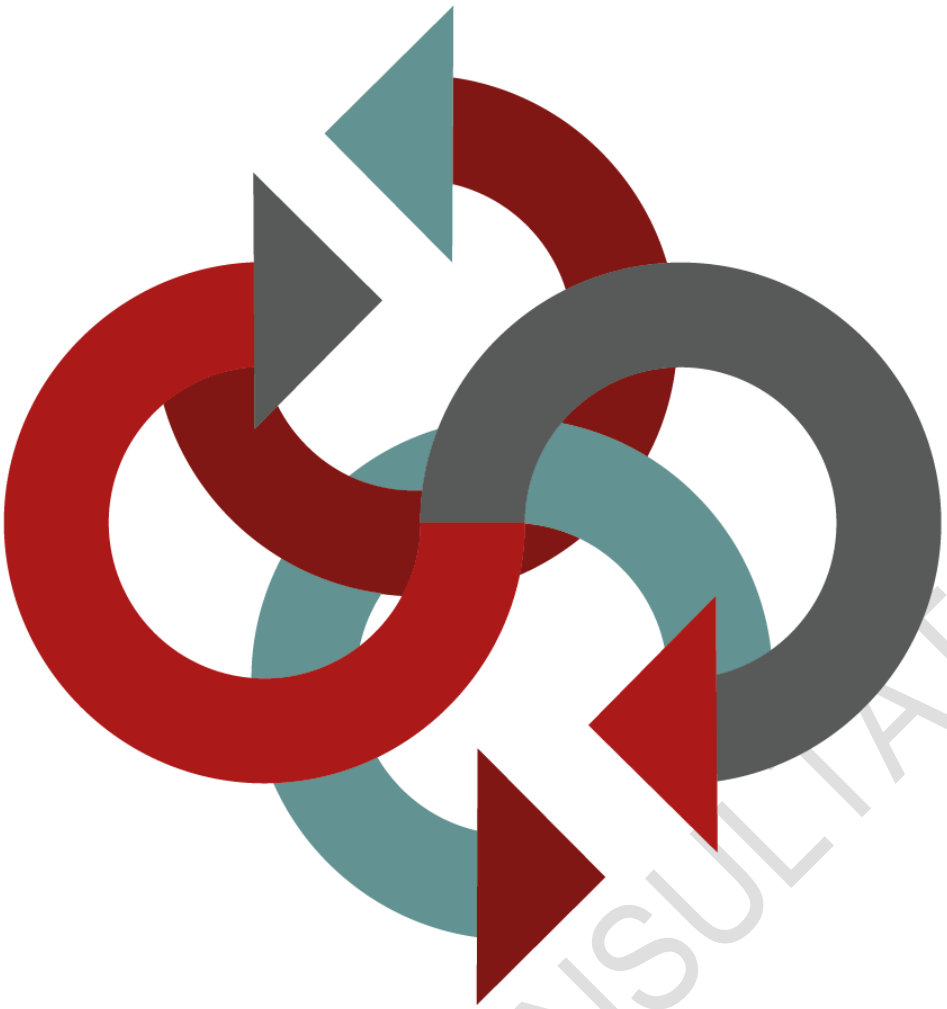

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Wales Accord on the Sharing of Personal Information

Data Sub-processing Agreement

[Insert details here]

Version	[Insert details here]
Issue Date	[Insert date here]
Review Date	[Insert date here]

Template developed in partnership with

BLAKE MORGAN

Template Version 6

Further information on how a Data Sub-processing Agreement should be developed is contained within the **Guide on the Development of a Data Sub-processing Agreement**

Further guidance may be sought from the WASPI Service at: www.waspi.gov.wales

Note: This page can be removed once the DSPA development has commenced

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A Data Sub-processing Agreement (DSPA) is designed for use where a Data Controller and Processor have entered into an agreement (such as a services agreement) where the Processor engages a Sub-processor to process Personal Data on the Processor's behalf. Article 28(4) of the UK GDPR requires there to be a binding contract between the Processor and the Sub-processor.

