

## STANDARD TERMS AND CONDITIONS

- (1) **VERITAU LIMITED** a company registered in England and Wales (Company No. 6794890) whose registered office is at West Offices, Station Rise, York, YO1 6GA (“Veritau”); and
- (2) **You** (the **Customer**).

### 1. INTERPRETATION

- 1.1 The following definitions and rules of interpretation in this clause apply in this Agreement.

**Agreement:** means this contract between (i) Veritau and (ii) You constituted by these terms and conditions, the Engagement Letter and any documents referred to within

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

**Charges:** means the charges set out in the Engagement Letter;

**Commencement Date:** means the date You give Veritau instructions to provide the Services.

**Confidential Information:** means all information, whether written or oral (however recorded), provided by the disclosing party to the receiving party and which (i) is known by the receiving party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving party to be confidential;

**Controller:** has the meaning given in the GDPR;

**Customer's Equipment:** any equipment, systems, cabling or facilities provided by You and used directly or indirectly in the supply of the Services;

**Deliverables:** all Documents, products and materials developed by Veritau or its agents, sub-contractors, consultants and employees in relation to the Services in any form, including (without limitation) computer programs, data, reports and specifications (including drafts);

**Data Loss Event:** means any event that results, or may result, in unauthorised access to Personal Data held by Veritau under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;

**Data Processing Schedule:** any schedule setting out the scope, nature and purpose of processing by Veritau, the duration of the processing and the types of Personal Data and categories of Data Subject where applicable; and

**Data Protection Impact Assessment:** means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;

**Data Protection Legislation:** means (i) the GDPR, the UK GDPR, the LED and any applicable national implementing Laws as amended from time to time; (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; and (iii) all applicable Law about the processing of personal data and privacy;

**Data Protection Officer:** has the meaning given in the GDPR;

**Data Subject:** has the meaning given in the GDPR;

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

**Document:** includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form;

**DPA 2018:** means the Data Protection Act 2018;

**Engagement Letter:** means the letter of Engagement sent by Veritau to You setting out the specific Services to be completed pursuant to the terms of this Agreement;

**Exempt Information:** means information falling into the exemptions set out in the Freedom of Information Act 2000;

**FOI:** the Freedom of Information Act 2000;

**Force Majeure:** means any circumstance not within a Party's reasonable control including, without limitation:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition;
- (f) collapse of buildings, fire, explosion or accident; and

- (g) any labour or trade dispute, strikes, industrial action or lockouts (excluding any labour or trade dispute, strike, industrial action or lockout confined to Veritau's workforce or the workforce of any Subcontractor of Veritau).

**GDPR:** means the General Data Protection Regulation (*Regulation (EU) 2016/679*) and "**UK GDPR**" means the GDPR as implemented into the law of England and Wales, Scotland and Northern Ireland;

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

**Law:** means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which Veritau is bound to comply;

**LED:** means the Law Enforcement Directive (*Directive (EU) 2016/680*);

**Material:** all Documents, information and materials provided by the Customer relating to the Services including (without limitation), computer programs, data, reports and specifications;

**Order:** Your request for Services from Veritau;

**Party:** a party to this Agreement and "**Parties**" shall be construed accordingly;

**Personal Data:** has the meaning given in the GDPR;

**Personal Data Breach:** has the meaning given in the GDPR;

**Pre-existing Materials:** all Documents, information and materials provided by Veritau relating to the Services which existed prior to the commencement of the Agreement including computer programs, data, reports and specifications;

**Processor:** has the meaning given in the GDPR;

**Prohibited Act:** means Veritau or any Staff:

- a) directly or indirectly offering, promising or giving any person working for or engaged by the Customer a financial or other advantage to:

- b) directly or indirectly offering, promising or giving any person working for or engaged by the Customer a financial or other advantage to:
  - (i) induce that person to perform improperly a relevant function or activity; or
  - (ii) reward that person for improper performance of a relevant function activity;
- c) directly or indirectly requesting, agreeing to receive or accepting any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
- d) committing any offence:
  - (i) under the Bribery Act 2010;
  - (ii) under legislation creating offences concerning fraudulent acts;
  - (iii) at common law concerning fraudulent acts relating to this Agreement or any other contract with the Customer; or
- e) defrauding, attempting to defraud or conspiring to defraud the Customer;

