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THIS AGREEMENT is made the

BETWEEN:

- (1) <<Name of Data Controller>> registered in <<Country of Registration>> under number <<Company Number>> whose registered office is at] **OR** [of] <<insert Address>> (“C”
- (2) <<Name of Data Processor>> registered in <<Country of Registration>> under number <<Company Number>> whose registered office is at] **OR** [of] <<insert Address>> (“P”

WHEREAS:

- (1) [Under a written agreement dated <<insert date>> (“the Agreement”) the Data Processor provides to the Data Controller] **OR** [The Data Processor to provide to the Data Controller the services described in Schedule 1.
- (2) The provision of the Services by the Data Processor involves it in processing the Personal Data described in Schedule 1 on behalf of the Data Controller.
- (3) Under Article 28(3) of the Regulation ((EU) 2016/679) the Data Controller is required to put in place an agreement in writing with the Data Processor which processes personal data on behalf of the Data Controller and any organisation governing the processing of that personal data.
- (4) The Parties have agreed to ensure compliance with the said provisions of the UK GDPR by the Data Processor for the processing of the Personal Data by the Data Processor.
- (5) The terms of this Agreement set out for the Data Controller the obligations of the Data Processor in relation to the processing of Personal Data carried out on behalf of the Data Controller and to all Personal Data held by the Data Processor.

IT IS AGREED as follows:

- 1. **Definitions and Interpretation**
 - 1.1 In this Agreement, unless otherwise requires, the following expressions have the following meanings:
 - “**Commissioner**” means the Information Commissioner (as defined in the Data Protection Act 2018 and section 114 Data Protection Act 2018);
 - “**Controller**” means the Data Controller and any organisation given to the term “controller” under the UK GDPR and section 6 of the Data Protection Act 2018;

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“Data Protection Legislation”

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legislation in force from time to time in the United Kingdom applicable to data protection, including, but not limited to, the Data Protection Act 2018 (and any amendments thereunder); and the Privacy and Electronic Communications Regulations 2003 as amended.

“Data Subject”

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any natural or identifiable living individual to whom the Data relates;

“Personal Data”

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any information relating to an identified or identifiable individual; an identified or identifiable individual who can be identified, directly or indirectly, or by reference to an identifier such as an identification number, location data, or to one or more factors such as physical, physiological, genetic, mental, or social identity of the individual;

“Personal Data Breach”

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any security leading to the accidental or unlawful loss, alteration, unauthorised disclosure of, or destruction of, Personal Data transmitted, processed or stored;

“Processor”

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any natural or legal person, public authority, agency or body which processes Personal Data on behalf of the Controller;

**“processing”,
“process”,
“processed”,
“processes”**

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any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether by automated means, such as computerised processing, organisation, structuring, storage, adaptation, retrieval, consultation, use, disclosure, dissemination or otherwise making available, or combination, restriction, erasure or destruction;

“Services”

any [services] AND/OR [facilities] described in the Schedule which are provided by the Processor to the Controller which the Controller uses for the purposes set out in Schedule 1; and

“UK GDPR”

the General Data Protection Regulation (EU) 2016/679 General Data Protection Regulation as it forms part of the law of the United Kingdom, Scotland, and Northern Ireland by virtue of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019.

1.2 Unless the context otherwise requires, all references in this Agreement to:

any of the terms defined above shall be a reference in this Agreement to:

1.2.1 “writing”, and any other form of communication, includes a reference to any communication by electronic or facsimile transmission or any other similar means.

any of the terms defined above shall be a reference to any communication by electronic or facsimile transmission or any other similar means.

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1.2.2 a statute or regulation is a reference to that statute or regulation as in force at the relevant time;

1.2.3 "this Agreement" means this Agreement and each of the Schedules attached hereto at the relevant time;

1.2.4 a Schedule means a Schedule to this Agreement; and

1.2.5 a Clause or Paragraph means a reference to a Clause of this Agreement or a Paragraph of the relevant Schedule.

1.2.6 a "Party" or "Parties" means the Parties to this Agreement.

1.3 The headings used in this Agreement are for convenience only and shall have no effect upon the interpretation of this Agreement.

1.4 Words imparting the singular include the plural and vice versa.

1.5 References to any gender include the other gender.

1.6 References to persons include corporations.

2. Scope and Application of this Agreement

2.1 The provisions of this Agreement apply to the processing of the Personal Data described in Schedule 1 for or the Controller by the Processor, or the Processor in relation to all such Personal Data held at the date of this Agreement or received afterwards.

2.2 Schedule 2 describes the Personal Data, category or categories of Personal Data Subject, the nature of the processing to be carried out, the purpose(s) of such processing, and the geographical area of processing.

