



**STANDARD TERMS AND CONDITIONS:  
SUBSCRIPTION SERVICES**

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### SCHEDULE I - DATA PROCESSING

**IT IS HEREBY AGREED THAT:**

**1. INTERPRETATION**

**THE FOLLOWING DEFINITIONS AND RULES OF INTERPRETATION APPLY IN THESE CONDITIONS.**

**1.1 Definitions:**

**This Agreement:** (1) The Subscription Agreement: Summary Sheet; and (2) these Standard Terms and Conditions: Subscription Services, together with any schedule(s) hereto, jointly referred to as “this Agreement”.

In case of any conflict between any of the documents comprising this Agreement, then these Standard Terms and Conditions: Subscription Services together with any schedule(s) hereto shall take priority.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Cancellation Fee:** the sum payable by the Client for cancellation of the Services and/or early termination of this Agreement in accordance with clause 10 (Termination & Cancellation Fee).

**Charges:** the charges payable by the Client for the supply of the Services in accordance with clause 6 (Charges and payment).

**Commencement Date:** as defined in clause 3.2.

**Conditions:** (1) The Subscription Agreement: Summary Sheet; and (2) these Standard Terms and Conditions: Subscription Services together with any schedule(s) hereto as amended from time to time in accordance with clause 18.

**Contract:** (1) The Subscription Agreement: Summary Sheet; and (2) these Standard Terms and Conditions: Subscription Services together with any schedule(s) hereto, jointly referred to as “the Contract”.

**Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.

**Client:** the person and/or entity identified in The Subscription Agreement: Summary Sheet under “*Client: (“the Client”)*” together with their successors in title and assignees.

**Client Default:** has the meaning set out in clause 5.2.

**Data Controller:** has the meaning set out in section 1(1) of the Data Protection Act 2018.

**Data Protection Legislation:** the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by

the relevant data protection or supervisory authority and applicable to a party.

**Deliverables:** the deliverables identified in The Subscription Agreement: Summary Sheet under “*Specification of the Services (“the Services”)*”.

**General Data Protection Regulation:** means Regulation 2016/679 of the European Parliament and of the Council of the European Union 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, and any successor laws arising out of the withdrawal of a member state from the European Union.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Personal Data:** has the meaning given to it in Data Protection Legislation.

**Services:** the services, including the Deliverables, supplied by the Supplier to the Client as set out in The Subscription Agreement: Summary Sheet under “*Specification of the Services (“the Services”)*” pursuant to this Agreement.

**Subscription Fee:** the amount set out in the Subscription Agreement: Summary Sheet under “*Sums Due Under This Agreement: (“The Charges”)*” payable per month in advance on the day set out therein of each calendar month during the Term.

**Supplier:** the person and/or entity identified in The Subscription Agreement: Summary Sheet under “*Supplier: (“the Supplier”)*” including an their successors in title and assignees.

**Supervisory Authority:** has the meaning given to it in Data Protection Legislation (and in any case includes the UK Information Commissioner).

**Supplier Materials:** has the meaning set out in clause 5.1(h)

**Term:** a fixed term of 12 months from the Commencement Date, continuing thereafter on a periodic monthly basis until such time as terminated in accordance with the terms of this Agreement.

