

Data Processor Contract Addendum

between

- (1) [Insert Name of **Customer**] (the Customer, hereinafter referred to as “**Data Controller**”)

and

- (2) [Insert Name of **Supplier**] (the Supplier, hereinafter referred to as “**Data Processor**”).

WHEREAS the Data Controller processes Personal Data in connection with its business activities; and whereas the Data Controller has engaged the services of the Data Processor to process Personal Data on its behalf, the parties do hereby agree as follows:-

1. Definitions

- 1.1 The terms “**process/processing**”, “**data subject**”, “**Data Processor**”, “**Data Controller**”, “**personal data**”, “**personal data breach**”, and “**data protection impact assessment**” shall have the same meaning as described in Data Protection Laws;
- 1.2 “**Addendum**” means this Data Processor Contract Addendum;
- 1.3 “**Authorised Sub-Data Processors**” means (a) those Sub-Processors (if any) set out in Schedule 2 (*Authorised Sub-Processors*); and (b) any additional Sub-Processors consented to in writing by the Data Controller in accordance with section 5.1;
- 1.4 “**Data Protection Laws**” means, in relation to any Personal Data which is Processed in the performance of the Main Agreement, the UK General Data Protection Regulation (“UK GDPR”); the UK Data Protection Act 2018; the EU Directive 2002/58/EC on privacy and electronic communications, as transposed into UK legislation; and any applicable decisions, guidelines, guidance notes and codes of practice issued from time to time by courts, the Information Commissioner’s Office and other applicable UK government departments; in each case together with all laws implementing, replacing, amending or supplementing the same and any other applicable data protection or privacy laws;
- 1.6 “**Personal Data**” means the data described in Schedule 1 (*Details of Processing of Personal Data*) and any other personal data processed by the Data Processor on behalf of the Data Controller pursuant to or in connection with the Main Agreement;
- 1.7 “**Main Agreement**” means the services agreement into which this Addendum is incorporated;

- 1.8 **“Services”** means the services described in the Main Agreement;
- 1.9 **“Standard Contractual Clauses”** means the standard contractual clauses for the transfer of personal data to Data Processors established in third countries, as approved by the European Commission in Decision 2010/87/EU, or any set of clauses approved by the European Commission which amends, replaces or supersedes these;
- 1.10 **“Sub-Processor”** means any Data Processor (including any affiliate of the Data Processor) appointed by the Data Processor to process personal data on behalf of the Data Controller;
- 1.11 **“Supervisory Authority”** means (a) the UK Information Commissioner’s Office pursuant to Article 51 of the UK GDPR; and (b) any similar regulatory authority responsible for the enforcement of Data Protection Laws;
- 1.12 **“Customer”** means the Customer under the Main Agreement.
- 1.13 **“Supplier”** means the Supplier under the Main Agreement.

2. Processing of Personal Data

- 2.1 The parties agree that the Customer is a Data Controller and that the Supplier is a Data Processor for the purposes of processing Personal Data.
- 2.2 Each party shall at all times in relation to processing connected with the Main Agreement comply with Data Protection Laws.
- 2.3 The Data Processor shall only process the types of Personal Data relating to the categories of data subjects for the purposes of the Main Agreement and for the specific purposes in each case as set out in Schedule 1 (Details of Processing of Personal Data) to this Addendum and shall not process, transfer, modify, amend or alter the Personal Data or disclose or permit the disclosure of the Personal Data to any third party other than in accordance with the Data Controller’s documented instructions (whether in the Main Agreement or otherwise) unless processing is required by applicable law to which the Data Processor is subject, in which case the Data Processor shall, to the extent permitted by such law, inform the Data Controller of that legal requirement before processing that Personal Data.
- 2.4 The Data Processor shall immediately inform the Data Controller, if in its opinion, an instruction pursuant to the Main Agreement or this Addendum infringes Data Protection Laws.
- 2.5 The Data Controller warrants to and undertakes with the Data Processor that all data subjects of the Personal Data have been or will be provided with appropriate privacy notices and information to establish and maintain for the relevant term the necessary legal grounds under Data Protection Laws for transferring the Personal Data to the Data Processor to enable the Data Processor to process the Personal Data in accordance with this Addendum and the Main Agreement.

3. Data Processor Personnel

- 3.1 The Data Processor shall treat all Personal Data as strictly confidential and shall inform all its employees, agents, contractors and/or Authorised Sub- Processors engaged in processing the Personal Data of the confidential nature of such Personal Data.