**Protective Measures:** appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of 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 such measures adopted by it;

**Services:** means the services detailed in the Engagement Letter provided by Veritau to You together with any other services which Veritau provides, or agrees to provide, to the Customer;

**Staff:** means all directors, officers, employees, agents, consultants and contractors of Veritau and/or of any sub-contractor engaged in the performance of Veritau's obligations under this Agreement;

**Sub-processor:** means any third party appointed to process Personal Data on behalf of Veritau related to this Agreement;

**VAT:** value added tax in accordance with the provisions of the Value Added Tax Act 1994;

**Veritau's Equipment:** any equipment, including tools, systems, cabling or facilities, provided by Veritau or its sub-contractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the Parties under which title passes to the Customer; and

**Working Day:** means Monday to Friday inclusive except bank holidays.

- 1.2 Clause and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.8 A reference to **writing** or **written** includes faxes and e-mail.
- 1.9 Any obligation in the Agreement on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.10 References to clauses are to the clauses of the Agreement.
- 1.11 Any words following the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## **2. COMMENCEMENT AND DURATION**

- 2.1 This Agreement shall commence on the Commencement Date and shall continue until either Party serves notice to terminate in accordance with clause 9.1.

## **3. VERITAU'S OBLIGATIONS**

- 3.1 Subject to the terms of this Agreement, Veritau shall provide the Services to You with effect from the Commencement Date.
- 3.2 Veritau shall provide the Services to You:
  - (a) with reasonable skill, care and diligence in accordance with good industry practice in Veritau's industry, profession or trade.

- 3.3 Veritau shall use reasonable endeavours to meet any performance dates specified by You but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.4 Veritau shall inform You as soon as is reasonably practicable if it is unable to provide the Services or if Veritau is aware of anything which may prevent Veritau from complying with this Agreement.
- 3.5 Veritau shall:
- (a) observe all health and safety measures, and any other reasonable security requirements that apply while on Your premises, as communicated to Veritau by You in accordance with clause 4.1(e); and
  - (b) notify You immediately in the event of any incident occurring in the performance of its obligations under this Agreement on Your premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 3.6 Veritau shall employ sufficient Staff to ensure that the Services are provided in accordance with this Agreement and shall efficiently and competently direct and supervise its employees, agents and sub-contractors who are to provide the Services.
- 3.7 Veritau's Staff shall be adequately qualified, competent and suitable in all other respects to provide the Services.
- 3.8 Veritau shall obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the provision of the Services.
- 3.9 Veritau shall use reasonable endeavours to ensure that Veritau's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services.
- 3.10 Veritau reserves the right to amend the Services if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and Veritau shall notify You in any such event.

#### **4. YOUR OBLIGATIONS**

- 4.1 You shall:
- (a) co-operate with Veritau in all matters relating to the Services;
  - (b) provide Veritau, its agents, sub-contractors, consultants and employees, in a timely manner and at no charge, with access to the Customer's premises, office accommodation, data and other facilities as required by Veritau such facilities to include but not be limited to access to a desk, telephone and Your computer network as

appropriate. No financial charge will be made to Veritau for the use of any such facilities;

- (c) provide to Veritau, in a timely manner, such data and other information as Veritau may require and ensure that it is accurate in all material respects;
- (d) be responsible (at its own cost) for preparing and maintaining the relevant premises for the supply of the Services, including identifying, monitoring, removing and disposing of any hazardous materials from its premises in accordance with all applicable laws, before and during the supply of the Services at those premises, and informing Veritau of all of the Customer's obligations and actions under this clause 4.1(d);
- (e) inform Veritau of all health and safety rules and regulations and any other reasonable security requirements that apply at Your premises;
- (f) use reasonable endeavours to ensure that all Your Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services; and
- (g) obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the use and enjoyment of the benefit of the Services, Veritau's Equipment, Material and the use of Your Equipment insofar as such licences, consents and legislation relate to the Your business, premises, staff and equipment;
- (h) keep and maintain Veritau's Equipment in accordance with Veritau's instructions as notified in writing from time to time, and shall not dispose of or use Veritau's Equipment other than in accordance with Veritau's written instructions or authorisation.