**UK Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

**1.2 Interpretation:**

- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (b) Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (c) A reference to **writing** or **written** does not include faxes.
- (d) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (e) Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 2. BACKGROUND:**
- 2.1** The Supplier covenants to provide the Services for the Term upon consideration of the Client covenanting to make payment of all of the sums due under this Agreement.
- 2.2** The Client covenants to pay to the Supplier the sums due under this Agreement upon consideration of the Supplier covenanting to provide the Services during the Term.
- 3. FORMATION AND DEEMED ACCEPTANCE**
- 3.1** The Services constitutes an offer by the Supplier to provide the Services in accordance with these Conditions.
- 3.2** The Services and/or this Agreement shall be deemed to be accepted by the Client on the date the Client signs the Subscription Agreement: Summary Sheet or from the date of any performance of any of the Services (whichever happens earlier) ("**the Commencement Date**").
- 3.3** Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues, proposals or brochures, 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 this Agreement or have any contractual force.
- 3.4** These Conditions apply to this Agreement to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 3.5** Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of seven Business Days from its date of issue.
- 4. SUPPLY OF SERVICES**
- 4.1** The Supplier shall provide the Services for and up to the number of hours set out in the Subscription Agreement: Summary Sheet under "*Specification of the Services ("the Services")*" per calendar month.
- 4.2** Any further work carried out and/or services provided beyond the hours set out in the Subscription Agreement: Summary Sheet under "*Specification of the Services ("the Services")*" will be charged in addition under the terms set out at clause 6 of this Agreement hereinbelow and will be recoverable as a debt from the Client under this Agreement.
- 4.3** Any unused remaining time at the end of any calendar month is not transferable or refundable and may not roll over to the next calendar month, unless expressly agreed in writing between the parties.
- 4.4** Any meetings, appointments and/or otherwise, organised between the parties that is/are cancelled or rescheduled by the Client without providing at least 48 hours' notice to the Supplier will be deducted in full from the hours available/remaining during that calendar month and/or will be charged extra under the terms set out at clause 6 of this Agreement hereinbelow and will be recoverable as a debt from the Client under this Agreement.
- 4.5** Any time used for preparation for meetings, appointments and/or otherwise in relation to the Services will be deducted from the hours available/remaining during that calendar month and/or will be charged extra under the terms set out at clause 6 of this Agreement hereinbelow and will be recoverable as a debt from the Client under this Agreement.
- 4.6** The Supplier shall only provide and the Client shall only entitled to receive the Services expressly set out in the Subscription Agreement: Summary Sheet under "*Specification of the Services ("the Services")*" and not to any other service(s) that the Supplier may provide from time to time.
- 4.7** The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Services, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 4.8** The Supplier reserves the right to amend the Services if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Client in any such event.
- 4.9** The Supplier warrants to the Client that the Services will be provided using reasonable care and skill.
- 4.10** Any work carried out by and/or services provided by the Supplier and/or its employees, agents, consultants and subcontractors other than that which is set out in The Subscription Agreement: Summary Sheet under "*Specification of the Services ("the Services")*" will be charged separately and will be recoverable as a debt from the Client under this Agreement.
- 5. CLIENT'S OBLIGATIONS**
- 5.1** The Client warrants that:
- (a) any information and/or instructions it provides to the Supplier is complete and accurate;
- (b) it will co-operate with the Supplier in all matters relating to the Services;
- (c) it will provide the Supplier, its employees, agents, consultants and subcontractors, with access to the

- Client's premises, office accommodation and other facilities as reasonably required by the Supplier;
- (d) it will 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 complete and accurate in all material respects;
- (e) it will prepare the Client's premises for the supply of the Services;
- (f) it will obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (g) it will comply with all applicable laws, including health and safety laws;
- (h) it will keep all materials, equipment, documents and other property of the Supplier ("**the Supplier Materials**") at the Client's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation;
- (i) comply with any additional obligations set out in the Subscription Agreement: Summary Sheet under "*Specification of the Services* ("**the Services**")";
- 5.2** If the Supplier's performance of any of its obligations under this Agreement is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation ("**the Client Default**"):
- (a) without limiting or affecting any other right or remedy available to it, the Supplier shall 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 in each case to the extent the Client Default prevents or delays the Supplier's performance of any of its obligations;
- (b) 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 this clause 5.2; and
- (c) 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.
- 6. CHARGES AND PAYMENT**
- 6.1** The Charges due under this Agreement are as follows:
- (a) the Subscription Fee; and
- (b) any other sum due under this Agreement.
- 6.2** The Charges are due and payable, whether demanded or not, as follows:
- (a) in advance of commencement of the Services or any preparatory steps thereof;
- (b) per month in advance on the day set out in the Subscription Agreement: Summary Sheet under "*Sums Due Under This Agreement* ("**The Charges**")" of each calendar month during the Term; and/or
- (c) in any event, upon written demand or invoice by the Supplier.
- 6.3** In any event, the Client shall, whether demanded or not, pay to the Supplier any sum due under this Agreement:
- (a) in full and in cleared funds to a bank account nominated in writing by the Supplier within 30 days of that sum falling due or being demanded, and
- (b) within 30 days of the date of any invoice or in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Client; and
- time for payment shall be of the essence of this Agreement.
- 6.4** All amounts payable by the Client under this Agreement are exclusive of amounts in respect of Value Added Tax chargeable from time to time ("**VAT**"). Where any taxable supply for VAT purposes is made under this Agreement by the Supplier to the Client, the Client shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 6.5** If the Client fails to make a payment due to the Supplier under this Agreement by the due date, then, without limiting the Supplier's remedies under clause 10, the Client shall pay a fixed late fee of £100 on every overdue sum.
- 6.6** If the Client fails to make any payment due to the Supplier under this Agreement by the due date, then, the Supplier shall have the right to, without limiting the Supplier's remedies under this Agreement:
- (a) suspend performance of the Services until payment of the overdue sum;
- (b) recover any sums due as a debt under this Agreement; and
- (c) to rely on the Client's non-payment to relieve it from the performance of any of its obligations under this Agreement.
- 6.7** All amounts due under this Agreement shall be paid in full by the Client without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 7. INTELLECTUAL PROPERTY RIGHTS**
- 7.1** All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual

