**TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES**

**DATE: [INSERT]**

**CONTRACT DETAILS**

|  |  |  |
| --- | --- | --- |
| **[Fund's representative:]** | Name: [NAME]  Title: [TITLE]  Email: [EMAIL]  Telephone: [NUMBER]  Postal Address: [POSTAL ADDRESS] | |
| **Fund’s address for invoices:** | Email: [EMAIL]  Postal Address: [POSTAL ADDRESS] | |
|  |  | |
| **Supplier:** | [COMPANY NAME] (No. [NUMBER]) | |
| **Supplier's address:** | [ADDRESS] | |
| **[Supplier's representative:]** | Name: [NAME]  Title: [TITLE]  Email: [EMAIL]  Telephone: [NUMBER]  Postal Address: [POSTAL ADDRESS] | |
|  |  | |
| **Services:** | [[DESCRIPTION], as further detailed in an [Order]OR[Not applicable] | |
| **Goods:** | [[DESCRIPTION], as further detailed in an [Order] OR[Not applicable] | |
|  |  | |
| **Supplier’s role**  **(Data Controller / Data Processor / Joint Controller)**  ***Please ensure that you complete Schedule 2 of the Contract*** | **Data Processor** | **[YES] / [NO] *(delete as applicable)*** |
| **Independent Data Controller** | **[YES] / [NO] *(delete as applicable)*** |
| **Joint Data Controller** | **[YES] / [NO] *(delete as applicable)*** |
|  |  | |
| **[Special terms:]** | [In the terms and conditions:  [(a) Clause [NUMBER] deleted: The entire text of clause [NUMBER] is deleted and replaced with the words "Not used".]  [(b) Clause [NUMBER] added: This clause is inserted into the Conditions: [NEW CLAUSE].]  [c) Clause [NUMBER] amended: This clause is amended to read as follows: [AMENDED CLAUSE IN FULL].]] | |

1. Definitions and interpretation
   1. In these terms and conditions:

“**Contract**” means the contract for the sale and purchase of Goods and/or the supply and acquisition of Services on these terms and conditions;

“**Contract Details**” means the details in relation to this Contract as set out at the beginning of these terms and conditions;

“**Controller**”, “**Processor**”, “**Data Subject**” and “**Processing**” shall have the meanings given to them in the Data Protection Legislation (and “process” and “processes” shall be construed accordingly);

“**Data Protection Legislation**” means, for the periods in which they are in force and to the extent applicable to a party, the UK GDPR, the EU GDPR, the Data Protection Act 2018, Privacy and Electronic Communications Regulations 2003 (SI 2003/2426), and all applicable laws and regulations relating to the processing of Personal Data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner or other regulatory authority, in each case as amended or substituted from time to time;

“**Fund**” means the 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;

“**Fund’s Background IP**” means all intellectual property rights owned or licensed by the Fund, excluding the Fund’s logos, which are made available, or which become known to the Supplier or its Staff in performing the Services or in relation to this Contract;

“**EU** **GDPR**” (a) the General Data Protection Regulation (Regulation (EU) 2016/679; or (b) any equivalent legislation amending or replacing the General Data Protection Regulation (Regulation (EU) 2016-679);

“**Goods**” means the goods (including any instalment, component, part of or raw materials used in such goods and any deliverables resulting from performance of the Services) described in the Order;

“**Good Industry Practice”** means the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at the time of relevant performance from a leading and expert supplier of goods and/or services (as applicable) similar to the Goods and/or the Services (as applicable) to a customer like the Fund, such supplier seeking to comply with its contractual obligations in full and complying with all applicable laws;

“**Intellectual Property Rights**” means any copyright and related rights, patents, rights to inventions, trademarks and service marks, trade names, business names and domain names, 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 trade secrets) and all other intellectual or industrial 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;

“**Materials**” means all materials created by the Supplier or its staff (including any material created jointly with the Fund) relating to or in the provision of the Goods or performance of the Services (as applicable) and includes software, data, reports, case studies, schedules, drawings, specifications, designs, inventions, and other materials;

“**Order**” means the Fund’s order for the supply of goods and/or services, as set out in the Fund's purchase order form or in such other written form as otherwise agreed by the Fund;

“**Personal Data**” has the meaning given to this term by the Data Protection Legislation and relates only to personal data, or any part of such personal data, collected or processed as a result of or in connection with this Contract;

“**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;

“**Price**” means the price of the Goods or the Services or both as set out in the Order;

“**Services**” means the services (if any) described in the Order;

“**Supplier**” means the person, firm, or company whom the Fund purchases the Goods and/or Services as so described in the Contract Details;

“**Supplier’s Background IP**” means all Intellectual Property Rights used by the Supplier or its staff in providing the Goods or performing the Services (as applicable) excluding the intellectual property rights in the Materials created by the Supplier or its staff in providing the Goods or performing the Services (as applicable); and

“**UK GDPR**” has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

* 1. Where the context so admits or requires, words in this Contract denoting the singular include the plural and vice versa and words denoting any gender include all genders.
  2. Where the words “**include(s)**” or “**including**”, or words of a similar nature, are used in these terms and conditions, they are deemed to have the words “without limitation” following them and are illustrative and shall not limit the sense of the words preceding them.
  3. A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