This DSPA sets out the nature, purpose and duration of the processing activities that will take place. It also specifies the types of personal data to be processed and the categories of individuals the data belongs to. It defines the rights and obligations the processor and the sub-processor will have.

Organisations who use the WASPI DSPA template need to ensure that any completed DSPA is legally binding from their own organisational requirements. WASPI provide a template agreement which can be used, but exclude all warranties and representations about the suitability of the document and exclude all liability in respect of the processing or contracts in place. The WASPI service will not provide any opinions on any proposed agreements, data protection advice should be sought from relevant organisation's data protection leads.

This DSPA template has been prepared solely for the benefit of WASPI only. The template DSPA was developed by WASPI in partnership with Blake Morgan LLP. Whilst other organisations may use this data processing agreement template, neither WASPI nor Blake Morgan shall owe any duty of care to any other entities and all liability of WASPI and Blake Morgan LLP to all other entities is hereby excluded. Other entities are advised seek their own advice on the contents and use of this template.

The template can be used for direct Processor to Sub-processor activities. Other WASPI templates are available for other processing arrangements at: https://www.waspi.gov.wales/framework-documentation/templates-and-guidance/

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Part 1 Front Sheet

A. The Controller(s) and the Initial Processor identified below have entered into the Principal Agreement (as set out below) which requires the Initial Processor to process personal data on behalf of the Controller(s) and the Initial Processor wishes to sub-contract some or all of that processing to the Sub-processor.

B. Both the Initial Processor and Sub-processor (the **Parties**) acknowledge and agree that they have specific obligations under the Data Protection Legislation with respect to Personal Data.

C. The Controller(s) retains control of the Personal Data and remains responsible for its obligations under the Data Protection Legislation.

D. This DSPA sets out the nature, purpose and duration of the processing activities that will take place and also specifies the types of personal data to be processed and the categories of individuals the data belongs to. It defines the rights and obligations the Initial Processor and Sub-processor will have and contains the mandatory clauses required by Articles 28(3) and 28(4) of the UK GDPR.

E. This Front Sheet and the Terms and Conditions at part 2 (together, this **Agreement**) record the obligations of the Parties in respect of these processing activities.

F. Where there is a conflict between the provisions of this Front Sheet and the Terms and Conditions, then the provisions of this Front Sheet shall prevail.

I.	**Date of Agreement**		[This is the date of this DSPA] [DD] day of [insert month] 202[X]
II.	**Principal Agreement**		[Insert details of the DPA between the Controller and the Processor] dated [insert date]]
III.	**Controller(s)**	**Name**	
		Registered address	
		Company number	
		ICO registration number	
		Point of Contact	
IV.	**Initial Processor**	**Name**	
		Registered address	
		Company number	
		ICO registration number	
		Point of Contact	
V.		**Name**	

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	Sub-processor	**Registered address**	
		Company number	
		ICO registration number	
		Point of Contact	
VI.	**Subject matter of the sub-processing**		[This should be a high level, short description of what the sub-processing is about i.e. its subject matter of the contract. Example: The sub-processing is needed in order to ensure that the Processor can effectively deliver its obligations under the Principal Agreement.]
VII.	**Nature of the sub-processing**		[The nature of the sub-processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.]
VIII.	**Purpose of the sub-processing**		[Please be as specific as possible, but make sure that you cover all intended purposes. The purpose might include: employment processing, statutory obligation, recruitment assessment etc]
IX.	**Duration of the sub-processing**		[Clearly set out the duration of the sub-processing including dates]
X.	**Categories of Data Subject**		[Examples include: patients, service users, staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc.]
XI.	**Personal Data Processed as part of this Agreement**		[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]
XII.	**Sub-contractors**		**Name** / **Registered Address** / **Company number** / **ICO number**
XIII.	**Minimum limit of insurance pursuant to clause 14.2**		£[TBC] per [claim][in aggregate]
XIV.	**Security Details**		[Example: Any Personal Data sent from one place to another by or for the Sub-processor shall be carried by appropriate secure means. In respect of any Personal Data that could be used to identify an individual, such Personal Data:

