****

**DATA PROCESSING ADDENDUM**

This Amendment Agreement is made on [XX Month Year]

**BETWEEN**

1. [Add name and address] hereby referred to as the Controller.
2. [Add name and address] hereby referred to as the Processor.

(hereinafter referred to as the “Parties”)

**BACKGROUND**:

1. The Controller processes Personal Data in connection with its business activities;
2. The Processor processes Personal Data on behalf of other businesses or organisations;
3. The Controller wishes to engage the services of the Processor to process Personal Data on its behalf.

**IT IS AGREED AS FOLLOWS:**

1. **Definitions and Interpretation.**

**Agreement:** this Data Processing Agreement.

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

**Data Protection Authority:** the relevant data protection authority is the Information Commissioners Office (ICO)

**Data Protection Legislation**: means the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and from 25th May 2018 the GDPR and any legislation implemented in connection with the General Data Protection Regulation and any replacement legislation coming into effect from time to time.

**Data Security Breach**: a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Shared Personal Data.

**GDPR:** means the General Data Protection Regulation.

**Parties**: means [Add names]

* 1. **SCOPE**
  2. The purpose of this Data Processing Agreement is to describe the work to be carried out by the Processor in relation with the Agreement. This Data Processing Agreement forms an integral part of the Agreement hereof. This Data Processing Agreement shall be deemed to take effect from the effective date and shall continue in full force and effect until termination of the Agreement.

1. **DATA PROTECTION**

3.1[Add Controller Name] is the data controller for the Personal Data and [Add Controller Name] is the Data Processor for the Personal Data. The Data Processor agrees to process the Personal Data only in accordance with Data Protection Legislation.

* 1. The Parties acknowledge that the Processor may process Personal Data on behalf of the Controller during the term of this Agreement. A description of the Personal Data and the processing activities undertaken by the Processor is set out in Appendix 1.
  2. To the extent that the Processor processes Personal Data on behalf of the Controller in connection with this Agreement, the Processor shall:
     1. Solely process the Personal Data for the purposes of fulfilling its obligations under this Agreement and in compliance with the Controller’s written instructions as set out in this Agreement and as may be specified from time to time in writing by the Controller;
     2. Notify the Controller immediately if any instructions of the Controller relating to the processing of Personal Data are unlawful;
     3. Ensure that its sub-contractors shall not transfer to or access any Personal Data from a Country outside of the European Economic Area without the prior written consent of the Controller;
     4. Comply with the Controller’s instructions in relation to transfers of Personal Data to a Country outside of the European Economic Area unless the Processor is required pursuant to applicable laws to transfer Personal Data outside the European Economic Area, in which case the Processor shall inform the Controller in writing of the relevant legal requirement before any such transfer occurs, unless the relevant law prohibits such notification on important grounds of public interest;
     5. Ensure that any persons used by the Processor to process Personal Data are subject to legally binding obligations of confidentiality in relation to the Personal Data and shall ensure that only such persons used by it to provide the Services have undergone training in Data Protection and in the care and handling of Personal Data;
     6. Not engage with any Sub-Contractor to carry out any processing of Personal Data without the prior written consent of the Controller, provided that notwithstanding any such consent the Processor shall remain liable for compliance with all of the requirements of this Contract including in relation to the processing of Personal Data;
     7. Ensure that obligations equivalent to the obligations set out in this clause 2 are included in all contracts between the Processor and permitted sub-contractors who will be processing Personal Data;
     8. Take appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of or damage to Personal Data taking into account the harm that might result from such unauthorised or unlawful processing, loss, destruction or damage and the nature of the Personal Data to be protected including without limitation, all such measures that may be required to ensue compliance with Article 32 of the GDPR;
     9. Taking into account the nature of the data processing activities undertaken by the Processor, provide all possible assistance and co-operation (including without limitation putting in place appropriate technical and organisational measures) to enable the Controller to fulfil its obligations to respond to requests from individuals exercising their rights under the Data Protection Legislation;
     10. Maintain a record of its processing activities in accordance with Article 30(1) of the GDPR;
     11. Assist the Controller in ensuring compliance with the obligations set out in Articles 32 to 36 of the GDPR taking into account the nature of the data processing undertaken by the Processor and the information available to the Processor, including (without limitation):

1. Providing information and assistance upon request to enable the Controller to notify Data Security breaches to the Information Commissioner and / or to affected individuals and / or to any other regulators to whom the Controller is required to notify any data security breached; and
2. Providing input into and carrying out data protection impact assessments in relation to the Processors data processing activities;
   * 1. Upon termination of this Agreement, at the choice of the Controller, delete securely or return all Personal Data to the Controller and delete all existing copies of the Personal Data unless and to the extent that the Processor is required to retain copies of the Personal Data in accordance with applicable laws in which case the Processor shall notify the controller in writing of the applicable laws which require the Personal Data to be retained. In the event that the Personal Data is deleted or destroyed by the Processor, the Processor shall provide the Controller with a certificate of destruction evidencing that the Personal Data has been destroyed or deleted;
     2. make available to the Controller all information necessary to demonstrate compliance with the obligations set out in this clause 2 and allow for and contribute to audits, including inspections, conducted by or on behalf of the Controller or by the Information Commissioners Office (ICO) pursuant to Article 58(1) of the GDPR.
     3. Indemnify the Controller from and against all costs, expenses (including legal and other professional fees and expenses), losses, damages, and other liabilities of whatever nature (whether contractual, tortious or otherwise) suffered or incurred by the Controller and arising out of or in connection with any breach by the Processor or any sub-contractors of this clause 2.
   1. The Processor shall notify the Controller immediately by completing the Personal Data Breach Notification Form if:
      1. the Processor or any sub-contractor engaged by on behalf of the processor suffers a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data; or
      2. the Processor or any sub-contractor engaged by on behalf of the processor receives any data security breach notification, complaint, notice or communication which relates directly or indirectly to the processing of the Personal Data or to either party’s compliance with the Data Protection Legislation.

And in each case the Processor shall provide full co-operation, information and assistance to the Controller in relation to any such data security breach, compliance notice or communication.

* 1. Upon request the Processor shall allow the Controller the ICO and its representatives access to the Processors premises, records and personnel for the purposes of assessing the Processors compliance with its obligations under this clause 2.

1. **TERMINATION**
   1. The Controller may immediately terminate this Agreement on written notice to the Processor. The processor may not terminate this Agreement without the written consent of the Controller.

For and on behalf of [Add Company name]

……………………………………………………………………………………..

For and on behalf of [Add Company name]

…………………………………………………………………………………………..

**APPENDIX 1**

**DATA PROCESSING ACTIVITIES**

**DESCRIPTION OF DATA**

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

Please outline the Personal Data which will be processed under this Agreement, including the Personal Data to which the Controller has defined as is relevant to the processing. For example please see below.

Name

Date of Birth

Telephone Number

Email address

IP address

Product details

Precise location data

[Add additional types of data]

**CATEGORIES OF DATA SUBJECTS**

The Controller has defined the following Data Subject categories from who the Personal Data as defined above will be collected.

Employees

Customers

Suppliers