1. Basis of Purchase
   1. Each Order constitutes an offer by the Fund to purchase the Goods and/or acquire the Services from the Supplier subject to these terms and conditions.
   2. The Supplier shall be deemed to have accepted these terms and conditions on the earlier of the Supplier issuing written acceptance an Order (notwithstanding any conditions attached to such acceptance or any purported incorporation of terms other than these terms and conditions) or by delivering any Goods, performing any Services or any other act by the Supplier consistent with fulfilling the Order, at which point the Contract shall come into existence (“**Commencement Date**”).
   3. These terms and conditions shall apply to the Contract and/or any performance of the Services by the Supplier prior to entering into the Contract to the exclusion of any other terms and conditions that the Supplier seeks to impose or incorporate, or which are implied by law, custom or practice, or on which any quotation has been given to the Fund or subject to which the Order is accepted or purported to be accepted by the Supplier.
   4. These terms and conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.
2. Supply of Goods
   1. The Supplier shall ensure that the Goods delivered to the Fund:
      1. correspond with the description (i) in the Order, including as set out in any attachments or documents referenced in and attached to the Order (including the Supplier's quotation or proposal referenced in the Order whether or not such quotation or proposal is attached to the Order); (ii) published in any of the Supplier’s marketing materials; and (iii) in any other specification agreed in writing by the Supplier and the Fund;
      2. are of satisfactory quality (within the meaning of the UK Sale of Goods Act 1979), comply with any relevant express and implied terms of the Supply of Goods and Services Act 1982 and are fit for any purpose held out by the Supplier or made known to the Supplier by the Fund, expressly or by implication, prior to the date of the Order and in this respect the Fund relies on the Supplier’s skill and judgment;
      3. are free from defects in design, materials and workmanship and remain so for 12 months after delivery; and
      4. comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods, and are properly packed and secured to ensure they are delivered in good condition.
   2. The Supplier warrants to the Fund that the use of the Goods by the Fund for their standard purpose and (if different) any purpose made known to the Supplier by the Fund prior to the date of the Order will not result in the infringement of any Intellectual Property Rights of the Supplier or any third party.
   3. The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.
3. Supply of Services
   1. The Supplier shall for the duration of the Contract:
      1. perform the Services with the best care, skill, and diligence in accordance with best practice in the Supplier’s industry, profession or trade and any other industry, profession, or trade relevant to the Services and in accordance with the terms of the Contract, any reasonable instructions of the Fund and any relevant manufacturer’s published instruction materials (including the marketing materials of such manufacturers);
      2. co-operate with the Fund in all matters relating to the Services, and comply with all instructions of the Fund;
      3. use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
      4. ensure that the Services will conform with all descriptions, standards and specifications set out in the Order, and that the deliverables shall be fit for any purpose that the Fund expressly or impliedly makes known to the Supplier;
      5. provide all equipment, tools and vehicles and such other items as are required to provide the Services, and use the best quality goods, materials, standards, and techniques, and ensure that the deliverables, and all goods and materials supplied and used in the Services or transferred to the Fund, will be free from defects in workmanship, installation, and design;
      6. obtain and at all times maintain all licences and consents which may be required for the provision of the Services; and
      7. observe all health and safety rules and regulations and any other security requirements that apply at the Fund’s premises.
   2. The Fund reserves the right to determine whether the results, outputs and deliverables provided in the performance of the Services shall be published and, if so, on what conditions.
4. Price and Payment
   1. The Price of the Goods and the Services shall be as stated in the Order and, unless otherwise so stated, shall be:
      1. fixed and not subject to variation for the duration of the Contract; and
      2. exclusive of any applicable VAT (which shall be payable by the Fund subject to receipt of a VAT invoice) but inclusive of all charges for packaging, insurance, and delivery of the Goods to the Fund’s specified delivery address, and travel and accommodation and any and all out of pocket expenses in the case of Services, and any duties, imposts or levies other than VAT.
   2. Unless otherwise stated in the Order and subject always to the Goods and Services having been delivered and accepted by the Fund as being in accordance with the Contract, the Supplier may only invoice the Fund on or after delivery and acceptance of the Goods or supply and acceptance of the Services. Invoices will not be accepted unless they quote the number of the relevant Order. Invoices shall be sent to the Fund at the address set out in the Contract Details.
   3. Unless otherwise stated in the Order, the Fund shall pay the Price in respect of the Goods and the Services within 30 days after receipt by the Fund of a valid and undisputed invoice or, if later, the day on which the sum first became due in accordance with the invoice.
   4. Any invoice issued under this Contract must contain the following information:
      1. the name of the invoicing party;
      2. a description of the Goods and/or Services supplied;
      3. the sum requested;
      4. a unique identification number; and
      5. [any other information the Fund requires].
   5. The Fund shall notify the Supplier without undue delay if it considers any invoices to be invalid or disputes all or part of the amount due. If any sums invoices are disputed, the non-invoicing party shall pay any undisputed sums in accordance with the terms of this Contract.
   6. The parties shall meet, in good faith, to resolve any dispute concerning any invoice issued under this Contract.
   7. The Fund shall be entitled to at any time, without notice to the Supplier, set off any liability of the Supplier to the Fund against any liability of the Fund to the Supplier, including:
      1. any amount which is disputed by the Fund, pending resolution of such dispute (including related costs and expenses); and
      2. any sums owing by the Supplier to the Fund on any other contract.