2.3 Subject to sub-Clause 2.4, this Agreement is subject to the terms of the Service Agreement and the Definitions and Interpretation of the Service Agreement shall apply to this Agreement.

2.4 The provisions of this Agreement shall prevail over any other arrangement, understanding, or agreement, but not limited to, the Service Agreement made at any time relating to the Personal Data.

2.5 This Agreement shall have full force and effect for so long as the Processor is processing Personal Data on behalf of the Controller, and thereafter as provided in Clause 4.

3. Provision of the Services

3.1 The Controller shall remain responsible for the processing of Personal Data and shall, at all times, comply with the Data Protection Legislation including providing any and all required notices to the Data Subject, and for the written processing of Personal Data in accordance with the instructions given to the Processor.

3.2 The Processor shall only collect, store and process the Personal Data received from the Controller for the purposes set out in Schedule 2.

3.2.1 The Processor shall not use the Personal Data for any other purpose;

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3.2.2 to the extent necessary for those purposes; and

as is strictly necessary for those

3.2.3 strictly in accordance with the instructions or instructions given by the Controller to

express written authorisation and may be specific instructions or as otherwise notified by the

4. **Data Protection Compliance**

4.1 All instructions given to the Processor shall be in writing and shall comply with the Data Protection Legislation. The Processor shall not process Personal Data on behalf of the Controller unless the Controller has provided written instructions in accordance with Article 29 of the UK

the Processor shall be made in compliance with the Data Protection Legislation. The Processor shall comply with such written instructions from the Controller unless required by law to do otherwise (as per

4.2 The Processor shall not process Personal Data on behalf of the Controller in response to any request from the Controller requiring the Processor to delete, or otherwise dispose of the Personal Data, or to restrict or suppress any unauthorised processing.

any request from the Controller to delete, or otherwise dispose of the Personal Data, or to restrict or suppress any unauthorised processing.

4.3 The Processor shall not process Personal Data on behalf of the Controller in response to the Controller's request for the deletion, or otherwise disposal, of Personal Data to the Controller on the Controller's written instructions, and in compliance with, the

Personal Data to the Controller on the Controller's written instructions, and in compliance with, the

4.4 Both Parties shall ensure that the Processor shall not perform any processing of Personal Data in breach of any of the provisions of the Data Protection Legislation.

the Data Protection Legislation and ensure that the Processor shall not perform any processing of Personal Data in breach of any of the provisions of the Data Protection Legislation.

4.5 The Controller hereby warrants that the Personal Data shall comply with the Data Protection Legislation, but not limited to the Controller's obligations under the Data Protection Legislation, to enable the lawful transfer of Personal Data to the Processor.

and undertakes that the Personal Data shall comply with the Data Protection Legislation in all respects including, but not limited to the Controller's obligations under the Data Protection Legislation, to enable the lawful transfer of Personal Data to the Processor.

4.6 The Processor agrees to take all reasonable measures required by the Controller to ensure that the Processor satisfactorily performs its obligations under this Agreement or any other agreement or arrangement, in accordance with any best practice guidance issued by the Information Commissioner.

reasonable measures required by the Controller to ensure that the Processor satisfactorily performs its obligations under this Agreement or any other agreement or arrangement, in accordance with any best practice guidance issued by the Information Commissioner.

4.7 The Processor shall provide the Controller with the assistance [(at the Controller's cost)] to the Controller to ensure that the Processor complies with its obligations under the Data Protection Legislation, including the security of processing, the conduct of data protection impact assessments, and in accordance with the provisions of the Data Protection Legislation. What is reasonable, for the purposes of this clause, shall take account of the nature of the Processor's processing of Personal Data available to the Processor.

the assistance [(at the Controller's cost)] to the Controller to ensure that the Processor complies with its obligations under the Data Protection Legislation, including the security of processing, the conduct of data protection impact assessments, and in accordance with the provisions of the Data Protection Legislation. What is reasonable, for the purposes of this clause, shall take account of the nature of the Processor's processing of Personal Data available to the Processor.

4.8 The Processor shall notify the Controller in a timely manner of any changes to the Processor's processing of Personal Data which adversely affect its performance of the Services or of its obligations under this Agreement.

a timely manner of any changes to the Processor's processing of Personal Data which adversely affect its performance of the Services or of its obligations under this Agreement.

4.9 When processing Personal Data on behalf of the Controller, the Processor shall:

half of the Controller, the Processor shall:

4.9.1 not transfer Personal Data outside the United Kingdom without the prior written consent of the Controller;

the United Kingdom without the prior written consent of the Controller;

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any of its obligations under this

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4.9.10 inform the Controller if it is asked to do anything that infringes the law.