- Property Rights in any materials provided by the Client) shall be owned by the Supplier.
- 7.2** The Supplier grants to the Client a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of this Agreement to copy the Deliverables (excluding materials provided by the Client) for the purpose of receiving and using the Services and the Deliverables in its business.
- 7.3** The Client shall not sub-license, assign or otherwise transfer the rights granted in clause 7.2.
- 7.4** The Client grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Client to the Supplier for the term of this Agreement for the purpose of providing the Services to the Client.
- 8. DATA PROTECTION**
- 8.1** Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 8 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this Clause 8, **Applicable Laws** means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK.
- 8.2** The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the controller and the Supplier is the processor. Where the Supplier is, for the purposes of the Data Protection Legislation, the controller then the EU model clauses set out in Schedule 1 shall apply.
- 8.3** With effect from the Commencement Date, and notwithstanding anything to the contrary in this Agreement, the parties hereby agree that any cross border transfers of Personal Data shall take place in accordance with this Agreement, and shall be made in accordance with, the EU model clauses set out in Schedule 1.
- 8.4** Without prejudice to the generality of clause 8.1, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of this Agreement.
- 8.5** The Client consents to the Supplier appointing a third party processor of personal data under this Agreement. The Supplier confirms that it has entered or (as the case may be) will enter with the third party processor into a written agreement substantially on that third party's standard terms of business as between the Client and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third party processor appointed by it pursuant to this clause 8.
- 8.6** Either party may, at any time on not less than 30 days' notice, revise this clause 8 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Agreement) and where there is conflict between this clause 8 and any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme, then those standard clauses or similar terms shall take priority.
- 9. LIMITATION OF LIABILITY: THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**
- 9.1** The Supplier has obtained insurance cover in respect of its own legal liability for individual claims.
- 9.2** The Client is responsible for making its own arrangements for the insurance of any excess loss.
- 9.3** The restrictions on liability in this Clause 9 apply to every liability arising under or in connection with this Agreement and/or the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 9.4** Nothing in this Agreement limits any liability which cannot legally be limited, including liability for:
- (a) death or personal injury caused by negligence;
  - (b) fraud or fraudulent misrepresentation; or
  - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 9.5** Subject to clause 9.4, the Supplier's total liability to the Client shall be equal to the amount set out in The Subscription Agreement: Summary Sheet under "*Sums Due Under This Agreement: ("The Charges")*".
- 9.6** This clause 9.6 sets out specific heads of excluded loss:
- (a) Subject to Clause 9.3, the types of loss listed in Clause 9.6(b) are wholly excluded by the parties.
  - (b) The following types of loss are wholly excluded:
    - (i) loss of profits;
    - (ii) loss of sales or business;
    - (iii) loss of agreements or contracts;
    - (iv) loss of anticipated savings;
    - (v) loss of use or corruption of software, data or information;
    - (vi) loss of or damage to goodwill; and
    - (vii) Indirect or consequential loss.
- 9.7** The Supplier has given commitments as to compliance of the Services with relevant specifications in clause 4. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.
- 9.8** Unless the Client notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Client became, or ought reasonably to have become, aware of the event having occurred and shall expire 3 months from that date. The notice must be in

