties other than the contractual relationship created by this Agreement.

Nothing in this Agreement shall be deemed to constitute a partnership, joint venture, agency, or other relationship between the Parties other than the contractual relationship created by this Agreement.

23. **Third Party Rights**

23.1 Unless expressly stated otherwise, the provisions of this Agreement shall not confer rights on any Third Parties (Rights of Third Parties) Act 1999.

The provisions of this Agreement are intended to confer benefits on Third Parties accordingly the Contracts (Rights of Third Parties) Act 1999.

23.2 Subject to this Clause, the provisions of this Agreement shall continue and be binding on the Party as required.

shall continue and be binding on the Party as required.

24. **Notices**

24.1 All notices under this Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, the Party giving the notice.

in writing and be deemed duly given if signed by, or on behalf of, the Party giving the notice.

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- notice.
- 24.2 Notices shall be deemed to have been given:
- 24.2.1 when delivered by hand to the recipient or by registered mail, or by any other messenger (including courier or other messenger (including messenger) outside business hours of the recipient; or
- 24.2.2 when sent, by facsimile or e-mail and a successful transmission is generated; or
- 24.2.3 on the fifth business day following the date of posting by ordinary mail, if mailed by national post; or
- 24.2.4 on the tenth business day following the date of posting by airmail, if mailed by airmail.
- In each case notice shall be deemed to have been given to the most recent address, e-mail address, or facsimile address of the Party.
25. **Entire Agreement**
- 25.1 [Subject to Clause 25.2] This Agreement contains the entire agreement between the Parties in relation to its subject matter and may not be modified except by a written instrument signed by the duly authorised representatives of the Parties.
- 25.2 Each Party acknowledges that, in entering into this Agreement, it does not rely on any representation, warranty, statement or other provision (made or not made) other than those expressly provided in this Agreement.
26. **Counterparts**
- This Agreement may be executed in any number of counterparts and by the Parties to it on separate occasions. Each counterpart when so executed and delivered shall be an original, but all counterparts together shall constitute one and the same instrument.
27. **Severance**
- In the event that one or more provisions of this Agreement is found to be unlawful, invalid or otherwise unenforceable, those provision(s) shall be deemed severed from the remainder of the Agreement. The remainder of this Agreement shall be valid and enforceable.
28. **Law and Jurisdiction**
- 28.1 This Agreement (including any dispute, controversy or claim arising therefrom or associated with it) shall be governed by, and construed in accordance with, the law of England and Wales.
- 28.2 Any dispute, controversy or claim between the Parties relating to this Agreement (including any dispute, controversy or claim arising therefrom or associated with it) shall be referred to and determined within the jurisdiction of the courts of England and Wales.

SIGNED for and on behalf of the D

<<Name and Title of person signing

Authorised Signature

Date: _____

SIGNED for and on behalf of the C

<<Name and Title of person signing

Authorised Signature

Date: _____

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Project Specification

<<Insert Project Specification>>

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Acceptance Tests

<<Insert details of Acceptance Tests

Acceptance Retests

<<Insert details of Acceptance Retests

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Project Fees

<<Insert details of Project Fees>>

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Hosting Specification

<<Insert Hosting Specification>>

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Hosting Fees

<<Insert details of Hosting Fees>>

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Third-Party Software

<<Insert details of Third-Party Software>>

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Developer's Data Protection <i><insert name></i>
<<Attach Notice or Policy>>]

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Client's Data Protection <<insert your company's privacy policy here>>
<<Attach Notice or Policy>>]

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1. Data Processing

Scope

<<Insert description of the scope of the processing to be carried out>>.

Nature

<<Insert description of the nature of the processing to be carried out>>.

Purpose

<<Insert description of the purpose of the processing to be carried out>>.

Duration

<<Insert details of the duration of the processing>>.

2. Types of Personal Data

<<List the types of personal data to be processed>>.

3. Categories of Data Subject

<<List the categories of data subject>>.

4. Organisational and Technical Measures

<<Describe the organisational and technical measures to be implemented as referenced in 12.5.2>>.

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Developer's Network and Information Security

1. System and Facility Security

<<Insert details of the Developer's policies governing information security, risk analysis, HR, operational security management, and (if applicable) employee training. Include details of how such it relates to the Client. Include details of any policies that the Developer has in place to secure data and system lifecycle management thereof.>>

<<Insert details of the measures the Developer has in place to protect the security of its network and information systems, such as system failure, human error, malicious damage, or natural events.>>

<<Insert details of the measures the Developer has in place to ensure the accessibility and traceability of key supplies used in its services.>>

<<Insert details of any measures the Developer has in place (based on business and security requirements) to restrict access to network and information systems, such as administrative network access.>>

2. Incident Handling Measures

<<Insert details of the Developer's procedures for ensuring the timely and adequate detection and awareness of incidents. Include details of how such processes and procedures are maintained.>>

<<Insert details of the Developer's procedures for reporting incidents and for finding vulnerabilities and weaknesses in its systems.>>

<<Insert details of the Developer's procedures for determining the severity of incidents, analysing those incidents, and documenting the lessons learned from them which may in turn be used to support the continuous improvement of the Developer's processes and procedures.>>

3. Business Continuity

<<Insert details of the measures the Developer has in place to ensure business continuity for the websites it hosts. Also provide details of how such measures are routinely tested and assessed.>>

<<Insert details of the Developer's procedures for ensuring business continuity measures. Also provide details of how such measures are routinely tested and assessed.>>

4. Monitoring, Auditing, and Testing

<<Insert details of the Developer's procedures for monitoring, measurement, and assessment of its network and information systems to ensure they are functioning as intended. Also provide details of how such measures are routinely tested and assessed.>>

<<Insert details of the Developer's procedures for ensuring that all applicable records are maintained with applicable standards and/or guidelines, the means by which such records are reviewed and maintained.>>

<<Insert details of the relevant p
flaws in the security measures ap
data and maintain functionality.>>

5. International Standards

<<Insert details of any applicable i
of compliance with those standard

used by the Developer to identify
information systems that protect

nd, where relevant, provide details

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