4.2 If Veritau's performance of its obligations under the Agreement is prevented or delayed by any act or omission of You, its agents, sub-contractors, consultants or employees, Veritau shall not be liable for any costs, charges or losses sustained or incurred by You arising directly or indirectly from such prevention or delay.

## **5. CHARGES AND PAYMENT**

5.1 In consideration of the provision of the Services by Veritau, You shall pay the Charges as set out the Engagement Letter.

5.2 Unless otherwise agreed in writing between the Parties, the Charges shall include every cost and expense of Veritau directly or indirectly incurred in connection with the performance of the Services.

5.3 Veritau shall invoice You either monthly in arrears or upon completion of the Services for the Charges (together with VAT where appropriate) for the period concerned. Each invoice shall include supporting information including a

breakdown of the Services supplied in the invoice period and provide a detailed breakdown of any expenses and materials, accompanied by the relevant receipts.

- 5.4 If there is a dispute between the Parties as to the amount invoiced, You shall pay the undisputed amount. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.
- 5.5 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. You shall, following the receipt of a valid VAT invoice, pay to Veritau a sum equal to the VAT chargeable in respect of the Services.
- 5.6 You shall pay each invoice submitted to it by Veritau, in full and in cleared funds in accordance with the terms set out on the invoice.
- 5.7 Without prejudice to any other right or remedy that it may have, if a payment of an undisputed amount is not made by You by the due date, then Veritau may
  - (a) charge interest on such sum from the due date for payment at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Customer shall pay the interest immediately on demand.; and
  - (b) suspend all Services until payment has been made in full.
- 5.8 All sums payable to Veritau under the Agreement shall become due immediately on its termination or upon completion of the Services, despite any other provision. This clause 5.8 is without prejudice to any right to claim for interest under the law, or any such right under the Agreement.
- 5.9 Veritau may, without prejudice to any other rights it may have, set off any liability of You to Veritau against any liability of Veritau to You.

## **6. INTELLECTUAL PROPERTY RIGHTS**

- 6.1 All intellectual property rights in any Pre-Existing Materials provided by Veritau to You for the purposes of this Agreement shall remain the property of Veritau but Veritau hereby grants You a royalty-free, non-exclusive and non-transferable licence to use such materials as required to enable You to make use of the Services.
- 6.2 The Customer acknowledges that, where Veritau does not own any Pre-existing Materials, Your use of rights in Pre-existing Materials is conditional on Veritau obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle Veritau to license such rights to You.

## **7. VERITAU'S PROPERTY**

- 7.1 All materials, equipment and tools, drawings, specifications and data supplied by Veritau to You (including Pre-existing Materials and Veritau's Equipment) shall, at all times, be and remain the exclusive property of Veritau, but shall be held by You in safe custody at its own risk and maintained and kept in good condition by You until returned to Veritau, and shall not be disposed of or used other than in accordance with Veritau's written instructions or authorisation.

## **8. LIMITATION OF LIABILITY**

- 8.1 The following provisions in this clause 8 set out each Party's entire liability (including any liability for the acts and omissions of their respective employees, agents or sub-contractors) to the other Party in respect of:

- (a) any breach of its contractual obligations under this Agreement; and
- (b) any representation, statement or tortious act or omission, including negligence, arising under or in connection with this Agreement.

- 8.2 Any act or omission on the part of either Party or its employees, agents or sub-contractors, falling within clause 8.1 above shall, for the purposes of this clause 9 be known as an "Event of Default".

- 8.3 Each Party will accept unlimited liability for:

- (a) death or personal injury caused by their negligence or that of its staff; and
- (b) (in the case of Veritau) any breach of its obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 or under section 2(3) Consumer Protection Act 1987; and
- (c) fraud or fraudulent misrepresentation committed by that Party or its staff.
- (d) any other matter which, by law, may not be excluded or limited.

- 8.4 Veritau shall not be liable for any costs, charges, losses or expenses sustained or incurred by You or a third party as a result of You failing to act on the advice given by Veritau in accordance with the terms of this Agreement.