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		• may only be sent electronically (e.g by e-mail or via a web browser) if it is encrypted or on a secure network; • held on laptops, memory sticks or any other portable media must be encrypted; and • Where computer readable storage media containing Personal Data are not returned to the Controller(s) or the Initial Processor after processing, any Personal Data therein shall be physically erased from the media by the Sub-processor before re-use of the media.]
XV.	**Plan for return and/or destruction of the Personal Data once the processing is complete (*unless* required by law to retain the Data)**	[Describe how long the data will be retained for, how it be returned to the Controller(s) or Initial Processor (as applicable) or destroyed]
XVI.	**Location for sub-processing Personal Data**	[Describe where the information will be held, such as within Wales, the United Kingdom, within or outside of the EEA. Ensure any considerations around international transfers have been considered.]

This Agreement has been entered into on the date stated on the Front Sheet.

Signed for and on the behalf of the Initial Processor

Signature : .....

Name : .....

Position : .....

Date : .....

Signed for and on the behalf of the Sub-processor

Signature : .....

Name : .....

Position : .....

Date : .....

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Part 2 Terms and Conditions

1. Definitions

1.1 In this Agreement the following terms shall have the following meanings:

1.1.1 **Data** means all data that is provided by the Initial Processor to the Sub-processor, including Personal Data, and which is processed under this Agreement;

1.1.2 **Data Loss Event** any event that results, or may result, in unauthorised access by or disclosure to unauthorised third parties of the Personal Data held by the Sub-processor under this Agreement, and/or actual or potential loss, damage, corruption and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;

1.1.3 **Data Protection Legislation** means all applicable laws, regulations and regulatory rules which govern the processing of personal data and privacy including but not limited to (i) the Data Protection Act 2018 (ii) the UK GDPR (and to the extent it applies the EU GDPR) (iii) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended) (iv) any subsequent legislation enacted and duly in force from time to time relating to the processing of Personal Data and (v) all guidance and / or codes of practice issued from time to time by the Information Commission or relevant government department, and any relevant rulings from time to time of the Information Commission or of the Courts of England and Wales relating to the processing of Personal Data;

1.1.4 **Data Subject Request** means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to Data Protection Legislation to access their Personal Data;

1.1.5 **EIRs** the Environmental Information Regulations 2004, together with any guidance and/or codes of practice issued by the Information Commission or any relevant government body in relation to such regulations;

1.1.6 **FoIA** means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time, together with any guidance and/or codes of practice issued by the Information Commission or any relevant government body in relation to such Act;

1.1.7 **Information** shall have the meaning given under section 84 of the FoIA and/or Regulation 2 of the EIRs;

1.1.8 **Initial Processor** means the Processor who were entered into a contract with the Data Controller(s);

1.1.9 **Party** shall refer to each of the Initial Processor and Sub-processor who together shall be known as the **Parties;**

1.1.10 **Personal Data**, **Data Subject**, **process**, **Personal Data Breach, Joint Controller(s)** and **Processor** have the meanings given in the Data Protection Legislation;

1.1.11 **Sub-contractor** means for the purposes of this agreement, a party contracted on behalf of the Sub-processor;

1.1.12 **Sub-processor Personnel** means all directors, officers, employees, agents, consultants and contractors of the Sub-processor engaged in the performance of its obligations under this Agreement;

1.1.13 **Purpose** means the purpose set out in the Front Sheet;

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1.1.14 **Request for Information** has the meaning set out in section 8 of the FoIA and/or Regulation 5 of the EIRs and includes any apparent request for such information;

1.1.15 **The ICO** means the Information Commission's Office.

