

THIS ADDENDUM is made on []

[] 2023

BETWEEN

1. **BIG LOTTERY FUND** (operating as **THE NATIONAL LOTTERY COMMUNITY FUND**), with its principal office at 1st Floor Peel Building, 2 Marsham Street, London, SW1P 4DF (the “**Fund**”); and
2. **[NAME OF ORGANISATION]**, a **[CLASSIFICATION OF COMPANY]** registered in **[COUNTRY]** with company number **[COMPANY NUMBER]**, whose address is **[ADDRESS]** (the “**Supplier**”)

BACKGROUND

- (A) The Fund and the Supplier entered into an agreement in relation to **[INSERT DESCRIPTION]** on **[DATE]** **OR** **[or around the date of this Addendum]** (the “**Existing Agreement**”).
- (B) The parties recognise that the Supplier Processes Personal Data as a Processor on behalf of the Fund as a result of or in connection with its performance of its obligations under the Existing Agreement, and that such Processing must be in accordance with the Data Protection Laws.
- (C) It is the intention of the parties to vary the Existing Agreement by incorporating the terms of this Addendum into that agreement.

The parties agree as follows:

1 DEFINITIONS AND INTERPRETATION

- 1.1 This Addendum is subject to the terms of the Existing Agreement and is incorporated into the Existing Agreement. Interpretations and defined terms set forth in the Existing Agreement apply to the interpretation of this Addendum.
- 1.2 In the event of any conflict between any term of the Existing Agreement and this Addendum, this Addendum shall take priority. References to “clauses” in this Addendum are to clauses of this Addendum.
- 1.3 The parties agree to comply with the terms of this Addendum in consideration of the payment by each party to the other of the sum of one pound sterling (£1), the receipt and sufficiency of which is acknowledged by each party.
- 1.4 The definitions clause of the Existing Agreement is amended to include the following definitions:

"Controller", "Processor", "Data Subject", "Personal Data Breach" and "Processing" has the meanings given to them in the Data Protection Laws (as **Process** and **Processes** shall be construed accordingly);

"Data Protection Laws" means all applicable data protection and privacy legislation in force from time to time in the UK including without limitation the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) (“**DPA 2018**”), the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, and any laws that replace or amend any of these, together with 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 all other applicable law, regulations, guidance and codes of conduct in any relevant jurisdiction relating to the processing of personal data and privacy including the guidance and codes of practice issued the Information Commissioner or relevant supervisory authority from time to time and which are applicable to a party;

- "Good Industry Practice"** means, in relation to any undertaking and any circumstances, the exercise of skill, diligence, prudence, foresight and judgement and the making of any expenditure that would reasonably be expected from a skilled person engaged in the same type of undertaking under the same or similar circumstances;
- "Personal Data"** has the meaning given to it in the Data Protection Laws and relates only to personal data, or any part of such personal data, collected or processed as a result of or in connection with the Existing Agreement;
- "Personal Data Breach"** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed;
- "UK GDPR"** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018; and
- "Working Day"** means a day (other than a Saturday or Sunday) on which banks are generally open for business in London.

1.5 In this Addendum (unless the context otherwise requires):

- (a) an obligation of any party to indemnify any person against a liability is to be construed as including an obligation to indemnify and hold harmless and keep that person indemnified on demand and in full from and against each liability incurred as a result of suffering, defending or settling a claim alleging that liability;
- (b) words in the singular shall include the plural and in the plural shall include the singular;
- (c) references to legislation are to that legislation as amended, extended, or re-enacted from time to time, including, as a result of the United Kingdom's withdrawal from the European Union by virtue of Article 50 of the Treaty of the European Union;
- (d) references to **"writing"** and **"written"** shall include email but not fax; and
- (e) any words following the terms **including, include, in particular** or **for example** or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

2 PROCESSOR OBLIGATIONS

2.1 The Fund and the Supplier acknowledge that for the purposes of the Data Protection Laws, the Fund is the Controller, and the Supplier is the Processor for the purposes of Processing the Personal Data. The Schedule to this Addendum sets out a description of the Processing in the course of the Existing Agreement.

2.2 The Supplier shall at all times (and procure its employees, staff, workers, agents, contractors or consultants (“**Supplier Personnel**”) shall):