- 8.5 Subject to the provisions of clause 8.3 neither Party is liable to the other or to any third party, whether in contract, tort, under statute or otherwise (including each case negligence) or otherwise for any of the following types of loss or damage arising under or in relation to this Agreement:

- (a) any loss of profits, business contracts, anticipated savings, goodwill or revenue; and/or

- (b) any loss or corruption or destruction of data; and/or
- (c) any indirect or consequential loss or damage whatsoever.

even if that Party was advised in advance of the possibility of such damage.

- 8.6 Except in the case of any liability on the part of a Party referred to in clause 8.3 and subject to clause 8.4, each Party's liability to the other (other than any liability of the Customer to pay the charges under this Agreement) shall be limited to the total of the Charges payable by the Customer to Veritau under this Agreement.
- 8.7 You acknowledge that the above provisions of this clause 9 are reasonable and reflected in the Charges which would be higher without those provisions, and the Customer will accept such risk and/or insure accordingly.

## **9. TERMINATION**

- 9.1 Without prejudice to any other rights or remedies which the Parties may have, either Party may terminate the Agreement without liability to the other on giving the other not less than one (1) months written notice.
- 9.2 Either party may terminate this Agreement immediately on giving notice to the other if:
- (a) the other Party commits a material breach of any of the terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of that Party being notified in writing of the breach; or
  - (b) the other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 **OR** (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or
  - (c) the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party; or
  - (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party other than for the sole purpose of a scheme for a solvent amalgamation

of that other Party with one or more other companies or the solvent reconstruction of that other Party;

- (e) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other Party; or
- (f) a floating charge holder over the assets of that other Party has become entitled to appoint or has appointed an administrative receiver; or
- (g) a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party; or
- (h) a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) days; or
- (i) any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.2(b) to clause 9.2(h) (inclusive); or
- (j) the other Party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- (k) there is a change of control of the other Party (as defined in section 574 of the Capital Allowances Act 2001).

9.3 On termination of the Agreement for any reason:

- (a) You shall immediately pay to Veritau all of Veritau's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Veritau may submit an invoice, which shall be payable immediately on receipt;
- (b) You shall, within a reasonable time, return all of Veritau's Equipment, Pre-existing Materials and Deliverables. If the Customer fails to do so, then Veritau may enter the Customer's premises and take possession of them. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping; and
- (c) the accrued rights and liabilities of the Parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

- 9.4 On termination of the Agreement (however arising), the following clauses shall survive and continue in full force and effect clauses 8,9,9, 12, 13, 14, 16, 19 and 29.

## **10. FORCE MAJEURE**

- 10.1 Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever, including but not limited to any damages or abatement of Charges, whether directly or indirectly caused to or incurred by the other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations hereunder for the duration of such Force Majeure event. However, if any such event prevents either Party from performing all of its obligations hereunder for a period in excess of six (6) months, either Party may terminate this Agreement.
- 10.2 If either of the Parties shall become aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part it shall forthwith notify the other by the most expeditious method then available and shall inform the other of the period for which it is estimated that such failure or delay shall continue.
- 10.3 It is expressly agreed that any failure by Veritau to perform, or any delay by Veritau in performing, its obligations under this Agreement which results from any failure or delay in the performance of its obligations by any person, firm or company with which Veritau shall have entered into any contract, supply arrangement or sub-contractor otherwise, shall be regarded as a failure or delay due to Force Majeure.

## **11. VARIATION**

- 11.1 Veritau may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services.
- 11.2 Veritau may, from time to time and subject to Customer's prior written consent, which shall not be unreasonably withheld or delayed, change the Services, provided that where practicable, it will give the Customer at least one (1) months' notice of any change.
- 11.3 Subject to clause 11.1, no variation of the Agreement shall be valid unless it is in writing and signed by or on behalf of each of the Parties.

## **12. COMPLIANCE**

- 12.1 Each Party shall comply with the requirements of the Health and Safety at Work Act 1974 so far as they apply to the provision of the Services and throughout

the period of this Agreement. Each Party shall have in place a health and safety policy which complies with all statutory requirements.