1.1.16 **UK GDPR** and **EU GDPR** are as they are defined in section 3(10) of the Data Protection Act 2018; and

1.1.17 **Working Days** means Monday to Friday 09:00 to 17:00 excluding any statutory public holidays in Wales.

2. Appointment

2.1 In consideration of their compliance with their respective obligations under this Agreement, the Initial Processor appoints the Sub-processor to process, and the Sub-processor agrees to process, the data for the purpose and duration set out in the Front Sheet.

2.2 The Parties acknowledge that for the purposes of the Data Protection Legislation:

2.2.1 The Initial Processor is the Processor in relation to the Controller(s) and the Sub-processor is the Sub-processor; and

2.2.2 the Controller(s) retain(s) control of the Personal Data and remains responsible for its compliance obligations under the applicable Data Protection Legislation.

2.3 The Front Sheet sets out the scope, nature and purpose of processing by the Sub-processor, the duration of the processing, the types of Personal Data and categories of Data Subject.

2.4 The only processing that the Sub-processor is authorised by the Initial Processor and/or the Controller(s) to do is listed in Front Sheet.

2.5 All Parties will comply with all applicable requirements of the Data Protection Legislation. This Agreement is in addition to, and does not relieve, remove or replace, any Party's obligations under the Data Protection Legislation.

2.6 Without prejudice to the generality of clause 2.5, the Initial Processor will ensure that the Controller(s) has any required notices and consents in place to enable lawful processing of the Personal Data by the Initial Processor and the Sub-processor and has provided written instructions to the Initial Processor.

3. Obligations of the Sub-processor

3.1 Without prejudice to the generality of clause 2, the Sub-processor shall, in relation to the Data:

3.1.1 process Data only:

3.1.1.1 in accordance with the written instructions of the Initial Processor and/or the Controller(s) and only to the extent, and in such manner, as is necessary for the Purpose. The Sub-processor will not process the Personal Data for any other purpose or in a way that does not comply with this Agreement or the Data Protection Legislation; or

3.1.1.2 as required by the Data Protection Legislation or any other applicable law or any regulatory body. If the Sub-processor is required by the Data Protection Legislation or any other applicable law or any regulatory body to process the Data, the Sub-processor shall promptly notify the Initial Processor before processing the Data unless prohibited by applicable law;

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3.1.2 shall immediately inform the Initial Processor if it believes any instruction or processing is likely to breach any Data Protection Legislation or other applicable law;

3.1.3 not act in any way so as to cause the Controller(s) or the Initial Processor to breach of any of its obligations under the Data Protection Legislation;

3.1.4 comply promptly with any of the Initial Processor and/or Controller(s)'s written instructions requiring the Sub-processor to amend, transfer, delete or otherwise process the Personal Data, or to stop, mitigate or remedy any unauthorised processing;

3.1.5 at the written direction of the Initial Processor (and unless required by an applicable law to retain such Data), securely delete or return all Personal Data and copies thereof from all systems of the Sub-processor (i) after the completion of the processing under this Agreement (ii) following termination or expiry of this Agreement or (iii) in any circumstance where the Controller(s) and/or Initial Processor is/are required to do so by the Data Protection Legislation, and provide written confirmation of this to the Initial Processor. Where instructed to do so, the Sub-processor must return all Personal Data to the Initial Processor;

3.1.6 notify the Initial Processor immediately if the Sub-processor or any of its employees, agents, Sub-processors are requested to do any act which would infringe the Data Protection Legislation; and

3.1.7 maintain complete and accurate records and information to demonstrate its compliance with this clause 3 and make such records available on request to the Initial Processor and/or Controller(s).

3.2 The Sub-processor shall designate its own Data Protection Officer if required by the Data Protection Legislation.

4. Security

4.1 The Sub-processor must at all times ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing, access, disclosure, copying, modification, storage, reproduction, display or distribution of Personal Data and against accidental or unlawful loss, destruction, alteration, disclosure of, or damage to, Personal Data.