Any exercise by the Fund of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

1. Delivery and warranties
   1. The Goods shall be delivered to, and the Services shall be performed at, the place(s) and on the date(s) stated in the Order, in either case during the Fund’s usual business hours. The Fund reserves the right to amend any delivery instructions. Delivery shall be deemed to be made on receipt of the Goods and/or the Services by the Fund in accordance with all terms of the Contract.
   2. If for any reason the Fund requests delivery, installation, or performance to be delayed, the Supplier shall agree to such request at no extra cost to the Fund and the provisions of this clause 6 shall apply to any such revised date for delivery, installation or performance.
   3. A delivery note stating the number of the Order and the description and quantity of Goods supplied must accompany each consignment of the Goods and must be displayed prominently. The Fund shall be under no obligation to accept delivery or performance by instalments unless previously agreed in writing.
   4. Risk of damage to or loss of the Goods shall pass to the Fund upon delivery to the Fund in accordance with the Contract. Transit and offloading of the Goods shall be at the Supplier’s risk.
   5. The title in the Goods shall pass to the Fund upon delivery, unless payment for the Goods is made prior to delivery, when it shall pass to the Fund once payment has been made and the Goods have been appropriated to the Contract.
   6. The Supplier warrants that:
      1. the Services shall be performed, and the Goods shall be supplied and delivered using reasonable skill and care and in accordance with any standards set out in the Order; and
      2. receipt, use and onward supply of the Services by or on behalf of the Fund and use of the deliverables or of any other item or information supplied or made available to the Fund as part of the Services will not infringe any third-party rights, to include without limitation any Intellectual Property Rights.
2. Acceptance
   1. The Fund shall be entitled to reject all or any part of the Goods delivered or Services performed which are not in accordance with the Contract, including a right to reject defective Goods even if the defect is minor.
   2. The Fund shall not be deemed to have accepted any Goods and/or Services until the Fund has had a reasonable time to inspect or test them following delivery or, if later, within a reasonable time after any latent defect has become apparent. If following such inspection or testing the Fund considers that the Goods and/or Services do not comply or are unlikely to comply with the Supplier's undertakings under the Contract, the Fund shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance. The Fund may conduct further inspections and tests after the Supplier has carried out its remedial actions.
3. Intellectual property rights
   1. The Supplier shall assign to the Fund, with full title guarantee and free from all third party rights, upon their creation all Intellectual Property Rights arising out of the supply of Goods and/or performance of the Services or the provision of the deliverables by the Supplier or its staff, including any Materials and any future Intellectual Property Rights.
   2. The Supplier shall procure the necessary rights from its staff to ensure any Intellectual Property Rights in the Materials to which they hold title are assigned to the Fund under Clause 8.1.
   3. The Supplier shall obtain waivers of all moral rights in the Goods and/or deliverables to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
   4. The Supplier grants the Fund a non-exclusive, worldwide, royalty free, perpetual, irrevocable licence (including the right to grant sub-licences) to use and disclose the Supplier’s Background IP to the extent necessary for the Fund to use and exploit the deliverables and the Materials.
   5. Subject to Clause 10 (Confidentiality), the Fund grants the Supplier a non-transferable, worldwide, revocable, royalty free, non-exclusive licence to use and reproduce all Materials, and the Fund’s Background IP, solely for the purpose of the complying with the Supplier’s obligations under this Contract.
   6. The Supplier shall not publish the results of any work undertaken in connection with this Contract, without the prior written consent of the Fund, which the Fund may withhold in its absolute discretion or grant subject to conditions.
   7. The Supplier shall, promptly at the Fund’s request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Fund may from time to time require for the purpose of:
      1. securing for the Fund all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with Clause 8.1; and/or
      2. ensuring compliance with the provisions of this Clause 8.
   8. The Supplier will pay all royalties and fees on copyright, processes and registered designs of any equipment, systems and publications used, installed or incorporated by the Supplier as part of a deliverable under this Contract .
   9. The Supplier shall indemnify the Fund, and keep the Fund indemnified, together with its officers, directors, employees and agents, against all actions, claims, proceedings and all damages, losses, costs and expenses suffered or incurred by the Fund arising out of or in connection with the receipt, use or supply of the Services, the Goods and/or the deliverables.
   10. If the Supplier is required to indemnify the Fund under this Clause 8, the Fund shall:
       1. allow the Supplier, at its own cost, to conduct the defence of such claim, including any settlement;
       2. make no prejudicial admission or statement;
       3. notify the Supplier promptly of any claim; and
       4. actively co-operate and assist the Supplier, at the Supplier’s expense, in the defence of the claim,

and in the event that any damages are finally awarded against the Fund in respect of such a claim or agreed by the Supplier in final settlement, these will be paid by the Supplier.

* 1. The indemnity in Clause 8.9 shall not apply:
     1. to any infringement which is the direct result of the Fund (or any other party) modifying or misusing the relevant deliverable, the failure of the Fund to use enhancements or modifications offered by the Supplier to avoid infringement, or the use of information, documents, facilities, or items supplied by the Fund for the purposes of the Goods and/or the Services; or
     2. to the extent a claim arise directly from the use of:

(i) any of the Fund’s Background IP, data, information or other resources provided by the Fund to the Supplier, or

(ii) the relevant deliverable in accordance with the Fund’s instructions.

1. Force Majeure
   1. Neither the Supplier nor the Fund shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure was due to an event or circumstance beyond that party’s reasonable control which by its nature could not have been foreseen or, if foreseeable, was unavoidable (excluding non-performance by suppliers or subcontractors and any strikes, lock-outs or other industrial disputes involving its own workforce).
   2. If any delay or failure to which clause 9.1 applies continues for more than three months, then either party may terminate the Contract with immediate effect without any further liability to the other party save that which it has already incurred under the Contract prior to termination.
2. Confidentiality
   1. The Supplier shall keep in strict confidence all information supplied to the Supplier or its agents or sub-contractors by the Fund, or which comes to the attention of the Supplier or its agents or sub-contractors, at any time in connection with the Contract and (unless that information is or becomes publicly known other than by a breach of the Contract) the Supplier shall not without the prior written consent of the Fund publish or disclose to any third party such information, or use such information for any purpose other than the purpose of implementing the Order and/or performing the Contract. The Supplier shall restrict disclosure of such information to such of its employees, agents or sub-contractors as need to know the same for the purpose of implementing the Order and/or performing the Contract and shall ensure that such employees, agents, or sub-contractors are subject to like obligations of confidentiality and restrictions of use as bind the Supplier.
   2. The obligations under this clause 10 shall remain in force notwithstanding completion, cancellation, or termination of the Contract.
3. PUBLICITY and branding
   1. The Supplier shall not, without prior written consent of the Fund, advertise or publicise the existence or content of the Contract in any way, or that the Supplier is providing Services and/or Goods to the Fund, or communicate with representatives of the general or technical press, radio, television, or other communications media in relation to the Goods or Services. In response to any media or other enquiries relating to the Fund, the Supplier must refer the caller to the Fund’s branding team and shall inform the Fund’s branding team of the enquiry as soon as practicable.
   2. The Supplier shall not use the Fund’s name, branding, or logo in any promotion material, marketing material, similar material, or announcement without prior written consent of the Fund.
   3. Where the Supplier is required as part of the Services to use the Fund’s logos, the Supplier shall enter into a separate agreement (in the form approved by the Fund) in order to licence such use. The Supplier undertakes to the Fund that all uses and applications of the Fund’s logos by the Supplier shall comply with the Fund’s branding guidelines (as published on the Fund’s website and as updated from time to time) and accord with all relevant advertising codes and legislation and other guidelines, instructions and restrictions relating to such logos.
4. PROTECTION OF PERSONAL DATA
   1. Both parties shall comply with their respective obligations under the Data Protection Legislation. This Clause 12.1 is in addition to, and does not relieve, remove, or replace, a party's obligations or rights under Data Protection Legislation. Nothing in this Contract shall prohibit or otherwise restrict a party from complying with such obligations and neither party shall take any action which puts another party in breach of Data Protection Legislation.
   2. The Supplier shall indemnify the Fund against any and all losses incurred by the Fund due to breach by the Supplier of Data Protection Legislation, Schedule 1 or this Clause 12.
   3. The Parties have determined that, for the purposes of the Data Protection Legislation, and as specified in the Contract Details:
      1. the Supplier shall process Personal Data as a processor on behalf of the Fund in respect of the Personal Data and processing activities set out in row 1(a) of the table in Schedule 2;
      2. the Supplier and the Fund shall act as independent controllers in respect of the Personal Data and processing activities set out in row 1(b) of the table in Schedule 2; and
      3. the Supplier and the Fund shall act as joint controllers in respect of the Personal Data and processing activities set out in row 1(c) of the table in Schedule 2.