- (a) only process the Personal Data for the purposes of the Existing Agreement and only in accordance with the Fund's documented instructions from time to time (including in relation to any transfers of data outside the United Kingdom or the Economic European Area), the description of Processing set out at the Schedule to this Addendum, Good Industry Practice, and all Data Protection Laws during the term of the Existing Agreement, and shall not process the Personal Data for any other purpose;
- (b) implement and maintain on a continuing basis during the term of the Existing Agreement all appropriate technical and organisational measures, [reviewed and approved by the Fund]¹, to prevent unauthorised or unlawful processing of Personal Data and protect against any accidental loss or destruction of, or damage to, Personal Data, including where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of Processing systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures for ensuring the security of the Processing, and shall, upon written request from the Fund, promptly provide the Fund with a detailed written description of such technical and organisational measures in place;
- (c) permit the Fund and any auditors or other advisors to have access to any of the Supplier's premises, personnel, IT systems, policies, equipment, materials and relevant records as may be reasonably required by the Fund upon reasonable notice at any time for the purposes of conducting an audit conducted by the Fund or an auditor mandated by the Fund in order to verify the Supplier's compliance with this Addendum and the Data Protection Laws (subject to a maximum of one audit per annum, unless in the event of a Personal Data Breach);
- (d) on demand, provide the Fund (and its auditors and other advisors) with all reasonable co-operation, access and assistance in relation to each audit;
- (e) immediately inform the Fund if, in the Supplier's reasonable opinion, an instruction infringes any Data Protection Laws;
- (f) promptly (and in any event within two Working Days) notify the Fund in writing of any notices received by it relating to the Processing of the Personal Data, including any requests from Data Subjects for access, rectification or erasure, complaints, objections, or correspondence. In no event shall the Supplier respond directly to any such request or notice without the Fund's prior written consent unless and to the extent required by law;
- (g) promptly provide full information and assistance (at no cost to the Fund) as the Fund or the Information Commissioner or any other data protection supervisory authority may reasonably require in order to respond within any applicable time frames in relation to:
 - (i) any request from any Data Subject for: access, rectification or erasure of Personal Data, or any complaint, objection to processing, or other correspondence; or

¹ Fund to consider if it has capacity to review and approve the Service Provider's security measures. If not, the wording in squared brackets can be deleted.

- (ii) any approval of the Information Commissioner or other data protection supervisory authority to any processing of Personal Data, or any request, notice or investigation by such supervisory authority;
- (h) promptly (and in any event within two Working Days) notify the Fund in writing where the Supplier has received a complaint, notice or communication from a Data Subject, which relates directly or indirectly to the processing of the Personal Data or to the Fund's compliance with the Data Protection Laws, and provide the Fund with full information, data, co-operation and assistance as is required by the Fund in relation to any such complaint, notice or communication;
- (i) promptly provide the Fund with such information and assistance (at no cost to the Fund) as the Fund may require in order to undertake a data protection impact assessment where the Fund considers (in its sole discretion) that the type of Processing is likely to result in a high risk to the rights and freedoms of Data Subjects;
- (j) promptly (and in any event within two calendar days) and fully notify the Fund in writing if any Personal Data has been processed or disclosed in breach of the Existing Agreement or this Addendum or if it is lost, becomes corrupted, is damaged or is deleted in error. In such circumstances, the Supplier shall take immediate steps to remedy the breach, promptly take measures to ensure there is no repetition of the incident in the future, promptly provide the Fund with full details in writing of the steps and measures taken, and comply (at no cost to the Fund) with any requests made by the Fund in respect of the breach;
- (k) notify the Fund immediately (and in any event within 24 hours) if the Supplier suspects or becomes aware of any actual, threatened, or potential breach of security of the Personal Data and shall ensure all such notices include full and complete details relating to such breach, in particular:
 - (i) the nature and facts of such breach including the categories and number of Personal Data records and, if applicable, Data Subjects concerned;
 - (ii) the contact details of the data protection officer or other representative duly appointed by the Supplier from whom the Fund can obtain further information relating to such breach;
 - (iii) the likely consequences or potential consequences of such breach; and
 - (iv) the measures taken or proposed to be taken by the Supplier to address such breach and to mitigate any possible adverse effects and the implementation dates for such measures;
- (l) not transfer the Personal Data to any country or territory outside of the United Kingdom [and any other approved locations listed in the Schedule to this Addendum] without the prior written consent of the Fund (which may be refused or granted subject to such conditions as the Fund deems necessary, including the following conditions):²
 - (i) appropriate safeguards in relation to the transfer have been provided to the Fund;

² If there are transfers of Personal Data outside of the UK/EEA, please seek further legal advice before proceeding as there may need to be additional protections and clauses added into this Addendum (such as incorporating standard contractual clauses). A risk assessment in respect of such transfer may also be required.

- (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with all instructions notified to it in advance by the Fund with respect to the transfer of the Personal Data.
- (m) upon request by the Fund, promptly do such other acts in relation to the Personal Data, or any part thereof, as the Fund shall request to enable the Fund to comply with its obligations under the Data Protection Laws; and
- (n) on request at any time and on the expiry or termination of this Addendum (or if sooner, the relevant Services) at no cost to the Fund and at the Fund's option either (i) return all Personal Data and copies of it in such format as the Fund may require; or (ii) securely dispose of or delete (so that it is not recoverable) the Personal Data, except to the extent that any applicable law requires the Supplier to retain such Personal Data and the Supplier has promptly demonstrated their legal requirements to the Fund. The Supplier shall promptly confirm in writing that it has complied with this obligation and on request shall provide the Fund with copies of deletion logs to evidence deletion of the Personal Data.