- 3.2 The Data Processor shall take reasonable steps to ensure the reliability of any employee, agent, contractor and/or Authorised Sub- Processor who may have access to the Personal Data, ensuring in each case that access is limited to those persons or parties who need to access the relevant Personal Data, as necessary for the purposes set out in section 2.1 above in the context of that person's or party's duties to the Data Processor.
- 3.3 The Data Processor shall ensure that all such persons or parties involved in the processing of Personal Data are subject to:
- 3.3.1 confidentiality undertakings or are under an appropriate statutory obligation of confidentiality; and
 - 3.3.2 user authentication processes when accessing the Personal Data.

4. Security

The Data Processor shall implement appropriate technical and organisational measures to ensure a level of security of the Personal Data appropriate to the risks that are presented by the processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise processed.

5. Sub-processing

- 5.1 Subject to section 5.4, the Data Processor shall not engage any Sub- Processor to process Personal Data other than with the prior specific or general written authorisation of the Data Controller.
- 5.2 In the case of general written authorisation, the Data Processor shall inform the Data Controller of any intended changes concerning the addition or replacement of other Data Processors (Sub-Processors), thereby giving the Data Controller the opportunity to object to such changes.
- 5.3 With respect to each Sub- Processor, the Data Processor shall:
- 5.3.1 carry out adequate due diligence on each Sub- Processor to ensure that it is capable of providing the level of protection for the Personal Data as is required by this Addendum including without limitation, sufficient guarantees to implement appropriate technical and organisational measures in such a manner that Processing will meet the requirements of Data Protection Laws and this Addendum;
 - 5.3.2 include terms in the contract between the Data Processor and each Sub- Processor which are the same as those set out in this Addendum, and shall supervise compliance thereof;
 - 5.3.3 insofar as that contract involves the transfer of Personal Data outside of the UK, incorporate the Standard Contractual Clauses or such other mechanism as directed by the Data Controller into the contract between the Data Processor and each Sub- Processor to ensure the adequate protection of the transferred Personal Data, or such other arrangement as the Data Controller may approve, as providing an adequate protection in respect of the processing of Personal Data in such third country(ies); and

- 5.3.4 remain fully liable to the Data Controller for any failure by each Sub-Processor to fulfil its obligations in relation to the Processing of any Personal Data.
- 5.4 As at the date of the Main Agreement or (if later) implementation of this Addendum, the Data Controller hereby authorises the Data Processor to engage those Sub-Processors set out in Schedule 2 (*Authorised Sub-Processors*).

6. Data Subject Rights

- 6.1 The Data Processor shall without undue delay, and in any case within two (2) working days, notify the Data Controller if it receives a request from a data subject under any Data Protection Laws in respect of Personal Data, including requests by a data subject to exercise rights in chapter 3 of the UK GDPR, and shall provide full details of that request.
- 6.2 The Data Processor shall co-operate as reasonably requested by the Data Controller to enable the Data Controller to comply with any exercise of rights by a data subject under any Data Protection Laws in respect of Personal Data and to comply with any assessment, enquiry, notice or investigation under any Data Protection Laws in respect of Personal Data or the Main Agreement, which shall include:
 - 6.2.1 the provision of all information reasonably requested by the Data Controller within any reasonable timescale specified by the Data Controller in each case, including full details and copies of the complaint, communication or request and any Personal Data it holds in relation to a data subject;
 - 6.2.2 where applicable, providing such assistance as is reasonably requested by the Data Controller to enable the Data Controller to comply with the relevant request within the timescales prescribed by Data Protection Laws; and
 - 6.2.3 implementing any additional technical and organisational measures as may be reasonably required by the Data Controller to allow the Data Controller to respond effectively to relevant complaints, communications or requests.

7. Personal Data Breach Management

- 7.1 In the case of a personal data breach, the Data Processor shall, without undue delay, notify the personal data breach to the Data Controller providing the Data Controller with sufficient information which allows the Data Controller to meet any obligations to report a personal data breach under Data Protection Laws. Such notification shall as a minimum:
 - 7.1.1 describe the nature of the personal data breach, the categories and numbers of data subjects concerned, and the categories and numbers of Personal Data records concerned;
 - 7.1.2 communicate the name and contact details of the Data Processor's data protection officer or other relevant contact from whom more information may be obtained;
 - 7.1.3 describe the likely consequences of the personal data breach; and
 - 7.1.4 describe the measures taken or proposed to be taken to address the data breach, including, where appropriate, measures to mitigate its possible adverse effects.