Clauses 12.3.1 to 12.3.3 shall only apply to the extent that the Supplier is fulfilling such role as specified in the Contract Details.

* 1. Should the determination in Clause 12.3 change, then each party shall work together in good faith to make any changes which are necessary to this Clause 12 or the related schedules.

1. Security of Data
   1. Without prejudice to any additional security measures specified in Schedules 1 or 2, the Supplier shall at all times ensure that its IT systems are fit for the purpose of securing all data or records of whatever nature in whatever form relating to the Fund, its operations, facilities, assets, employees, or otherwise (“**Fund Data**”) in accordance with Good Industry Practice, all applicable laws, and any other requirements reasonably required by the Fund. The Supplier shall ensure that its IT systems are regularly maintained, tested, assessed, evaluated and, if necessary, upgraded to ensure this and to ensure the effectiveness of technical and organisational measures for ensuring security of all processing of the Fund Data. The Supplier shall keep such technical and organisational measures under review and shall carry out such updates as they agree are appropriate throughout the term of the Contract. The Supplier shall at all times comply with Good Industry Practice and any other reasonable requirements of the Fund relating to data protection, data security and implementation and maintenance of back-up systems.
2. FREEDOM OF INFORMATION
   1. The Supplier shall make available at its own cost any information reasonably requested by the Fund in connection with the Supplier’s performance under this Contract and shall allow such access to its premises and contact with its employees as is necessary for these purposes. The Supplier acknowledges that the Fund may share information about this Contract (including commercially sensitive information) with other lottery distributors, Government departments and other organisations with a legitimate interest in lottery funding as well as with members of the public who make a request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.
   2. The Supplier shall, and shall procure that its employees or sub-contractors shall, provide all necessary information and assistance as reasonably requested by the Fund, within the timeframes reasonably specified by the Fund, to enable the Fund to respond to any request for information it receives in compliance with the provisions of the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.
   3. The Supplier acknowledges that the Fund shall be responsible for determining in its absolute discretion whether any commercially sensitive information or other information is exempt from disclosure or may be disclosed either without consulting the Supplier or following consultation with the Supplier and having taken its views into consideration.
3. AUDIT AND RECORDS
   1. The Supplier shall maintain true and correct records including accountancy information in connection with the work of the Supplier in executing this Contract and the time spent and materials used by the Supplier in providing the Services. The Supplier shall retain such records for a period of not less than twenty-four months after delivery of the Goods and/or completion of the Services unless a longer retention period is requested by the Fund.
   2. The Fund may from time to time undertake an audit of all records relating to this Contract. Where the Fund elects to undertake an audit, the Supplier shall be given reasonable notice of the Fund's intention and shall provide such access and assistance as the Fund reasonably requires, at no cost to the Fund, to complete such audit.
   3. Statutory retention periods for financial and other records are not affected nor altered by this clause 15.
4. NATIONAL AUDIT OFFICE ACCESS
   1. For the purpose of:
      1. the examination and certification of the Fund’s accounts; or
      2. any examination pursuant to section 6(1) of the National Audit Act 1993 (or any re-enactment thereof) of the economy, efficiency, and effectiveness with which the Fund has used its resources,

the Comptroller and Auditor General may examine such documents as they may reasonably require which are owned, held or otherwise within the control of the Supplier, and may require, at the Supplier’s expense, the Supplier to produce such oral or written explanation as they consider necessary.