12.2 Veritau shall promptly notify You of any health and safety hazards which may arise in connection with the performance of its obligations under this Agreement. You shall promptly notify the Veritau of any health and safety hazards which may exist or arise at the Your premises and which may affect the Veritau in the performance of its obligations under this Agreement.

12.3 Veritau shall (and shall procure that its Staff shall) perform its obligations under this Agreement in accordance with):

(a) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);

(b) any other requirements and instructions which the Customer reasonably imposes in connection with any equality obligations imposed on You at any time under applicable equality Law.

12.4 Veritau shall (and shall procure that its Staff shall)

(a) take all necessary steps, and inform You of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation); and

(b) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement. Veritau shall also undertake, or refrain from undertaking, such acts as You request so as to enable the Customer to comply with its obligations under the Human Rights Act 1998.

12.5 Veritau shall comply with, and shall ensure that its Staff shall comply with, the provisions of all applicable laws, statutes, regulations from time to time in force (including but not limited to):

(a) the Bribery Act 2010;

(b) the Modern Slavery Act 2015; and

(c) the Data Protection Legislation.

### **13. PREVENTION OF FRAUD AND CORRUPTION**

13.1 Veritau shall not, and shall procure that any Staff shall not, commit any Prohibited Act.

13.2 Veritau shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this

Agreement or for showing or refraining from showing favour or disfavour to any person in relation to this Agreement.

- 13.3 Veritau shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and Veritau (including its shareholders, members and directors) in connection with this Agreement and shall notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.
- 13.4 Veritau shall, if requested, provide You with any reasonable assistance, at Your reasonable cost, to enable You to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act 2010.

#### **14. DATA PROTECTION**

- 14.1 Both Parties shall comply with all applicable requirements of the Data Protection Legislation. This clause 14 is in addition to, and does not relieve, remove or replace, a Party's obligations under the Data Protection Legislation. Each Party shall bear its own costs in relation to compliance with this clause 14 and the Data Protection Legislation.
- 14.2 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and Veritau is the Processor. The only processing that Veritau is authorised to do is listed in Schedule A by the Customer and may not be determined by Veritau.
- 14.3 Veritau shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
- 14.4 Veritau shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
  - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
  - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

- 14.5 Veritau shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- (a) process that Personal Data only in accordance with Schedule A, unless Veritau is required to do otherwise by Law. If it is so required Veritau shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;
  - (b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Customer as appropriate to protect against a Data Loss Event having taken account of the:
    - (i) nature of the data to be protected;
    - (ii) harm that might result from a Data Loss Event;
    - (iii) state of technological development; and
    - (iv) cost of implementing any measures;
  - (c) ensure that:
    - (i) the Staff do not process Personal Data except in accordance with this Agreement (and in particular Schedule A);
    - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:
      - (A) are aware of and comply with Veritau's duties under this clause 14;
      - (B) are subject to appropriate confidentiality undertakings with Veritau or any Sub-processor;
      - (C) 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 Customer or as otherwise permitted by this Agreement; and
      - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
  - (d) not transfer Personal Data outside of the EU unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
    - (i) the Customer or Veritau has provided appropriate safeguards in relation to the transfer (whether in accordance with UK

GDPR Article 46 or LED Article 37) as determined by the Customer;

- (ii) the Data Subject has enforceable rights and effective legal remedies;
  - (iii) Veritau complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Customer in meeting its obligations); and
  - (iv) Veritau complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Agreement unless Veritau is required by Law to retain the Personal Data.

14.6 Subject to clause 14.7, Veritau shall notify the Customer immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
- (e) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event.

14.7 Veritau's obligation to notify under clause 14.6 shall include the provision of further information to the Customer in phases, as details become available.