4.2 The Sub-processor must implement such measures to ensure a level of security which is appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage of Personal Data. The measures in place shall ensure an appropriate level of security having regard to the nature of the Data to be protected, the risk involved, the state of technological development and the cost of implementing any measures.

4.3 Such measures shall include, but shall not be limited to, compliance with any Security Details set out in the Front Sheet.

5. Data Protection Impact Assessment

5.1 If so required by the Initial Processor, the Sub-processor shall provide all reasonable assistance to the Initial Processor in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Initial Processor, include:

5.1.1 a systematic description of the envisaged processing operations and the purpose of the processing;

5.1.2 an assessment of the necessity and proportionality of the processing operations;

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5.1.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

5.1.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

6. Data Loss Event

6.1 The Sub-processor shall immediately (and in any event within 24 hours of becoming aware of such Data Loss Event or potential Data Loss Event) notify the Initial Processor of any Data Loss Event or potential Data Loss Event.

6.2 Where the Sub-processor becomes aware of Data Loss Event or potential Data Loss Event, it shall, without undue delay, also provide the Initial Processor) with the following information:

6.2.1 description of the nature of the Data Loss Event, including the categories of in-scope Personal Data and approximate number of both Data Subjects and the Personal Data records concerned;

6.2.2 the likely consequences; and

6.2.3 a description of the measures taken or proposed to be taken to address the Data Loss Events including measures to mitigate its possible adverse effects.

6.3 Immediately following any Data Loss Event, the Parties will co-ordinate with each other to investigate the matter.

6.4 The Sub-processor shall at its own cost and at no additional cost to the Initial Processor co-operate with the Initial Processor, including:

6.4.1 assisting with any investigation;

6.4.2 providing the Initial Processor and/or the Controller(s) access to the Sub-processor's facilities, systems and Sub-processor Personnel;

6.4.3 take reasonable and prompt steps to mitigate the effects and to minimise any damage resulting as a result of the Data Loss Event or otherwise required by the Initial Processor; and

6.4.4 make available all relevant records, logs, files, Sub-processor Personnel and other materials required to comply with Data Protection Legislation or reasonably required by the Initial Processor and/or Controller(s).

6.5 The Sub-processor's obligation to notify under clause 6.1 shall include the provision of further information to the Initial Processor, as details become available.

6.6 The Sub-processor shall not inform any third party or regulator of any such Data Loss Event without first obtaining the Initial Processor's prior written consent (except where required to do so by law).

6.7 The Sub-processor agrees that the Initial Processor and/or the Controller(s) has the sole right to determine:

6.7.1 whether to provide notice of the Data Loss Event to any Data Subjects, the ICO, other regulators, law enforcement agencies or others, as required by law or regulation or in the Initial Processor's and/or Controller(s)'s discretion, including the contents and delivery method of the notice; and

6.7.2 whether to offer any type of remedy to affected Data Subjects, including the nature and extent of such remedy.

7. Data Subject Requests, complaints and third-party rights

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7.1 The Sub-processor shall assist the Initial Processor in, and take such technical and organisational measures as may be appropriate, and promptly provide such information to the Initial Processor as it may reasonably require, to enable the Initial Processor and/or the Controller(s) to:

7.1.1 comply with:

7.1.1.1 the rights of Data Subjects under Data Protection Legislation, including responding to any Data Subject Requests; and

7.1.1.2 information or assessment notices served on the Initial Processor and/or the Controller(s) by the ICO or other relevant regulator under the Data Protection Legislation

7.1.2 ensure compliance with the Initial Processor's and the Controller's obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

7.2 The Sub-processor shall notify the Initial Processor immediately and in any case by the end of the next Working Day if it receives:

7.2.1 a Data Subject Request (or purported Data Subject Request);

7.2.2 a request to rectify, block or erase any Personal Data;

7.2.3 any other request, complaint, notice or communication that relates directly or indirectly to the processing of the Personal Data or to the Sub-processor or Initial Processor's compliance with the Data Protection Legislation;

7.2.4 receives a request from any third party for the disclosure of the Data (including where compliance with such request is required or purported to be required by applicable law);

7.2.5 any communication from the ICO or any other regulatory authority in connection with Personal Data processed under this Agreement; or

7.2.6 fully co-operate and assist the Initial Processor and/or the Controller(s) in responding to any complaint, notice, communication or Data Subject request.