- writing and must identify the event and the grounds for the claim in reasonable detail.
- 9.9** This clause 9 shall survive termination of this Agreement and/or the Contract.
- 10. TERMINATION & CANCELLATION FEE**
- 10.1** The Client may only terminate this Agreement:
- (a) after expiration of 24 months from the Commencement Date; and
  - (b) upon giving 6 months' notice in writing to the Supplier; and
  - (c) upon making payment in cleared funds of the cancellation fee, which shall be calculated as 25% of the full sum due under the first 24 months of the Term without discount or deduction; and
  - (d) only if at the date the notice is served all sums due under this Agreement have been paid in cleared funds to the Supplier.
- 10.2** If at any time the Client terminates this Agreement whether in accordance with clause 10.1 or otherwise then:
- (a) any sums already paid by the Client to the Supplier as at the date of termination shall be retained by the Supplier without any right to refund; and
  - (b) the cancellation fee as defined in the hereinabove shall become payable by the Client to the Supplier within 7 days of the date of termination and/or on demand.
- 10.3** Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Client, if the Client:
- (a) commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 21 days of that party being notified in writing to do so;
  - (b) takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up or made bankrupt (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a winding-up and/or bankruptcy petition issued against it, having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - (c) suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
  - (d) the Client's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 10.4** Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under the Contract on the due date for payment; or there is a change of Control of the Client.
- 10.5** Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services under the Contract or any other contract between the Client and the Supplier if the Client fails to pay any amount due under the Contract on the due date for payment, the Client becomes subject to any of the events listed in clause 10.3(b) to clause 10.3(d) or the Supplier reasonably believes that the Client is about to become subject to any of them.
- 10.6** The Supplier will not at any time offer any refunds on any payment if work on a project or service has begun or has been completed, this work includes any research or planning.
- 10.7** Time incurred on the Supplier's part will be deducted from any sums due to the Client (based on our hourly rate of £190 per hour); this includes time spent on communication such as emails, phone calls and/or meetings
- 11. CONSEQUENCES OF TERMINATION**
- 11.1** On termination of this Agreement:
- (a) the Client shall immediately pay to the Supplier all sums due under this Agreement, together with 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;
  - (b) the Client shall return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Client fails to do so, then the Supplier may enter the Client's premises and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Agreement.
- 11.2** Termination of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.
- 11.3** Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.
- 12. INDEMNITY & COSTS**
- 12.1** The Client shall pay the costs and expenses of the Supplier including any solicitors' or other professionals' costs and expenses (incurred both during and after the end of this Agreement) in connection with or in contemplation of any of the following:
- (a) the enforcement of any of the Client's obligations under this Agreement;
  - (b) the recovery of any loss damage or debt caused and/or arising from any breach and/or non-

performance of the Client's obligations under this Agreement;

**12.2** Where the Client is obliged to pay or indemnify the Supplier against any solicitors' or other professionals' costs and expenses (whether under this or any other clause of this Agreement) that obligation extends to those costs and expenses assessed on a full indemnity basis.

**12.3** The Client shall keep the Supplier indemnified against all liabilities, expenses, costs (including but not limited to any solicitors' or other professionals' costs and expenses), claims, damages and losses suffered or incurred by the Supplier arising out of or in connection with any breach of any Client's obligations under this Agreement, or any act or omission of the Client, or their respective workers, contractors or agents.

### **13. JOINT AND SEVERAL LIABILITY**

**13.1** Where the Client comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Client arising under this Agreement. The Supplier may take action against, or release or compromise the liability of, or grant time or other indulgence to, any one of those persons without affecting the liability of any other of them.