5. **Data Subject Requests, Notices and Personal Data Breaches**

5.1 The Processor shall, at its cost, assist the Controller in complying with its obligations under Data Protection Legislation. In particular, the provisions shall apply to requests by Data Subjects to exercise their rights (but not limited to, subject access requests), information requests served on the Controller by the Commissioner under the Data Protection Legislation, complaints, and Personal Data Breaches.

5.2 The Processor shall notify the Controller immediately in writing if it receives:

- 5.2.1 a request from a Data Subject to exercise their rights; or
- 5.2.2 any other communication, or request relating to the processing of Personal Data to either Party's compliance with the Data Protection Legislation.

5.3 The Processor shall, at its cost, cooperate fully with the Controller and assist it in responding to any Data Subject request, or other complaint, notice or request, including by:

- 5.3.1 providing the Controller with details of the complaint, notice, request or other communication;
- 5.3.2 providing the Controller with assistance in order to comply with the request;
- 5.3.3 providing the Controller with Personal Data it holds in relation to a request (where such disclosure is required by the Controller); and
- 5.3.4 providing the Controller with any other information requested by the Controller.

5.4 The Processor shall notify the Controller of any Personal Data to any Data Subject or to any other third party, or as required by law.

5.5 The Processor shall notify the Controller immediately if it becomes aware of any form of Personal Data breach, including any unauthorised or unlawful processing, loss of Personal Data, or destruction of any of the Personal Data.

5.6 If an event of the type described in Clause 5.5 occurs:

- 5.6.1 Where recording of Personal Data is possible, the Processor shall notify the Controller as soon as possible [at its own expense].
- 5.6.2 The Processor shall notify the Controller, without delay [and at its own expense], of the event, including the category of Personal Data affected, the approximate number of records and Data Subjects involved; and also provide the Controller with:
 - a) a description of the event; and
 - b) the likely consequences of the event; and

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7. **Warranties**

- 7.1 The Processor warrants that:
 - 7.1.1 its employees, agents, and any other person or persons acting on its behalf are aware of and comply with the Data Protection Legislation;
 - 7.1.2 it, and any person acting on its behalf, will process the Personal Data in compliance with the Data Protection Legislation and any and all other applicable laws, regulations, orders, and similar instruments;
 - 7.1.3 nothing, in whole or in part, prevents it from complying with the Data Protection Legislation;
 - 7.1.4 it will take appropriate technical and organisational measures to prevent the accidental, unauthorised, or unlawful processing of the Personal Data and the loss of or damage to the Personal Data, including the destruction of or damage to the Personal Data, from such an event;
 - a) the processing of the Personal Data in question;
 - b) the non-compliance with applicable Data Protection Legislation;
 - c) the non-compliance with applicable Data Protection Legislation.

7.2 The Controller warrants that the Processor's use of the Personal Data in its processing shall comply with the Data Protection Legislation.

8. **Liability and Indemnity**

- 8.1 The Controller shall indemnify (and keep indemnified) the Processor in respect of any loss, expense (including reasonable legal fees and payments on a solicitor basis), or other costs incurred by, awarded against, or agreed to be paid by the Processor, directly or in connection with:
 - 8.1.1 any non-compliance with the Data Protection Legislation;
 - 8.1.2 any processing of the Personal Data in accordance with the Controller's instructions that infringe the Data Protection Legislation;
 - 8.1.3 any breach by the Processor of its obligations under this Agreement, except to the extent that the Controller is liable under sub-Clause 8.2.
- 8.2 The Processor shall indemnify (and keep indemnified) the Controller in respect of any loss, expense (including reasonable legal fees and payments on a solicitor basis), or other costs incurred by, awarded against, or agreed to be paid by the Controller, directly or in connection with the Processor's processing of the Personal Data, including the destruction of or damage to the Personal Data, from the Processor's breach of, or non-compliance with, its obligations under this Agreement, the Controller's instructions, or the Data Protection Legislation.

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8.2.2 not to the extent that the Processor is not responsible for any damage or loss contributed to, by any breach of this Agreement.

8.3 The Controller shall be liable to pay back from the Processor any sums paid in compensation in respect of any damage to the extent that the Controller is liable to the Processor under sub-Clause 8.1.

8.4 Nothing in this Agreement shall relieve either Party of, or otherwise affect, its obligations for any other breach of the Data Protection Legislation. The Processor hereby acknowledges that it shall remain subject to the jurisdiction of the Commissioner and shall cooperate fully thereon. The Processor acknowledges that failure to comply with its obligations as a Processor under the Data Protection Legislation may render it liable to the fines and other sanctions set out in the Data Protection Legislation.