7.3 The Sub-processor's obligation to notify under clause 7.2 shall include the provision of further information to the Initial Processor, as details become available.

7.4 The Sub-processor shall not respond to any complaint, communication or request made unless the Initial Processor and/or the Controller(s)' direct it to do so in writing.

7.5 The Sub-processor shall provide the Initial Processor and/or the Controller(s) (at no additional cost to the Initial Processor) with full co-operation and assistance in relation to the Initial Processor and/or the Controller(s)'s obligations under Data Protection Legislation and any complaint, communication or request made (and insofar as possible within the timescales reasonably required by the Initial Processor) including but not limited to promptly providing:

7.5.1 the Initial Processor with full details and copies of the complaint, communication or request;

7.5.2 such assistance as is reasonably requested by the Initial Processor to enable the Initial Process and/or the Controller(s) to comply with a Data Subject Request within the relevant timescales set out in Data Protection Legislation;

7.5.3 the Initial Processor, at its request, with any Personal Data it holds in relation to a Data Subject;

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7.5.4 assistance as requested by the Initial Processor with respect to any request from the ICO, or any consultation by the Initial Processor with the ICO.

7.6 The Sub-processor must not disclose the Personal Data to any Data Subject or to a third party other than in accordance with the Initial Processor's written instructions, or as required by applicable law.

7.7 If either the Initial Processor or the Sub-processor receive a complaint which relates to the activities of both the Initial Processor and the Sub-processor under the terms of this Agreement, the Parties shall cooperate with each other (acting in good faith) in order to resolve the complaint and shall provide to the other Party any relevant information as reasonably requested.

8. Sub-Contractors

8.1 The Sub-processor is not permitted to subcontract any activity that will involve a third party processing the Personal Data without the Initial Processor's prior written consent (where the Initial Processor has obtained this from the Controller(s)).

8.2 The Sub-processor shall only authorise a third party (each a **"Sub-contractor"**) to process the Personal Data if:

8.2.1 the Initial Processor provide(s) prior written consent prior to the appointment of each subcontractor (having obtained this from the Controller(s));

8.2.2 the Sub-processor enters into a written contract with the Sub-contractor that contains terms substantially the same as those set out in this Agreement, in particular, in relation to requiring appropriate technical and organisational data security measures, and, upon the Initial Processor written request, provides the Initial Processor with copies of such contracts;

8.2.3 the Sub-processor maintains control over all Personal Data it entrusts to the Sub-contractor; and

8.2.4 the Sub-contractor's contract terminates automatically on termination of this Agreement (or the Principal Agreement) for any reason.

8.3 Those Sub-contractors approved as at the commencement of this Agreement are as set out on the Front Sheet.

8.4 The Sub-processor must list all approved Sub-contractors in the Front Sheet, this includes any Sub-contractor's name, location and details.

8.5 Where the Sub-contractor fails to fulfil its obligations under such written agreement, the Sub-processor remains fully liable to the Initial Processor for the Sub-contractor's performance of its Agreement obligations.

8.6 On the Initial Processor's or Controller(s) written request, the Sub-processor will audit a Sub-contractor's compliance with its obligations regarding the Personal Data and provide the Initial Processor with the audit results.

9. International data transfers

9.1 The Sub-processor shall not transfer any Personal Data outside of the UK or European Economic Area without the prior written consent of the Initial Processor and/or the Controller(s) (which may be withheld in its absolute discretion).