**13.2** The Supplier shall not be liable to the Client for any failure of the Supplier to perform any of its obligations under this Agreement, unless and until the Client has given the Supplier notice of the failure and the Supplier has not remedied the failure within a reasonable time of service of that notice.

### **14. FORCE MAJEURE**

Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control.

### **15. ASSIGNMENT AND OTHER DEALINGS**

**15.1** The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement.

**15.2** The Client shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement without the prior written consent of the Supplier.

### **16. CONFIDENTIALITY**

(a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, Clients, clients or suppliers of the other party, except as permitted by clause 16(b).

(b) Each party may disclose the other party's confidential information:

(i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations

under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 16; and

(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

(c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

### **17. ENTIRE AGREEMENT**

**17.1** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

**17.2** Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

**17.3** Nothing in this clause shall limit or exclude any liability for fraud.

### **18. VARIATION**

**18.1** It is agreed between the parties that the Supplier may at any time vary and/or update these Conditions from time to time, subject to providing notice of such updates to the Client which need not be in writing.

**18.2** Where the Supplier has provided notice under clause 18.1 and the Client continues to instruct and/or receive the Services from the Supplier, then the Client shall be deemed to have accepted any variation and/or update of these Conditions in consideration of the continued benefits and/or services received by the Client under this Agreement.

### **19. WAIVER**

**19.1** A waiver of any right or remedy of the Supplier under this Agreement or by law is only effective if given in writing by the Supplier and shall not be deemed a waiver of any subsequent right or default.

**19.2** A failure or delay by the Supplier to exercise any right or remedy provided under or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy.

**19.3** No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.



## **20. SEVERANCE**

**20.1** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

## **21. NOTICES**

**21.1** Any notice or other communication given to a party under or in connection with this Agreement shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

**21.2** Any notice or other communication shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; or
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

## **22. THIRD PARTY RIGHTS**

**22.1** Unless it expressly states otherwise, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

**22.2** The rights of the parties to rescind or vary this Agreement are not subject to the consent of any other person.

## **23. GOVERNING LAW**

**23.1** This Agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall exclusively be governed by, and construed in accordance with the law of England and Wales.

## **24. JURISDICTION**

**24.1** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

## **25. SET OFF**

**25.1** All sums due to the Supplier under this Agreement shall be paid by the Client in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## **26. TIMEFRAMES AND DEADLINES**

**26.1** All timelines provided by the Supplier to the Client regarding any projects or the Services is subject to change and not guaranteed.

**26.2** In most cases the Supplier will communicate any change to the timeframe to the Client with an explanation for the change.

**26.3** The Supplier is not responsible for missing any project deadline if the Client has:

- (a) Not provided the required resources/access to the Supplier;
- (b) Failed to respond within reasonable time (2-3 days)
- (c) Not made a payment due under this Agreement on time.



## SCHEDULE I

### DATA PROCESSING

#### STANDARD TERMS AND CONDITIONS: SUBSCRIPTION SERVICES

##### **PARTIES:**

- (1) the Supplier as defined hereinabove in the Standard Terms And Conditions: Subscription Services ("**the Processor**"); and
- (2) the Client as defined hereinabove in the Standard Terms And Conditions: Subscription Services ("**the Controller**"), together referred to as the ("**the Parties**")

##### **HEREBY AGREE THAT:**

- A) This Agreement is supplemental to any other separate agreement entered into between the parties and introduces further contractual provisions to ensure the Controller and the Processor comply with their respective obligations under the GDPR in respect of the Data Processing.
- B) Recital 81 and Article 28 of the GDPR place certain obligations upon a Controller to ensure that the Processor it engages under the terms of this Agreement provides sufficient guarantees in terms of: i) expert knowledge, ii) reliability and resources, iii) ability to implement technical and organisational measures which will meet the requirements of the GDPR including for the security of processing
- C) The Controller must also take into account the specific tasks and responsibilities of the Processor under this Agreement in the context of the processing to be carried out and the risks to the rights and freedoms of the data subject
- D) This Agreement exists to ensure that there are sufficient guarantees in place as required by the GDPR and that the processing complies with the obligations imposed on both the Controller and the Processor under the GDPR.

