

Dated



Part of the TTC Group

Supplier:

TTC Commercial Services
Limited

Hadley Park East, Telford,
TF1 6QJ

Company Registration No.
04819897

And

Customer:

Company Registration No.

Appendix 1 to Client Agreement

Continuum Terms & Conditions

These are the Terms and Conditions for the agreement between:

us, TTC Commercial Services Limited, registered in England and Wales with company number **04819897**, whose registered address is TTC Group, Hadley Park, Hadley, Telford, Shropshire,

TF1 6QJ (the "Supplier"); and you (the "Customer"); (each a "Party" and together the "Parties") for us to provide you with the services set out in the "Client Agreement" on and subject to the terms of such Client Agreement and these Terms and Conditions.

BACKGROUND

- A. The Supplier has developed certain software applications and platforms which it makes available to subscribers via the internet for the purpose of fleet and driver risk management pursuant to this Agreement (the "Continuum Solution").**
- B. The Supplier may offer, and the Customer may accept the provision of one or more "Add-on Services" as set-out in the duly executed Client Agreement, which incorporates these Terms and Conditions, including any Schedule(s) applicable to the relevant Subscription Services or Add-on Services.**
- C. The Customer wishes to use the Supplier's Services in its business operations.**
- D. The Supplier has agreed to provide and the Customer has agreed to take and pay for the Supplier's Services subject to the terms and conditions of this Agreement.**

1. DEFINITION

1.1. In this Agreement the following words shall have the following meanings:

"Account Data" means (i) any personal data or information which is provided to the Supplier by the Customer to enable the administration of the Customer's account, such as contact and billing information; (ii) any personal data or information relating to Authorised Users which is processed by the Supplier for the purpose of providing access to the Services, customer support, and maintenance; and (iii) any personal data or information relating to Authorised Users which is processed by the Supplier for the purpose of monitoring compliance with, and enforcing the terms of this Agreement (including managing User Subscriptions and complying with Security Measures);

"Add-on Services" means any of the Training Services, the Audit Services, and any other consultancy services provided by the Supplier to the Customer, as set out in the Client Agreement;

"Add-on Services Fees" means the fees payable by the Customer to the Supplier for the Training Services, the Audit Services, and/or any consultancy services as set out in the Client Agreement;

"Agreement" means these Terms and Conditions (including all Schedules) together with the Client Agreement;

"Applicable Data Protection Laws" means:

- i. all applicable UK law relating to the Processing of Personal Data and privacy, including but not limited to the UK GDPR and the Data Protection Act 2018 to the extent that it relates to the Processing of Personal Data and privacy;
- ii. (to the extent that it may be applicable) the EU GDPR the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data.

"Applicable Laws" means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, byelaw, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements as amended from time to time;

"Audit Services" means the fleet risk audit services (which may include Third Party Services) supplied remotely by the Supplier to the Customer pursuant to a Client Agreement, which sets out the scope and nature of such services;

“Authorised Users” means those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Documentation, as further described in clause 3;

“Business Day” means any day which is not a Saturday, Sunday or public holiday in England;

“Client Agreement” means the Client Agreement signed by the Parties and taking effect on the Commencement Date, which sets out the Services that will be supplied by the Supplier as part of this Agreement;

“Commencement Date” means the date on which this Agreement shall take effect, being the date on which the Client Agreement is signed by both Parties, or the date the Services are first used (whichever is the earlier), unless otherwise set out in the Client Agreement;

“Confidential Information” means this Agreement and all information disclosed in any form or medium by one Party to the other or otherwise received by the other in the negotiation, entering into or performance of this Agreement and the Services, which relates directly or indirectly to the disclosing Party or any other third party with which it has or proposes to have business dealings and its or their officers, employees, agents, suppliers or contractors, and including any information which is identified as confidential at the time of disclosure or which ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure, but excluding information that:

- was in the other Party's lawful possession before the disclosure;
- is already in, or subsequently becomes part of, the public domain other than as a result of an unauthorised disclosure;
- is or becomes available to the receiving Party from a third party who is legally entitled to possess and provide the information to the receiving Party; or
- is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body;

“Continuum Solution” or **“Continuum”** means the Supplier's proprietary and third-party licensed software applications and platforms which it makes available to Authorised Users via the internet for the purpose of fleet and driver risk management pursuant to the terms of this Agreement, and includes the Supplier's “Vehicle Condition Reporting” and “Driver Behaviour” Smartphone Applications;