9.2 Subject to clause 9.1, any transfer outside the European Economic Area shall be subject to the Sub-processor complying with the Data Protection Legislation and if so required by the Initial Processor, the Sub-processor shall provide all reasonable assistance to the Initial

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Processor and/or the Controller(s) in the preparation of any transfer risk assessment prior to the transfer of any Personal Data.

10. Confidentiality

10.1 The Sub-processor shall ensure that all Personal Data is treated and maintained as confidential information and is not published, disclosed or divulged to any third party by the Sub-processor or any of its employees, workers or contractors, unless directed in writing to do so by the Initial Processor and/or the Controller(s) unless required by any applicable law, court or regulator (including the ICO). If any applicable law, court or regulator (including the ICO) requires the Sub-processor to process or disclose the Personal Data to a third party, the Sub-processor must first inform the Initial Processor and/or the Controller(s) of such legal or regulatory requirement and give them an opportunity to object or challenge the requirement, unless the applicable law prohibits the giving of such notice.

10.2 The obligations placed on the Sub-processor in this clause 3 will also apply to all non-personal data and the information contained within the Data. The Sub-processor, its employees, servants, agents or sub-contractors accept this duty of confidentiality regarding all non-personal data.

10.3 The obligations relating to confidentiality set out in clause 10 shall survive termination or expiry of this Agreement.

11. Sub-processor Personnel

11.1 The Sub-processor shall:

11.1.1 ensure that Sub-processor Personnel do not process Data except in accordance with this Agreement;

11.1.2 ensure that the Personal Data is not made available by default to all employees, workers or contractors of the Sub-processor or any sub-contractor and only to such individuals as are strictly required in order to meet the obligations under this Agreement have access to the Personal Data; and

11.1.3 take reasonable steps to ensure the reliability and integrity of Sub-processor Personnel who have access to the Personal Data;

11.1.4 ensure that any Sub-processor Personnel authorised to process the Personal Data are:

11.1.4.1 are aware of and comply with the Sub-processor's duties under this Agreement;

11.1.4.2 are subject to appropriate confidentiality undertakings with the Sub-processor or any Sub-contractor;

11.1.4.3 are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Initial Processor or as otherwise permitted by this Agreement; and

11.1.4.4 have undergone adequate training in the use, care, protection and handling of personal data.

12. Rights of the Initial Processor

12.1 The Initial Processor is entitled, on giving not less than five (5) Working Days' notice to the Sub-processor, to inspect, appoint representatives to inspect, or to permit regulators, auditors, the Controller(s) or the ICO (or their representatives) to attend, access and/or inspect all facilities, equipment, documents and electronic data relating to the processing of Data by the

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Sub-processor under this Agreement. The Initial Processor or Controller(s) shall, and shall ensure that its officers, employees and representatives performing such inspection shall, keep everything discovered in respect of the inspection strictly confidential including so as to comply with all reasonable confidentiality requirements of the Sub-processor.

12.2 Save in respect of a regulator (who shall be permitted unfettered access), the Initial Processor or Controller(s) will carry out such audit during normal working hours.

12.3 The requirement to give notice under clause 12.1 will not apply if the Initial Processor reasonably believes that the Sub-processor is in material breach of any of its obligations under this Agreement.

13. Term and termination

13.1 Unless terminated in accordance with clause 13.2, this Agreement shall continue in full force and effect until the completion of the processing activities set out on the Front Sheet and thereafter until all Personal Data has been securely deleted or returned to the Initial Processor in accordance with clause 3.1.5.

13.2 This Agreement may be terminated:

13.2.1 immediately by the Initial Processor if the Sub-processor commits any breach of its obligations under this Agreement; or

13.2.2 at any other time by either Party on one month's prior written notice to the other Party.