14.8 Taking into account the nature of the processing, Veritau shall provide to the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 14.6 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:

- (a) the Customer with full details and copies of the complaint, communication or request;
  - (b) such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the Customer following any Data Loss Event; and
  - (e) assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.
- 14.9 Veritau shall maintain complete and accurate records and information to demonstrate its compliance with this clause 14 and maintain a record of all categories of processing activities carried out on behalf of a controller where:
- (a) the Customer determines that the processing is not occasional;
  - (b) the Customer determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; and
  - (c) the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 14.10 Veritau shall allow for audits of its data processing activity and premises by the Customer or the Customer's designated auditor.
- 14.11 Veritau shall comply with the instructions of the Customer to enable the audits referred to in clause 14.10 to be carried out and Veritau shall provide to the Customer and/or their designated auditor, all reasonable assistance that they require in connection with any audits, including making available to the Customer all information necessary to demonstrate compliance with its obligations under this Agreement and the Data Protection Legislation.
- 14.12 Veritau shall designate a data protection officer if required by the Data Protection Legislation.
- 14.13 Before allowing any Sub-processor to process any Personal Data related to this Agreement, Veritau must:
- (a) notify the Customer in writing of the intended Sub-processor and processing;

- (b) obtain the written consent of the Customer;
- (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 14 such that they apply to the Sub-processor; and
- (d) provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.

14.14 Veritau shall remain fully liable for all acts or omissions of any Sub-processor.

14.15 Veritau shall indemnify the Customer for any damage, cost or losses (including legal costs) incurred by the Customer in connection with any third party claim made or threatened against the Customer in connection with the loss, unauthorised disclosure or breach of the Data Protection Legislation by Veritau or any Sub-processor in relation to any Personal Data which Veritau is processing on behalf of the Customer in connection with this Agreement. This indemnity shall not apply to the extent Veritau's act or omission was as a result of the express instruction of the Customer.

14.16 Veritau may, at any time on not less than thirty (30) Working Days' notice, revise this clause 14 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

14.17 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than thirty (30) Working Days' notice to Veritau amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

## **15. FREEDOM OF INFORMATION**

15.1 If You or Veritau is bound by the provisions of the FOI, information relating to this Agreement may need to be disclosed to third parties in order for the Customer and/or Veritau to meet its obligations under the FOI.

15.2 Both Parties will make all reasonable efforts to assist the other Party in meeting its obligations under the FOI. Subject to clause 15.3 below if one Party receives an access request under the FOI, the other Party will upon request:

- (a) provide a copy of information requested in such access request which is under its control within a period of five (5) Working Days;
- (b) provide access to an authorised officer, within a period of five (5) Working Days, to inspect information held by that Party.

15.3 Clause 15.2 above does not apply if the information held by either Party is Exempt Information. Where either Party believes the information to be Exempt Information, that Party must:

- (a) state in writing to the other Party the nature of the information and the relevant exemption;
- (b) make all reasonable endeavours to ensure the accuracy of the reasons provided, and
- (c) only claim that information is exempt from disclosure if it genuinely believes this to be the case.

15.4 Where it is necessary for either Party to provide Confidential Information to the other Party, it must be clearly marked as "CONFIDENTIAL AND NOT FOR PUBLICATION". Neither Party shall disclose such information under the FOI without the consent of the other Party. Should either Party request consent from the other Party to disclose Confidential Information, both Parties should consider whether the information still constitutes Confidential Information. If the information is no longer Confidential Information then the Party receiving the request shall not unreasonably withhold its consent.

## **16. CONFIDENTIALITY, TRANSPARENCY AND PUBLICITY**

16.1 Subject to clause 16.2, each Party shall:

- (a) treat all Confidential Information it receives (whether obtained from the other Party or through its provision or receipt of the Services) as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing party; and
- (b) not use or exploit the disclosing party's Confidential Information in any way except for the purposes anticipated under this Agreement.

16.2 Notwithstanding clause 16.1, a Party may disclose Confidential Information which it receives from the other Party:

- (a) if it is or becomes public knowledge (otherwise than by a breach of this clause 16);
- (b) if it was in the possession of the Party concerned without restriction as to its disclosure before receiving it from the other Party; or
- (c) where it is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure.
- (d) where disclosure is required by applicable law or by a court of competent jurisdiction;
- (e) to its auditors or for the purposes of regulatory requirements;
- (f) on a confidential basis, to its professional advisers;

- (g) to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;
- (h) where the receiving party is Veritau, to the Staff on a need to know basis to enable performance of Veritau's obligations under this Agreement provided that Veritau shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 16.2 shall observe Veritau's confidentiality obligations under this Agreement; and
- (i) where the receiving party is You:
  - (A) on a confidential basis to the employees, agents, consultants and contractors of You;
  - (B) on a confidential basis to any company to which the Customer transfers or proposes to transfer all or any part of its business;
  - (C) to the extent that You (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
  - (D) in accordance with clause 15.