1. Health and SAFETY
   1. The Supplier shall be responsible for its observance, and the observance by its employees and subcontractors, of all safety precautions necessary for the protection of the Supplier, its employees, subcontractors, and any other persons involved in the provision of the Goods and/or Services, including all precautions required to be taken by or under any applicable laws and including any regulations or byelaw of any local or other authority. The Supplier shall co-operate fully with the Fund to ensure the proper discharge of these duties.
2. TERMINATION
   1. Without affecting any other right or remedy available to it, the Fund may terminate the Contract with immediate effect by giving written notice to the Supplier if:
      1. the Supplier breaches and/or fails to perform any of its obligations under the Contract and (if remediable) such breach and/or failure continues for a period of seven (7) days after written notice thereof is provided by the Fund to the Supplier; or
      2. the Supplier becomes (or, in the reasonable opinion of the Fund, is at serious risk of becoming) insolvent or unable to pay its debts as they fall due.
   2. Without prejudice to any other provisions of these terms and conditions, the Fund may terminate the Contract at any time by serving seven (7) days’ written notice to the Supplier. If the Fund terminates the Contract under this clause 18.2, the Fund shall pay the Supplier on a proportional basis for any Goods and/or Services performed up to and including the effective date of termination where such Goods and/or Services have not previously been paid for. Such payment shall be in full and final settlement of the Fund’s liability under the Contract in relation to the payment for Goods and/or Services.
   3. On termination of the Contract for any reason, the Supplier shall assist and co-operate fully with the Fund to ensure an orderly migration of the Services to the Fund or, at the Fund’s request, a replacement supplier.
   4. Where any part of the Price has been paid for Services or parts of Services not performed prior to the effective date of termination, or for Goods not delivered prior to the effective date of termination, the Supplier shall repay to the Fund, within seven (7) days after termination, an amount equal to such sum and any duties or taxes paid by the Fund to the Supplier in respect of such part of the Price.
   5. Termination of the Contract, however it arises, shall not affect, or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.
3. Liability
   1. Nothing in these terms and conditions shall limit or exclude either party’s liability for:
      1. death or personal injury caused by its negligence, or the negligence of its employees, agents, or subcontractors (as applicable);
      2. fraud or fraudulent misrepresentation;
      3. for any other matter in respect of which it would be unlawful for that party to exclude or restrict liability;
      4. in the case of the Supplier, any breach or claimed breach of a third party’s intellectual property rights or in respect of the indemnity in Clause 8.9;
      5. in the case of the Supplier, any breach of its obligations under Clause 10 (Confidentiality); or
      6. in the case of the Supplier, any breach of its obligations under the Data Protection Legislation or in respect of the indemnity in Clause 12.2.
   2. The Fund shall not be liable for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect, or consequential loss, costs, damages, charges, or expenses however arising under the Contract.
   3. Subject to clause 19.1, the Fund’s liability under the Contract is limited to, in the case of Goods, the Price for such Goods, or, in the case of Services, to the Price paid or to be paid for such Services. However, where the Services have been provided or will be provided for more than twelve (12) months, the Fund’s liability is limited to the Price which has been paid for the Services during the twelve (12) months prior to the event to which the liability relates or, where the Services have not yet been provided for a period of twelve (12) months or more, the Fund’s liability is limited to the Price to be paid for the first twelve (12) months of Services provision.
4. insurance
   1. The Supplier shall take out and maintain insurance policies in respect of the potential liabilities that may arise under the Contract with a reputable insurance company for the term of the Contract and for six years after its termination or expiry to cover the liabilities that may arise under or in connection with the Contract and shall produce to the Fund on request both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
5. NON-SOLICITATION
   1. During the term of the Contract and for a period of six (6) months following the termination of the Contract for any reason whatsoever, neither party shall solicit or entice away from the other party or employ or attempt to employ any individual who is, or has been, engaged as an employee of the other party, or refer or introduce the other party’s employees to any third party for the purposes of the contracting or engagement by that third party, except that neither party shall be in breach of this clause 21.1 if it hires an individual as a result of a recruitment campaign not specifically targeted to any employees of the other party.
6. WAIVER
   1. A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
7. Severance
   1. If any provision or part-provision of the Contract is or becomes invalid, illegal, or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 23.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
8. THIRD PARTY RIGHTS
   1. The Contract does not create, confer or purport to confer any benefit or right enforceable by any person not a party to it by virtue of The Contracts (Rights of Third Parties) Act 1999.
9. Prevention of fraud, corruption and bribery
   1. The Supplier warrants that it has in place and undertakes that it shall (and that it shall procure that its officers, employees, contractors, and subcontractors shall) comply with, applicable policies and procedures to avoid the risk of collusion, corruption, bribery, and fraud within its organisation and in connection with its dealings with third parties. The Supplier also warrants that is not aware of and has no reason to suspect that any of its officers, employees, contractors, or subcontractors have been involved in any collusion, corruption, bribery, or fraud. The Fund shall not be required to make any payment to the Supplier that might otherwise be due in respect of the Contract if the Supplier has breached this clause 25. The Supplier shall indemnify the Fund against any losses, liabilities, damages, costs (including [but not limited to] legal fees) and expenses incurred by, or awarded against, the Customer as a result of any breach of this clause 25 by the Supplier.
10. COMPLIANCE WITH LAWS
    1. The Supplier shall comply with all laws and regulations applicable to the supply of the Goods and/or Services (as applicable).
11. REPUTATION MANAGEMENT and Conflicts of interest
    1. The Supplier shall refrain from conduct that would adversely reflect on the Fund or be prejudicial to the reputation or standing of the Fund and shall take all reasonable steps to ensure that its officers, employees, contractors, and subcontractors (if any) do not, engage in any activity that is incompatible with the aims and objectives of the Fund.
    2. The Supplier shall use its best endeavours to ensure that it and its officers, employees, contractors, and subcontractors (if any) are not placed in a position where there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of such persons and the duties owed to the Fund under the Contract. On becoming aware or suspecting such an actual or potential conflict, the Supplier will immediately disclose the particulars of the conflict to the Fund and co-operate with any reasonable measures implemented by the Fund to manage the conflict.
12. INDEPENDENT SUPPLIER
    1. The relationship of the parties is that of independent contractors dealing at arm’s length. Nothing in the Contract is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way. The Supplier shall be solely responsible for all taxes, national insurance or other withholdings or contributions which may be payable out of, or as a result of the receipt of, any monies paid or payable in respect of the Goods and/or Services. The Supplier shall indemnify the Fund against all costs, claims, expenses (including legal expenses) and/or proceedings arising out of or in connection with the Supplier’s non-payment (or underpayment) of such taxes, national insurance or other withholdings or contributions.
13. Notices
    1. Notice given under the Contract shall be in writing, sent for the attention of the person named as the representative in the Contract Details, and shall be delivered either personally, or by pre-paid first-class post or other next working day delivery service to the address given for notices in the Contract Details, or sent by email to the email address given for notices in the Contract Details (or such other address or email address as the relevant party may notify to the other party). A notice is deemed to have been received if delivered by hand, at the time the notice is left at the proper address, if sent by first-class post or other next working day delivery service, at 9.00 am on the second working day after posting, or if sent by email, at 9.00 am on the next working day after transmission.
14. Variation
    1. No variation of the Contract shall be effective unless it is in writing and signed by a duly authorised representative from each party.
15. Entire agreement
    1. The Contract contains all the terms agreed between the parties regarding its subject matter and supersedes any prior agreement, understanding or arrangement between the parties, whether oral or in writing. However, nothing in this clause shall operate to limit or exclude either party’s liability for fraudulent misrepresentation.
16. Assignment and subcontracting
    1. The Fund may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract. The Supplier shall not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Fund.
    2. The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Fund. If the Fund consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.
    3. If the Fund provides consent for the Supplier to subcontract all or part of this Contract in accordance with Clause 32, the Supplier shall ensure that any such sub-contract contains payment terms equivalent to those set out in Clauses 5.3 to 5.5.
17. GOVERNING LAW AND JURISDICTION

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) (a “**Claim**”), shall be governed by, and construed in accordance with, the laws of the England, and the parties agree irrevocably that any Claim shall be subject to the exclusive jurisdiction of the courts of England.Signed by authorised representative of **[INSERT NAME OF SUPPLIER]**

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |  | Signature: |  |
| Position: |  | Date: |  |

**Schedule 1**

Processing Personal Data

**Part A – Controller/Processor**

This Part A of Schedule 1 sets out the framework for the sharing of Personal Data between the Fund as Controller and the Supplier as Processor.