9. Intellectual Property Rights

All copyright, database rights and other intellectual property rights in the Personal Data (including but not limited to any amendments, or adaptations to the Personal Data made by or for the Processor) shall belong to the Controller or to any other person from whom the Controller has obtained the Personal Data (where applicable). The Processor shall be liable to the Controller for the use of such Personal Data only [for the purposes of providing the Services, and in accordance with this Agreement].

10. Confidentiality

10.1 The Processor shall hold all Personal Data in confidence, and in particular, unless the Controller has given its written consent for the Processor to do so, the Processor shall not disclose any Personal Data supplied to the Processor by, for, or on behalf of the Controller to any third party. The Processor shall not be liable for the disclosure of any Personal Data supplied to it by the Controller in connection with the provision of the Services to the Controller.

10.2 The Processor shall ensure that all personnel who are to access and/or process any of the Personal Data are contractually obliged to keep the Personal Data confidential.

10.3 The obligations set out in Clause 10 shall continue for a period of <<insert period>> after the termination of the provision of Services by the Processor to the Controller.

10.4 Nothing in this Agreement shall prevent either Party from complying with any requirement to disclose Personal Data where such disclosure is required by law. In such cases, the other Party shall notify the other Party of the disclosure requirement, unless such notification is prohibited by law.

11. Subcontractors

11.1 The Processor shall be liable for its obligations or rights under this Agreement without limitation to its subcontractors of the Controller.

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11.2 If the Processor and the Controller (with the written consent of the Controller), the Processor shall

11.2.1 enter into a subcontract with the subcontractor which shall impose upon the subcontractor the same obligations as are imposed upon the Processor and which shall permit both the Processor and the subcontractor to discharge those obligations;

11.2.2 ensure that the subcontractor complies fully with its obligations under applicable Data Protection Legislation;

11.2.3 maintain control of the Personal Data transferred to the subcontractor;

11.2.4 the agreement between the Processor and the subcontractor shall terminate at the termination or expiry of this Agreement.

11.3 In the event that a subcontractor does not meet its obligations under any such agreement, the Processor shall be liable to the Controller for failing to meet its obligations.

11.4 The Provider shall retain legal control over any Personal Data that is in the possession of its subcontractors.

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12. **Deletion and/or Disposal**

12.1 The Processor shall, at the request of the Controller, delete or otherwise dispose of the Personal Data or return it to the Controller in the format(s) reasonably requested by the Controller within a reasonable time after the earlier of the following:

12.1.1 the end of the term of the subcontract [under the Service Agreement]; or

12.1.2 the processing of the Personal Data by the Processor is no longer required for the purposes of the Processor's obligations under [this Agreement].

12.2 Following the deletion or otherwise disposal of the Personal Data under sub-Clause 12.1, the Processor shall delete or otherwise dispose of all further copies of the Personal Data, unless retention of such copies is required by law, in which case the Processor shall inform the Controller of such requirement(s).

12.3 All Personal Data transferred to the Processor under this Agreement shall be deleted or disposed of by the Processor using the following method(s): <<insert description of method(s)>>.

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13. **[Consideration]**

The Processor accepts the payment of £1 from the Controller in consideration of the Processor hereby acknowledges.]

14. **Law and Jurisdiction**

14.1 This Agreement (including any dispute arising therefrom or associated with it) shall be governed by, and construed in accordance with, the law of England and Wales.

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14.2 Any dispute, controversy or claim arising out of or in connection with this Agreement (including its interpretation, performance, breach, termination, rescission, validity, enforceability or associated matters) shall be referred to and determined by the courts of England and Wales.

claim between the Parties relating to legal matters and obligations arising within the jurisdiction of the courts

SIGNED for and on behalf of the C
<<Name and Title of person signing

Authorised Signature

Date: _____

SIGNED for and on behalf of the F
<<Name and Title of person signing

Authorised Signature

Date: _____

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Services

<<Insert a description of the Service Agreement, where relevant)>>.

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- 2.10 have in place methods for dealing with breaches of security (including loss, damage or destruction of Personal Data) including:
 - 2.10.1 the ability to identify individuals who have worked with specific Personal Data;
 - 2.10.2 having a procedure for investigating and remedying breaches of security; and
 - 2.10.3 notifying the Controller as soon as any such security breach occurs.
- 2.11 have a secure procedure for storing all electronic Personal Data and storing back-ups securely;
- 2.12 have a secure method for storing back-ups, disks, printouts and other equipment; [and]
 - 2.13 adopt such organisational and technological processes and procedures as are necessary to comply with the requirements of ISO/IEC 27001:2013, as applicable; OR [.]
- 2.14 [<<insert additional information here >> .]

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