##### **1. DEFINITIONS:**

- "Data":** shall mean all relevant data to which the General Data Protection Regulation (EU) 2016/679 of the European Parliament and the Council applies which is exchanged between the Parties that is reasonably required to deliver the Services as defined hereinabove in the Standard Terms And Conditions: Subscription Services
- "Data Subject":** shall have the same meaning as set out in Article 4 (1) of the GDPR and means an identified or identifiable natural person
- "EEA":** means the European Economic Area – the 28 Member states of the European Union plus Iceland, Lichtenstein and Norway

**"GDPR":** means the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and the Council

**"INCIDENT":** has the same meaning as a personal data breach in Article 4 (12) of the GDPR and means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Data, transmitted, stored or otherwise processed under the terms of this Agreement

**"PROCESSING":** shall mean any operation or set of operations which is/are performed upon Data , (whether or not by automatic means) including collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction. Such processing may be wholly or partly by automatic means or processing otherwise than by automatic means of Data which form part of a filing system or one intended to form part of a filing system. A filing system shall mean any structured set of Data which are accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographic basis."

##### **2. APPLICATION**

This Agreement shall apply to all Data processed from the date of this Agreement by the Processor on behalf of the Controller until the date of termination of this Agreement.

##### **3. PURPOSE OF PROCESSING**

- a) The Processor shall process the Data it processes on behalf of the Controller, solely for the provision and delivery of the Services as defined hereinabove in the Standard Terms And Conditions: Subscription Services in accordance with the written instructions of the Controller (including when making a transfer of personal data to countries outside the EEA) unless required to do by law. The Processor must inform the Controller of what processing the Processor is required to do so by law unless the Processor is prohibited under the relevant law from notifying the Controller of such processing. The Processor shall not process the Data for any other purpose except with the express written consent of the Controller.
- b) The Controller confirms and warrants that the Processing of the Data, including the transfer of the Data to the Processor, has been and will continue to be carried out in accordance with the relevant provisions of the GDPR and does not violate the relevant provisions of the EEA country in which the Controller is established.

#### 4. DURATION OF PROCESSING

- a) The Processor shall process the Data for the duration of the Term and/or for as long as the Standard Terms And Conditions: Subscription Services remains in full force and effect.

#### 5. TYPE OF PERSONAL DATA

The Processor will process any and/or all of the following types of personal information:

- personal details
- family details
- lifestyle and social circumstances
- goods and services
- financial details
- employment and education details
- details of complaints, incidents and grievances
- visual images, personal appearance and behaviour
- responses to surveys
- behavioural data
- profile data
- social media data
- tracking data from web activity
- any other type of personal information reasonably required to deliver the Services as defined hereinabove in the Standard Terms And Conditions: Subscription Services

#### 6. CATEGORIES OF DATA SUBJECTS

The Processor will process information about any and/or all the following categories of data subjects:

- customers
- prospective customers
- witnesses
- employees
- students
- suppliers
- complainants or their representatives
- subject of a complaint or their representatives
- individuals contacted when responding to a complaint or enquiry
- service providers
- lobbyists
- offenders and suspected offenders
- applicants for a licence or registration
- authors publishers and other creators,
- individuals captured by CCTV images
- consultants and advisers
- survey respondents
- journalists and the media
- any other data subject reasonably required to deliver the Services as defined hereinabove in the Standard Terms And Conditions: Subscription Services

#### 7. SECURITY AND CONFIDENTIALITY OF DATA

- a) The Processor and the Controller shall implement appropriate technical and organisational measures to ensure a level appropriate to the risks that are presented by the data processing in particular from

accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal transmitted, stored or otherwise processed.