1. **Processor Obligations** 
   1. The Fund and the Supplier acknowledge that for the purposes of the Data Protection Legislation, the Fund is the Controller, and the Supplier is the Processor for the purposes of processing the Personal Data. Schedule 2 sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject.
   2. The Supplier shall, at all times (and procure its employees, staff, workers, agents, contractors or consultants (“**Supplier Personnel**”) shall):
      1. only process the Personal Data for the purposes of the Contract 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 Schedule 2, Good Industry Practice, and all Data Protection Legislation during the term of the Contract, and shall not process the Personal Data for any other purpose;
      2. implement and maintain on a continuing basis during the term of this Contract all appropriate technical and organisational measures, reviewed and approved by the Fund, 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;
      3. permit the Fund and any auditors or other advisors to have access to any of the Supplier's premises, personnel, IT systems, polices, 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 Part A of Schedule 1 and the Data Protection Legislation (subject to a maximum of one audit per annum, unless in the event of a Personal Data Breach);
      4. on demand, provide the Fund (and its auditors and other advisors) with all reasonable co-operation, access and assistance in relation to any audit contemplated by paragraph 1.2.3 of this Part A to Schedule 1;
      5. immediately inform the Fund if, in the Supplier’s reasonable opinion, an instruction infringes any Data Protection Legislation;
      6. 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;
      7. 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:
         1. any request from any Data Subject for: access, rectification or erasure of Personal Data, or any complaint, objection to processing, or other correspondence; or
         2. 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;
      8. 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 Legislation, 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;
      9. 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;
      10. 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 this Part A of Schedule 1 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;
      11. 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:
          1. the nature and facts of such breach including the categories and number of Personal Data records and, if applicable, Data Subjects concerned;
          2. 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;
          3. the likely consequences or potential consequences of such breach; and
          4. 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.
      12. not transfer the Personal Data to any country or territory outside of the United Kingdom 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):
          1. appropriate safeguards in relation to the transfer have been provided to the Fund;
          2. the Data Subject has enforceable rights and effective legal remedies;
          3. the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
          4. the Supplier complies with all instructions notified to it in advance by the Fund with respect to the transfer of the Personal Data.
      13. 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 Legislation; and
      14. on request at any time and on the expiry or termination of this Contract, 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.
2. [Security Requirements]

***[Drafting Note: any or all of the provisions can be added into this Part A where there is higher risk data processing involved in relation to the Agreement (such as sensitive / special category data) or where additional protections are required from a data security perspective. These clauses are optional, and they go beyond the mandatory clauses required under the UK GDPR.]***

* 1. [The Supplier shall at all times:
     1. ensure that its anti-malware controls are deployed and maintained in accordance with Good Industry Practice and the Supplier’s IT policies (including its information security policies), check for and delete any malicious materials from its systems and not intentionally or negligently transfer any malicious materials onto any of the Fund’s IT systems or onto any media containing Personal Data;
     2. keep detailed, accurate and up-to-date records relating to the Supplier's processing of the Personal Data, and shall promptly make available to the Fund on request (at no cost to the Fund) all information necessary to demonstrate compliance with the obligations set out in this Part A of Schedule 1;
     3. restore or recreate (at no cost to the Fund and in a timely manner and in accordance with Good Industry Practice) all Personal Data which is lost, deleted, or corrupted by the Supplier or any of the Supplier's personnel in breach of this Part A of Schedule 1;
     4. preserve so far as possible the security of Personal Data and prevent any loss, disclosure, theft, manipulation, or interception of the Personal Data;
     5. at all times ensure that all Personal Data is kept (physically and logically) separate from all other data;
     6. at all times ensure that its IT systems are fit for the purpose of securing Personal Data in accordance with Good Industry Practice and this Part A of Schedule 1 and are regularly maintained and, if necessary, upgraded to ensure this;
     7. at all times comply with ISO/IEC27001 or otherwise comply with Good Industry Practice relating to data protection, and implementation and maintenance of back-up systems
     8. comply fully with (i) the Data Protection Legislation and not, by any act or omission, cause the Fund to breach any Data Protection Legislation, and (ii) Good Industry Practice relating to data protection, and implementation and maintenance of back-up systems;
     9. notify the Fund if it becomes aware of any advance in technology and methods of working which mean that the Fund should revise the security measures provided to the Supplier by the Fund from time to time.]

1. Supplier Personnel
   1. The Supplier shall ensure that access to the Personal Data is limited to:
      1. those employees who need access to the Personal Data to meet the Supplier’s obligations under this Contract; and
      2. in the case of any access by any member of Supplier Personnel, such part or parts of the Personal Data as is strictly necessary for performance of that employee's duties.
   2. The Supplier shall take all reasonable steps to ensure the reliability of those of the Supplier Personnel who are used to Process or who have access to the Personal Data and shall ensure that all employees:
      1. are informed of the confidential nature of the Personal Data;
      2. are subject to legally binding and enforceable obligations to keep the Personal Data confidential;
      3. have undertaken training in respect of the Data Protection Legislation; and
      4. are aware both of the Supplier’s duties and their personal duties and obligations under the Data Protection Legislation and this Part A of Schedule 1.
2. Appointment of Sub-Processors
   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:
      1. 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;
      2. 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;
      3. the Sub-Processor agrees in writing to comply with obligations which are substantially the same as those set out in this Part A of Schedule 1; and
      4. 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.
   2. The Fund has agreed that the Supplier may engage the Sub-Processors listed in Schedule 2 (“**Approved Sub-Processors**”) for the purposes of carrying out its obligations under this Contract, 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 paragraph 4.1 of this Part A Schedule 1.
3. Indemnity

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 Part A of Schedule 1 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 Part A of Schedule 1 (and/or that of any Sub-Processor as applicable) had not occurred.

1. Liability

The Supplier's liability for losses arising from breaches of this Part A of Schedule 1 is as set out in Clause 19.

**Part B – Independent Controllers**

This Part B sets out the framework for the sharing of Personal Data between the parties as independent controllers.

1. **Interpretation**
   1. The following definitions and rules of interpretation apply in this Part B of Schedule 1:

**Agreed Purpose(s)**: The permitted uses of Shared Personal Data set out in this Part B of Schedule 1.

**Shared Personal Data**: The Personal Data to be shared by one party with the other party under this Part B of Schedule 1.