3 SUPPLIER PERSONNEL

3.1 The Supplier shall ensure that access to the Personal Data is limited to:

- (a) those employees who need access to the Personal Data to meet the Supplier's obligations under the Existing Agreement; and
- (b) in the case of any access by any employee, such part or parts of the Personal Data as is strictly necessary for performance of that employee's duties.

3.2 The Supplier shall take all reasonable steps to ensure the reliability of those of the Supplier's employees who are used to Process or who have access to the Personal Data and shall ensure that all employees:

- (a) are informed of the confidential nature of the Personal Data;
- (b) are subject to legally binding and enforceable obligations to keep the Personal Data confidential;
- (c) have undertaken training in respect of the Data Protection Laws; and
- (d) are aware both of the Supplier's duties and their personal duties and obligations under the Data Protection Laws and this Addendum.

4 APPOINTMENT OF SUB-PROCESSORS

4.1 The Supplier shall not permit any Processing of the Personal Data by any agent or subcontractor or other third party ("**Sub-Processor**") unless the Fund has provided its prior written consent (which the Fund may withdraw at any time by written notice) and only then subject to:

- (a) the Supplier supplying the Fund with full details of each Sub-processor, a description of the Processing to be undertaken, and any other information reasonably required by the Fund in respect of each Sub-processor;
- (b) the Supplier remaining fully responsible for the acts or omissions of the Sub-processor, as if the act or omission was that of the Supplier;
- (c) the Sub-processor agrees in writing to comply with obligations which are substantially the same as those set out in this Addendum; and
- (d) the Supplier promptly informs the Fund of any intended changes concerning the addition or replacement of Sub-processors and permitting the Fund to object to such changes as well as such conditions as the Fund may require.

4.2 The Fund has agreed that the Supplier may engage the Sub-processors listed in the Schedule ("**Approved Sub-processors**") for the purposes of carrying out its obligations under the Existing Agreement, and the Fund gives a general written authorisation to the Supplier to engage such Approved Sub-processor to Process the Personal Data provided always that the Supplier complies with the requirements set out in clause 4.1.

5 INDEMNITY

5.1 The Supplier shall indemnify the Fund and keep the Fund indemnified from and against any loss, cost, claim, proceedings, penalty, fine or expense (including legal and other professional advisers costs and expenses on a full indemnity basis) or proceedings awarded against, suffered, paid or incurred by the Fund which arises out of or in connection with (i) any failure by the Supplier and/or any Sub-processor to comply with its obligations under this Addendum; and (ii) all amounts paid or payable by the Fund to a third party which would not have been paid or payable if the Supplier's breach of this Addendum (and/or that of any Sub-processor as applicable) had not occurred.

6 GENERAL

6.1 Except as set out in this Addendum, the Existing Agreement shall continue in full force and effect.

6.2 This Addendum shall be governed by the laws of England and any dispute or claim arising out of or in connection with it (including in relation to its formation) shall be subject to the exclusive jurisdiction of the English courts.

SCHEDULE

Description of Processing of Personal Data

Description of the processing activities

The processing of Personal Data is as follows (provide a description of the subject matter and nature of the processing, including any systems used to store and process Personal Data, and the duration of the processing):

[INSERT]

Data subjects

The Personal Data concern the following categories of data subjects (please specify):

[INSERT]

Purposes of the Processing

The processing is necessary for the following purposes (please specify):

[INSERT]

Categories of data

The Personal Data processed fall within the following categories of data (please specify):

[INSERT]

Sensitive data (if any)

The Personal Data processed fall within the following categories of sensitive data (please specify):

[INSERT]

Fund's specific instructions with regards to the processing of Personal Data (including any plans and procedures for the return, permanent deletion or destruction of data):

[INSERT]

Authorised sub-processors:³

[INSERT]

[Approved locations]⁴:

[INSERT]

³ If you are listing approved sub-processors here, the Fund will need to undertake appropriate due diligence on such sub-processors (obtain policies, risk assessment, security questionnaires etc) to ensure that you have no concerns with them.

⁴ If any sub-processors are located outside of the UK/EEA, please seek further legal advice as additional safeguards and transfer risk assessments will need to be considered before listing any approved locations.

EXECUTED as an agreement

Signed by the duly authorised representative(s) of the **BIG LOTTERY FUND (operating as THE NATIONAL LOTTERY COMMUNITY FUND)**

Name:		Signature:	
Position:		Date:	

Name:		Signature:	
Position:		Date:	

Signed by the duly authorised representative of **[INSERT NAME OF SUPPLIER]**

Name:		Signature:	
Position:		Date:	