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on You under this clause 16.

16.3 Veritau and You shall ensure that all employees and Staff engaged in the provision or receipt of the Services or otherwise with access to information relating to them will abide by this confidentiality clause.

16.4 Veritau shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise this Agreement or any part of this Agreement in any way, except with the prior written consent of the Customer.

## **17. INSURANCE**

17.1 Veritau shall take out and maintain public liability insurance against its liabilities under this Agreement for death, injury or third party damage for the sum of £5 million in respect of each and every incident in relation to which a claim against it is made.

17.2 Veritau shall take out and maintain employer's liability insurance against its liabilities under this Agreement for death, injury or third party damage for the

sum of £10 million in respect of each and every incident in relation to which a claim against it is made.

17.3 Veritau shall take out and maintain professional indemnity insurance against its liabilities under this Agreement caused by negligence in the delivery of its services for the sum of £5 million in respect of each and every incident in relation to which a claim against it is made.

17.4 Veritau shall supply to You on request documentary evidence of insurance in place to establish compliance with clauses 17.1 to 17.3 inclusive.

## **18. COMPLAINTS PROCEDURE**

18.1 Veritau shall operate a complaints procedure from the beginning of this Agreement and at Your request provide a copy of it.

## **19. DISPUTE RESOLUTION**

19.1 Any dispute or difference (in this clause '**the dispute**') which arises between Veritau and You as to the construction of this Agreement, as to their respective rights, duties and obligations or as to any other matter arising out of or connected with the Agreement shall be determined in accordance with the provisions of this clause.

19.2 Veritau and You shall submit the dispute to a neutral adviser appointed by agreement between them to assist them in resolving the dispute. Either Party may give written notice to the other describing the nature of the dispute, requiring it to be submitted to such a neutral adviser and proposing the name of a suitable person to be appointed. If no such person is appointed by agreement within fourteen (14) days after such notice is given or, if no such notice is given within twenty eight (28) days after the dispute has arisen, either Party may request the Centre for Dispute Resolution to appoint a neutral adviser acceptable to both Parties.

19.3 The Parties shall, with the assistance of the neutral adviser appointed in accordance with 19.2 above, seek to resolve the dispute by using an alternative dispute resolution (in this clause '**ADR**') procedure agreed between the Parties or, in default of such agreement established by a mutual adviser.

19.4 If the Parties accept any recommendations made by the neutral adviser or otherwise reach agreement as to the resolution of the dispute, such agreement shall be recorded in writing and signed by the Parties and, if applicable, the neutral adviser and it shall be binding upon both Parties.

19.5 If: -

- (a) the dispute has not been resolved to the satisfaction of the Parties within sixty (60) days after the appointment of the neutral adviser; or

- (b) either Party fails or refuses to agree or participate in the ADR procedure; or
- (c) in any event the dispute is not resolved within ninety (90) days after it has arisen

then the dispute shall be resolved under clause 20.6 below.

- 19.6 Any dispute which is to be resolved under this clause shall be resolved by the decision of an expert whose decision shall, save as to manifest error, be final and binding on the Parties. The expert shall be appointed by agreement between the Parties or, if within ten (10) days after the dispute falls to be resolved, the Parties have been unable to agree then on application of either of the Parties to the President for the time being of the Chartered Institute of Arbitrators.
- 19.7 Any costs and fees incurred by the Parties which are not met in accordance with an agreement reached through the ADR procedure or in accordance with a decision reached by the expert under clause 19.6 above shall be borne by the Parties by whom they were incurred.

## **20. BEST VALUE AND SUSTAINABILITY**

- 20.1 Veritau shall comply with the provisions of its environmental policy in relation to the provision of the Services.
- 20.2 Throughout the term of this Agreement Veritau shall make all reasonable endeavours to reduce any negative impact on the environment caused by the Services. If during the term of the Agreement Veritau wishes to change any of the materials, technologies or working practices used in connection with the Services, Veritau must notify the Customer detailing the changes, any possible impact on the Charges and must also include an evaluation of the environmental impact of the proposed changes.
- 20.3 If the Customer agrees to the changes Veritau shall be free to implement the proposed changes.