1. Purpose
   1. Each party may use the Personal Data that the other party shares about its representatives, business partners [and [ANY OTHER DATA SUBJECTS]] to administer and exercise its rights under this Contract.
2. Obligations
   1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This paragraph 3 of Part B of Schedule 1 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
   2. Without prejudice to the generality of paragraph 3.1 of this Part B of Schedule 1, each party shall:
      1. ensure that it has all necessary notices and consents and lawful bases in place to enable the lawful transfer of the Personal Data to the other party for the Agreed Purposes;
      2. ensure that it only shares the Personal Data with the other party to the extent required in connection with the Contract;
      3. process the other party's Personal Data only for the Agreed Purposes; and
      4. ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of the Personal Data received from the other party and against accidental loss or destruction of, or damage to, that Personal Data.
3. Mutual Assistance
   1. Each party will assist the other in complying with all applicable requirements of the Data Protection Legislation in relation to the Personal Data. In particular, each party shall:
      1. provide the other party with reasonable assistance in complying with any request from a data subject to exercise any of their rights under Data Protection Legislation in relation to the Personal Data (data subject rights request);
      2. promptly inform the other party about the receipt of any data subject rights request where the request is directed to the other party or relates to its processing of the Personal Data and forward the request to the other party;
      3. provide the other party with reasonable assistance in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, data protection impact assessments and consultations with the Information Commissioner or other regulators;
      4. notify the other party promptly and in any event within 24 hours, on becoming aware of any Personal Data breach relating to Personal Data provided by the other party and do all things reasonably necessary to restore security and assist the other party in mitigating the effects of the Personal Data breach and informing regulators and data subjects; and
      5. not retain or process the other party's Personal Data for longer than is necessary to perform this Contract, unless otherwise required by applicable law.
4. **Warranties**
   1. In relation to any Personal Data collected and/or passed by the Supplier to the Fund pursuant to this Part B of Schedule 1, the Supplier represents, warrants and undertakes that:
      1. the Supplier has complied fully with the requirement for fair, lawful (and as applicable transparent) data processing as required by Data Protection Laws in respect of notices to and, (where necessary) appropriate consent from, all Data Subjects to whom it relates, to pass their Personal Data to the Fund for the purposes for which the Fund intends to use it; and
      2. such Personal Data is accurate and up-to-date.

**Part C – Joint Controllers**

This Part C of Schedule 1 sets out the framework for the sharing of Personal Data when one Joint Controller (the “**Data Discloser**”) discloses Personal Data to another Joint Controller (the **“Data Receiver**”). It defines the principles and procedures that the parties shall adhere to and the responsibilities the parties owe to each other.

1. **Interpretation**
   1. The following definitions and rules of interpretation apply in this Part C of Schedule 1:

**Agreed Purpose(s):** has the meaning given to it in Schedule 2.

**Jointly Shared Personal Data:** means the Personal Data to be shared between the parties under this Part C of Schedule 1 and in each case, as specified in Schedule 2.

**Subject Rights Request:** means the exercise by a data subject of their rights under the Data Protection Legislation.

1. **Purpose**
   1. A description of the data sharing is set out in Schedule 2.
   2. The parties agree to only process Jointly Shared Personal Data for the Agreed Purpose(s), which outlines the specified, explicit and legitimate purposes for processing the Jointly Shared Personal Data. The parties shall not further process Jointly Shared Personal Data in a manner that is incompatible with the Agreed Purpose(s).
2. **Compliance with Data Protection Legislation**

Each party must ensure compliance with applicable Data Protection Legislation at all times when processing Personal Data pursuant to this Part C of Schedule 1.