- b) Both the Controller and Processor shall take into account the following when determining the measures:

- i) the state of the art, and
- ii) the cost of implementation of the measures, and
- iii) the nature, scope context and purposes of processing, and
- iv) the risk of varying likelihood and severity for the rights and freedoms of individual Data Subjects

- c) The Controller and Processor agree that the measures security measures taken in accordance with Clause 6 (a) of this Agreement after assessment with the requirements of the GDPR are appropriate to protect Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the Processing involves the transmission of Data over a network, and against all other unlawful forms of Processing, and that these measures ensure a level of security appropriate to the risks presented by the Processing and the nature of the Data to be protected having regard to the state of the art and the cost of their implementation; shall ensure a level of security appropriate to the risk.

- d) The measures taken shall include amongst others the following items, where appropriate, from the non- exhaustive list below:

- i) the pseudonymisation and encryption of Data
- ii) the ability to ensure the ongoing confidentiality, integrity and availability and resilience of processing systems and services
- iii) the ability to restore the availability and access to Data in a timely manner in the event of a physical or technical Incident
- iv) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.

- e) The Controller and the Processor may use adherence to an approved code of conduct as referred to by Article 40 of the GDPR or an approved certification mechanism as referred to in Article 42 as an element by which to demonstrate compliance with the requirements set out above in clause 6 ) (b) (c) and (d) of this Agreement

- f) The Processor shall ensure that each of its employees, agents or subcontractors are made aware of its obligations with regard to the security and protection of the Data and shall require that they enter into binding obligations with the Processor in order to maintain the levels of security, protection and confidentiality provided for in this Agreement.
- g) The Processor shall not divulge the Data whether directly or indirectly to any person, firm or company without the express consent of the Controller except to those of its employees, agents and subcontractors who are engaged in the processing of the Data and are subject to the binding obligations referred to in Clause 6 (e) of this Agreement above).

## 8. INCIDENT REPORTING

- a) The Processor must have effective processes for the identification, management and reporting of Incidents. Any Incident, suspected or actual, involving the Controller's Data must be reported immediately to the Controller. An Incident may include but not be limited to:
- Security breach or fraud
  - Misuse of relevant system storing Controller's Data
  - Misuse, loss or corruption of the Controller's Data
  - Unauthorised access to, use of, alteration, amendment or deletion of Controller's Data
  - Physical security incident
  - Any unapproved requirement to disclose Controller's Data to a third party
- b) The Processor will be expected to promptly investigate any such Incident, provide status updates throughout the Incident, where appropriate cooperate with reasonable Controller requests during the management of the Incident or permit the Controller to support the management of the Incident, and send a written report to the Controller, describing the nature of the Incident, stating any control weaknesses discovered, and any actions taken/planned. A plan to agree any reasonable additional controls, either identified by the Processor or the Controller, to prevent or reduce the likelihood of a similar Incident must be agreed and monitored.
- c) The Processor will assist the Controller in informing Data Subjects if there has been an Incident involving the Processor.
- d) The Processor will assist the Controller in informing any relevant supervisory authority of an Incident.

## 9. PROCESSOR'S APPOINTMENT OF A SUB – PROCESSOR

- a) The Processor will not engage a sub processor to process the Controller's Data, without the prior specific or general or written authorisation of the Controller.
- b) If the Processor employs a sub – processor under the Controller's prior general written authorisation the Processor will inform the Controller in writing of any intended additions to or replacement of sub- processor(s) the Processor uses to carry out processing of the Controller's personal data at least 3 days before the date of any intended additions or changes to the sub processors.
- c) If the Controller objects to any such additions to or replacement the Controller shall inform the Processor within 3 days of receiving the notice in Clause 8 (b) of this Agreement. Upon receipt of such a notice of objection the Processor shall not make the intended addition or replacement of [a] sub – processor(s).
- d) The Processor, upon receipt of a notice under Clause 8 (c) of this Agreement above may choose another sub – processor(s) it wishes to add to or act as a replacement to the existing sub-processor(s) it uses to carry out the processing. The Processor will then inform the Controller in accordance with clause 8(b) of this Agreement and the Controller will have the right to object in accordance with clause 8 (c) of this Agreement.
- e) The Processor shall ensure by written contract that any agent or sub-processor employed by the Processor to process Data to which this Agreement relates:
- i) imposes the same contract terms as listed in Clause 6 – Security and Confidentiality of Data and Clause 7 Incident reporting of this Agreement on any agent or sub-processor
  - ii) makes it clear that the Processor and not any agent or sub-processor will be liable to the Controller for the compliance of the agent or sub-processor with data protection law
- f) The Processor will immediately inform the Controller of any Incident involving any of its' permitted sub-contractors or sub-processors in accordance with Clause 7 Incident reporting of this Agreement.
- g) The Processor will assist the Controller in informing Data Subjects if there has been an Incident involving any of its' permitted sub-contractors or sub-processors in accordance with Clause 7 Incident reporting of this Agreement.