## **21. WAIVER**

- 21.1 A waiver of any right under the Agreement is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a Party in exercising any right or remedy under the Agreement or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.
- 21.2 Unless specifically provided otherwise, rights arising under the Agreement are cumulative and do not exclude rights provided by law.

## **22. SEVERANCE**

- 22.1 If any provision of the Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.
- 22.2 If a provision of the Agreement (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

## **23. ENTIRE AGREEMENT**

- 23.1 The Agreement and the Engagement Letter constitutes the whole agreement between the Parties and supersedes all previous agreements between the Parties relating to its subject matter.
- 23.2 Each Party acknowledges that, in entering into the Agreement , it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) (other than for breach of Agreement ).
- 23.3 Nothing in this clause shall limit or exclude any liability for fraud.

## **24. ASSIGNMENT**

You shall not assign or transfer this Agreement or any of its obligations or rights under this Agreement in whole or in part (save to any legal entity with which You merge with or which is a successor body to You) without the prior written consent of Veritau.

## **25. NO PARTNERSHIP OR AGENCY**

Nothing in the Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the Parties, nor constitute any Party the agent of another Party for any purpose. No Party shall have authority to act as agent for, or to bind, the other Party in any way.

## **26. RIGHTS OF THIRD PARTIES**

A person who is not a party to this Agreement shall not have any rights under or in connection with it, including any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement .

## **27. NOTICES**

- 27.1 Any notice required to be given under the Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery commercial courier, or e-mail to the other Party.
- 27.2 Any notice shall be deemed to have been duly received if delivered personally, or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Working Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- 27.3 This clause 27 shall not apply to the service of any notice in any proceedings or other documents in any legal action.

## **28. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original and all the counterparts together shall constitute one and the same Agreement.

## **29. ENTIRE AGREEMENT**

- 29.1 This Agreement and the Engagement Letter contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them, whether written or oral, relating to its subject matter. The Parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause 29 shall exclude liability for fraud or fraudulent misrepresentation.

## **30. GOVERNING LAW AND JURISDICTION**

- 30.1 The Agreement, and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.
- 30.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Agreement or its subject matter.

## SCHEDULE A - DATA PROCESSING

1. Veritau shall comply with any further written instructions with respect to processing by the Customer.
2. Any such further instructions shall be incorporated into this Schedule A.

Description	Details
<i>Subject matter of the processing</i>	Veritau is providing an assurance service to the Customer. The service may involve audit, investigation, advice and support. To enable Veritau to provide this service effectively data held by the Customer may be subject to processing.
<i>Duration of the processing</i>	There is no set timetable for processing instead processing will take place at intervals throughout the contract period. The nature of some of the processing will be known in advance (for example where Veritau is conducting a specific task) whereas other processing will be instigated by the Customer in response to a particular event (for example where the Customer seeks advice or assistance from Veritau about a specific issue or risk).
<i>Nature and purposes of the processing</i>	<p>The nature of the processing may include the collection, recording, organisation, structuring, storage, analysis, retrieval, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means).</p> <p>The data will be processed for the purpose of audit, investigation, advice and support to the Customer. The specific nature of the processing will depend on the work being conducted. The purpose of the processing will be to assist the Customer to manage their risks effectively.</p>
<i>Type of Personal Data</i>	The types of data processed may include names, addresses, dates of birth, NI numbers, telephone numbers, details of pay, employment, attendance and performance related records, complaints, images and biometric data.
<i>Categories of Data Subject</i>	The data subjects may include staff (including volunteers, agents, and temporary workers), elected councilors, governors or trustees, parents and pupils, suppliers, and members of the public.
<i>Plan for return and destruction of the data once the processing is complete UNLESS requirement under union</i>	The data will be held for a maximum of four (4) years after processing before being destroyed. Data will be held electronically and will be subject to appropriate security controls to prevent unauthorised disclosure. At the end of the retention period the relevant files and

<i>or member state law to preserve that type of data</i>	records will be erased.
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