14. Indemnity

14.1 The Sub-processor must on an ongoing basis fully and effectively indemnify and hold harmless and defend at its own expense the Initial Processor against all claims, expenses, costs (including reasonable legal costs), damages, losses, demands and regulatory fines awarded against or incurred or paid by the Initial Processor arising as a result of the Sub-processor's negligence or any breach of the terms of this Agreement, except where such losses arise directly as a result of the Initial Processor's instructions.

14.2 The Sub-processor shall insure against its liability under this clause 14 with a minimum aggregate limit of indemnity in the amount set out in the Front Sheet or such other sum as may be agreed between the Initial Processor and the Sub-processor in writing.

14.3 For the duration of this Agreement, the Sub-processor shall maintain employer's liability insurance in respect of the Sub-processor's staff in accordance with any legal requirement for the time being in force.

14.4 Nothing in this Agreement excludes or limits the liability of either Party for:

14.4.1 death or personal injury caused by such Party's negligence;

14.4.2 fraud or fraudulent misrepresentation; or

14.4.3 any other liability which cannot lawfully be excluded or limited.

15. Freedom of Information

15.1 The Sub-processor acknowledges that the Initial Process and/or the Controller(s) may be a public authority for the purpose of FoIA and/or EIRs.

15.2 The Sub-processor shall:

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15.2.1 notify receipt of any Requests for Information in connection with the Data to the Initial Processor as soon as practicable after receipt and in any event within two (2) Working Days of receiving a Request for Information and comply with any instructions provided by the Initial Processor and/or the Controller(d);

15.2.2 not respond directly to a Request for Information addressed to the Initial Processor and/or the Controller(s) unless authorised in writing to do so by the Initial Processor and/or the Controller(s).

15.2.3 provide the Initial Processor with a copy of all information in its possession or power in the form that the Initial Processor requires in connection with a Request for Information within five (5) Working Days (or such other period as the Initial Processor may specify) of the Initial Processor requesting that Information; and

15.2.4 provide all necessary assistance and cooperation as reasonably requested by the Initial Processor to enable the Controller(s) and/or the Initial Processor to comply with its obligations under the FoIA and EIRs within the time for compliance set out in section 10 of the FoIA or Regulation 5(2) of the EIRs;

15.3 The Sub-processor acknowledges that the Controller(s) and/or the Initial Processor may be required under the FoIA and EIRs to disclose information (including information about this Agreement itself or the services provided by the Sub-processor) without consulting or obtaining consent from the Sub-processor. The Initial Processor shall take reasonable steps to notify the Sub-processors of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FoIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Initial Processor and/or the Controller(s) shall be responsible for determining in its absolute discretion whether any Information and/or any other information is exempt from disclosure in accordance with the FoIA and EIRs.

15.4 The Sub-processor acknowledges that the Initial Processor and/or the Controller(s) may publish basic details of the Agreement in the appropriate log under the Initial Processor's or the Controller's Publication Scheme.

16. Miscellaneous

16.1 No variation of this Agreement shall be valid unless in writing and signed by, or on behalf of, each of the Parties.

16.2 The Parties agree to take account of any guidance issued by the ICO. The Initial Processor may upon giving the Sub-processor not less than 30 Working Days' notice to the Sub-processor amend this Agreement to ensure that it complies with any guidance issued by the ICO.

16.3 Any notice given to a Party under or in connection with this **Agreement** must be in writing and delivered to the relevant Party's Point of Contact (as set out in the Front Sheet and as may be amended by the relevant Party by written notice to the other Party). This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

16.4 This Agreement constitutes the entire agreement between the Parties in respect of the processing of Personal Data described on the Front Sheet and supersedes and extinguishes all previous drafts, arrangements, understandings or agreements between them, whether written or oral, relating to the subject matter of this Agreement.

16.5 A person who is not a Party to this Agreement shall not have any rights under or in connection with it.

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16.6 This Agreement, 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), shall be governed by, and construed in accordance with the law of England and Wales as applied in Wales.

16.7 The Parties irrevocably agree that the courts of England and Wales sitting in Cardiff, shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement.

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