- 7.2 The Data Processor shall fully co-operate with the Data Controller and take such reasonable steps as are directed by the Data Controller to assist in the investigation, mitigation and remediation of each personal data breach, in order to enable the Data Controller to:
- (i) perform a thorough investigation into the personal data breach; and
 - (ii) formulate a correct response and to take suitable further steps in respect of the personal data breach in order to meet any requirement under Data Protection Laws.
- 7.3 The parties agree to coordinate and cooperate in good faith on developing the content of any related public statements or any required notices for the affected persons. The Data Processor shall not inform any third party without first obtaining the Data Controller's prior written consent, unless notification is required by law to which the Data Processor is subject, in which case the Data Processor shall, to the extent permitted by such law, inform the Data Controller of that legal requirement, provide a copy of the proposed notification and consider any comments made by the Data Controller before notifying the personal data breach.

8. Data Protection Impact Assessments and Consultation

The Data Processor shall, at the Data Controller's request, provide reasonable assistance to the Data Controller with any data protection impact assessments and any consultations with any Supervisory Authority of the Data Controller as may be required in relation to the processing of Personal Data by the Data Processor on behalf of the Data Controller.

9. Deletion or Return of Data Controller Personal Data

The Data Processor shall promptly and in any event within 90 (ninety) calendar days of the earlier of:

- (i) cessation of processing of Personal Data by the Data Processor; or
- (ii) termination of the Main Agreement, at the choice of the Data Controller either return all Personal Data to the Data Controller or securely dispose of Personal Data (and thereafter promptly delete all existing copies of it)

except to the extent that any applicable law requires the Data Processor to store such Personal Data.

10. Audit Rights

- 10.1 The Data Processor shall make available to the Data Controller on request all information necessary to demonstrate compliance with this Addendum and Data Protection Laws and allow for and contribute to audits, including inspections by the Data Controller or another auditor mandated by the Data Controller of any premises where the processing of Personal Data takes place.
- 10.2 The Data Processor shall permit the Data Controller or another auditor mandated by the Data Controller during normal working hours and on reasonable prior notice to inspect, audit and copy any relevant records, processes and systems in order that the Data Controller may satisfy itself that the provisions of Data Protection Laws and this Addendum are being complied with.

- 10.3 The Data Processor shall provide full co-operation to the Data Controller in respect of any such audit and shall at the request of the Data Controller, provide the Data Controller with evidence of compliance with its obligations under this Addendum and Data Protection Laws.

11. International Transfers of Data Controller Personal Data

- 11.1 The Data Processor shall not (permanently or temporarily) process the Personal Data nor permit any Authorised Sub- Processor to (permanently or temporarily) process the Personal Data in a country outside of the UK without an adequate level of protection, other than in respect of those recipients in such countries listed in Schedule 3 (*Authorised Transfers of Personal Data*), unless authorised in writing by the Data Controller in advance.
- 11.2 When requested by the Data Controller, the Data Processor shall promptly enter into (or procure that any relevant Sub- Processor of the Data Processor enters into) an agreement with the Data Controller on Standard Contractual Clauses and/or such variation as Data Protection Laws might require, in respect of any processing of Personal Data in a country outside of the UK without an adequate level of protection.

12. Liability

The disclaimers and limitations of liability set out under the Main Agreement shall apply also to this Addendum.

13. Miscellaneous

- 13.1 Any obligation imposed on the Data Processor under this Addendum in relation to the processing of Personal Data shall survive any termination or expiration of the Main Agreement.
- 13.2 With regard to the subject matter of this Addendum, in the event of any conflict or inconsistency between any provision of the Main Agreement and any provision of this Addendum, the provision of this Addendum shall prevail. In the event of any conflict or inconsistency between the Main Agreement or this Addendum and an International Data Transfer Agreement or an International Data Transfer Addendum and Standard Contractual Clauses, the latter shall prevail.

14. Signatories

This Agreement is signed on behalf of each of the parties by its duly authorised representative as follows:-

Data Controller

SIGNATURE

NAME

POSITION

DATE

Data Processor

_____	_____
SIGNATURE	NAME
_____	_____
POSITION	DATE

SCHEDULE 1: Details of Processing of Personal Data

This Schedule 1 includes certain details of the processing of Personal Data as required by Article 28(3) of the UK GDPR.

Subject matter and duration of the processing of Personal Data
<i>[ENTER DETAILS]</i>
The nature and purpose of the processing of Personal Data
<i>[ENTER DETAILS]</i>
The types of Personal Data to be processed
<i>[ENTER DETAILS]</i>
The categories of data subject to whom the Personal Data relates
<i>[ENTER DETAILS]</i>

SCHEDULE 2: Authorised Sub- Processors

[ENTER DETAILS]

SCHEDULE 3: Authorised transfers of Data Controller personal data

[ENTER DETAILS]