- h) The Processor will assist the Controller in informing any relevant supervisory authority of an Incident.

#### **10. DATA SUBJECTS RIGHTS**

- a) The Processor shall have appropriate technical and organisational means taking account of the nature of the Processing in so far as this is possible for the fulfilment of the Controller's obligation to respond to requests for exercising the following Data Subject's rights :
  - i) information rights under Articles 13 and 14 of the GDPR
  - ii) right of access by the Data Subject under Article 15 of the GDPR
  - iii) right to rectification under Article 16 of the GDPR
  - iv) right to erasure under Article 17 of the GDPR
  - v) right to restriction of processing under Article 18 of the GDPR
  - vi) notification regarding the right of rectification and/or erasure of personal data and/or restriction of processing under Article 19 of the GDPR
  - vii) right to data portability under Article 20 of the GDPR

#### **11. ASSISTING THE CONTROLLER**

- a) The Processor will assist the Controller, taking into account the nature of the Processing and the information available to the Processor, to meet the Controller's obligations:
  - i) to keep Data secure in accordance with Article 32 of the GDPR
  - ii) to notify Incidents in accordance with Article 33 of the GDPR
  - iii) to advise Data Subjects when there has been an Incident in accordance with Article 34 of the GDPR
  - iv) to carry out data protection impact assessments (DPIAs) in accordance with Article 35 GDPR
  - v) to consult with the Controller's supervisory authority where a DPIA indicates there is an unmitigated high risk in accordance with Article 36 of the GDPR
- b) The Processor will immediately pass on any notices, requests or other communications from a

Data Subject. The Processor will not act on any request from a Data Subject, without the full written authority of the Controller.

- c) If a privacy impact assessment indicates that there is an unmitigated high risk to the rights and freedoms of the Data Subject, the Processor will assist the Controller in consulting with the relevant supervisory authority or authorities.

#### **12. INSPECTIONS AND LEGAL PROCESSING**

- a) The Processor must provide the Controller with all the information that is needed to show that both the Processor and the Controller have met their obligations under Article 28 of the GDPR.
- b) The Processor must submit and contribute to audits and inspections conducted by the Controller or another auditor mandated by the Controller.

#### **13. PROCESSOR'S RESPONSIBILITIES AND LIABILITIES UNDER THE GDPR**

- a) The Processor is aware that it may be subject to enforcement action by any relevant data protection supervisory authority to which the Controller is subject under Article 58 (Powers of the supervisory authority) of the GDPR.
- b) The Processor is aware that if it fails to meet its obligations as set out in this Agreement and under Article 83 (General conditions for imposing administrative fines) of the GDPR, it may be subject to an administrative fine.
- c) The Processor is aware that if it fails to meet its obligations under GDPR, it may be subject to a penalty under Article 84 (Penalties) of the GDPR.
- d) The Processor is aware that if it fails to meet its obligations under GDPR, it may have to pay compensation to individual Data Subjects under Article 82 (right to compensation and liability) of the GDPR.
- e) The Processor will appoint a data protection officer, if required in accordance with Article 37 (designation of the data protection officer) of the GDPR.
- f) The Processor will appoint (in writing) a representative within the European Union if required because it is not established in the European Union and the provisions of Article 3 (2) apply in accordance with Article 27 (representatives of controllers or processors not established in the Union) of the GDPR .

#### **14. JURISDICTION**

This Agreement shall be governed by and construed in accordance with the law of England and Wales and the parties shall submit to the exclusive jurisdiction of the Courts of England and Wales.