1. **Jointly Shared Personal Data**
   1. Schedule 2 sets out the types of Personal Data that will be processed by the parties pursuant to this Schedule 1.
   2. Special Categories of Personal Data will not be shared between the parties. [***Drafting Note: If Special Category Data will be shared (for example personal data which reveals an individual’s racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, sexual orientation or genetic data, biometric data, health data) please seek advice from the Information Governance Team]***
   3. Criminal Offence Data will not be shared between the parties. ***[Drafting Note: If Criminal Offence Data will be shared (i.e. personal data relating to criminal convictions and offences or related security measures) please seek advice from the Information Governance Team]***
   4. The parties acknowledge and agree that the Jointly Shared Personal Data must not be irrelevant or excessive with regard to the Agreed Purposes.
2. **Lawful, Fair and Transparent Processing**
   1. Each party shall ensure that it processes the Jointly Shared Personal Data fairly and lawfully in accordance with the Data Protection Legislation.
   2. Schedule 2 sets out the allocation of roles and responsibilities between the parties as Joint Controllers. Notwithstanding the foregoing, each party shall comply with its obligations under Article 26 of the UK GDPR.
   3. In addition to paragraph 5.2, where Schedule 2 specifies that a party has been allocated a certain role or responsibility, the other party shall provide that party with all such assistance as may be reasonably required to enable that party to fulfil its role and/or responsibility.
3. **Data Subjects’ Rights**
   1. Each party shall comply with its obligations in respect of Subject Rights Requests and where the request relates to Jointly Shared Personal Data, the party in receipt of the request shall promptly contact the other party to notify them of receipt of such a request.
   2. The parties each agree to provide such assistance and cooperation as is reasonably required to enable the other party to comply with Subject Rights Requests within the time limits imposed by the Data Protection Legislation.
4. **Data Retention and Deletion**
   1. The Data Receiver shall not retain or process Jointly Shared Personal Data for longer than is necessary to carry out the Agreed Purpose(s).
   2. The Data Receiver shall ensure that any Jointly Shared Personal Data is returned to the Data Discloser or (except where the Data Receiver is required to retain copies of the Jointly Shared Personal Data by applicable legislation or a regulatory authority), destroyed upon termination or expiry of this Schedule or once Processing of the Jointly Shared Personal Data is no longer necessary for the purposes it was originally shared for, as set out in Schedule 2. S
   3. Following the deletion of Jointly Shared Personal Data in accordance with paragraph 7.2 of this Part C of Schedule 1, the Data Receiver shall notify the Data Discloser that the relevant Jointly Shared Personal Data has been deleted.
5. **Transfers** 
   1. For the purposes of this paragraph, transfers of Personal Data shall mean any sharing of Personal Data by the Data Receiver with a third party, and shall include (i) subcontracting the processing of Jointly Shared Personal Data and (ii) granting a third party Controller access to the Jointly Shared Personal Data.
   2. Neither party shall disclose or transfer the Jointly Shared Personal Data to a third party located within the UK without the prior written consent of the other party.
   3. If the Data Receiver appoints a third party Processor within the UK to Process the Jointly Shared Personal Data, it shall comply with the relevant provisions of the Data Protection Legislation and shall remain liable to the Data Discloser for the acts and/or omissions of the Processor.
   4. The Data Receiver may not transfer Jointly Shared Personal Data to a third party located outside the UK unless it (i) complies with the provisions of the Data Protection Legislation in the event the third party is also a joint controller; or (ii) ensures that the transfer is to a country or international organisation approved under the applicable Data Protection Legislation as providing adequate protection; or (iii) has appropriate safeguards or binding corporate rules in place pursuant to the applicable Data Protection Legislation and the Data Receiver is satisfied, having carried out an impact assessment in accordance with applicable guidance, that enforceable data subject rights and effective legal remedies for data subjects are available in respect of the Jointly Shared Personal Data; (iv) or one of the derogations for specific situations in the applicable Data Protection Legislation applies to the transfer.
6. **Security and Training** 
   1. The Data Discloser shall only provide the Jointly Shared Personal Data to the Data Receiver by using secure methods as agreed and set out in Schedule 1.
   2. The parties undertake to have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of the Personal Data as required under the Data Protection Legislation.
7. **Personal Data Breaches and Reporting Procedures**
   1. Schedule 2 specifies the party that shall have primary responsibility for notifying a Personal Data Breach affecting Jointly Shared Personal Data to the Information Commissioner and (where applicable) Data Subjects under the Data Protection Legislation.
   2. If either party suffers a Personal Data Breach in respect of the Jointly Shared Personal Data it shall promptly inform the other party of any such Personal Data Breach.
   3. The parties shall cooperate to determine (each acting reasonably and by reference to obligations under the Data Protection Legislation) if the Personal Data Breach is notifiable to the Information Commissioner and/or the affected Data Subjects. The parties agree to cooperate and provide reasonable assistance as is necessary to each other to facilitate the handling of any Personal Data Breach in an expeditious and compliant manner.
8. **Warranties** 
   1. Each party warrants and undertakes that it will:
      1. process the Jointly Shared Personal Data in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments that apply to its Personal Data processing operations;
      2. respond within a reasonable time and as far as reasonably possible to enquiries from the Information Commissioner in relation to the Jointly Shared Personal Data;
      3. Where applicable, maintain registration with the Information Commissioner and all relevant Supervisory Authorities to process all Jointly Shared Personal Data for and by the Agreed Purpose; and
      4. respond to Subject Rights Requests in accordance with the Data Protection Legislation, including where necessary (i) advising the other party of any step(s) it should reasonably take in this regard; and (ii) where the legitimate ground relied upon is a Data Subject's consent, the timely operation of an effective procedure if such consent is withdrawn.
   2. [The Data Discloser warrants and undertakes that it is entitled to provide the Jointly Shared Personal Data to the Data Receiver and it will ensure that the Jointly Shared Personal Data is accurate].
9. **Changes to the applicable law** 
   1. If during the Term of this Schedule the Data Protection Legislation changes in a way that the Schedule is no longer adequate for the purpose of governing lawful data sharing exercises, the parties agree that they will negotiate in good faith to review this Part C of Schedule 1 in the light of the changes.

**Schedule 2**

Particulars of Processing

**[*Please complete this schedule as required to reflect the relationship between the Fund and the Contractor. Please note that this should align with the details provided in the Contract Details.*]**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Description** |  | **Details** |
|  | **Identity of Data Controller for each Category of Personal Data** | (a) | **The Fund is Data Controller and the Supplier is Data Processor**  The Parties acknowledge that for the purposes of the Data Protection Legislation, the Fund is the Data Controller and the Supplier is the Data Processor of the following Personal Data:  **[Note to NLCF:** insert the scope of Personal Data for which the purposes and means of the processing by the Supplier is determined by the Fund]  *Part A of Schedule 1 shall apply to any such processing*. |
| (b) | **The Parties are Independent Data Controllers of Personal Data**  The Parties acknowledge that they are Independent Data Controllers for the purposes of the Data Protection Legislation in respect of:   * Personally identifiable information of Supplier Personnel, * Personally identifiable Information of any directors, officers, employees, agents, consultants and contractors of the Fund (excluding the Supplier Personnel) engaged in the performance of the Fund’s duties under this Contract).   **[Note to NLCF:** insert the scope of other Personal Data provided by one Party who is Data Controller to the other Party who will separately determine the nature and purposes of its processing the Personal Data on receipt.  *Part B of Schedule 1 shall apply to any such data sharing.* |
| (c) | **The Parties are Joint Controllers**  The Parties acknowledge that they are Joint Data Controllers for the purposes of the Data Protection Legislation in respect of:  **[Note to NLCF:** insert the scope of Personal Data for which the purposes and means of the processing is determined by both Parties together]  *Part C of Schedule 1 shall apply to any such data sharing.* |
|  | **Subject matter of the Processing** | **[Note to NLCF:** This should be a high level, short description of what the processing is about i.e. its subject matter of the contract. | |
|  | **Duration of the processing** | [The duration of this Contract.] | |
|  | **Agreed Purpose** | [**Note to NLCF:** Please be as specific as possible, but make sure that you cover all intended purposes.] | |
|  | **Type of Personal Data being processed** | *[****Note to NLCF****: Specify the types of Personal Data to be shared between the parties.]* | |
|  | **Categories of Data Subject** | [**Note to NLCF:** Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc] | |
|  | **[Joint Controllers: allocation of roles and responsibilities]**  **[Note to NLCF:** delete if not applicable] | |  |  |  | | --- | --- | --- | |  | **The Fund** | **The Supplier** | | Development of privacy notice(s) |  |  | | Provision of privacy notice(s) |  |  | | Central point of contact for Data Subjects |  |  | | Lead party for notifications to the Supervisory Authority |  |  | | |