“Core Subscription Services” means the provision of access to the Continuum Solution;

“Customer Controlled Personal Data” means any personal data which the Supplier processes in connection with this Agreement, in the capacity of a processor on behalf of the Customer;

“Customer Data” means the data (including “Personal Data” as defined in Applicable Data Protection Laws) inputted by the Customer, Authorised Users, or the Supplier on the Customer's behalf, or collected on the proprietary hardware of the Customer or Authorised Users (including telematics sensors and devices) for the purpose of using the Services or facilitating the Customer's use of the Services;

“day(s)” means shall mean calendar days unless the context requires otherwise;

“DPA 2018” means Data Protection Act 2018 as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc)(EU Exit) Regs 2019 (as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc)(EU Exit) Regs 2020.

“Delegate” means an individual or representative scheduled by the Customer to attend the Training Services;

“Documentation” means the document made available to the Customer by the Supplier online via <https://continuum.ttc-uk.com/>, or such other web address notified by the Supplier to the Customer from time to time which sets out a description of the Services and the user instructions for the Services;

“Driving Licence Checking Services” means each of: (i) the GB driving licence checking service; and/or (ii) the non-GB driving licence checking service;

“DVLA” means the Driver and Vehicle Licensing Agency;

“Engagement Period” means the period during which the Supplier shall supply the Training Services or the Audit Services from the Commencement Date and as set out in the Client Agreement;

“Enhanced Subscription Services” means the Enhanced Driver Risk Profiling and Vehicle Condition Reporting Services more particularly described in the Documentation and delivered via Continuum, which provides insights, alerts, reports and recommendations to Customers based on its aggregation and analysis of Customer Data and other connected vehicle data;

“EU GDPR” means the General Data Protection Regulation ((EU) 2016/679);

“Fees” means as described in clause 3(e);

“Good Industry Practice” means in relation to any undertaking and any circumstances, the exercise of such skill, diligence, prudence, foresight and judgment and the making of such expenditure which would reasonably be expected from a skilled person engaged in the same type of undertaking under the same or similar circumstances;

“Initial Subscription Term” or **“Initial Term”** means the initial term of this Agreement, as set out in the Client Agreement;

“Insolvency Event” means an event in which:

- a. a Party ceases to trade (either in whole, or as to any part or division involved in the performance of this Agreement);
- b. a Party becomes insolvent or unable to pay its debts within the meaning of the applicable insolvency legislation;
- c. a person (including the holder of a charge or other security interest) is appointed to manage or take control of the whole or part of the business or assets of the other Party, or notice of an intention to appoint such a person is given or documents relating to such an appointment are filed with any court;
- d. the ability of the other Party’s creditors to take any action to enforce their debts is suspended, restricted or prevented or some or all of the other Party’s creditors accept, by agreement or pursuant to a court order, an amount of less than the sums owing to them in satisfaction of those sums; or
- e. any process is instituted which could lead to the other Party being dissolved and its assets being distributed to its creditors, shareholders or other contributors (other than for the purposes of solvent amalgamation or reconstruction);

“Instructor” means an appropriately qualified and experienced individual or representative engaged by the Supplier to provide the on-road Training Services to a Delegate for and on behalf of the Supplier, pursuant to the Client Agreement;

"Intellectual Property Rights" means all rights, including intellectual property rights, where in the world arising, whether registered or unregistered (and including any application), including trade secrets, confidential information, patents, design rights, copyright, trademarks, know-how, business names and domain names, service marks, trade names, petty patents, utility models, semi-conductor topography rights, database rights and any analogous or similar rights in any jurisdiction, and all rights in the nature of unfair competition rights or rights to sue for passing off;

"Legally Compliant Vehicle" means a roadworthy, taxed vehicle that meets with all applicable vehicle safety standards and legal requirements for being on the road in the United Kingdom or any other country in which the Training Services are being conducted pursuant to the Client Agreement, and in respect of which the Customer is able to provide reasonable written evidence of compliance, including but not limited to proof of MOT, tax and insurance;

"Normal Business Hours" means 8.00 am to 6.00 pm local UK time, each Business Day;

"Pay per Use Fees" means the fees payable by the Customer to the Supplier for the Pay per Use Services, as set out in the Client Agreement;

"Pay per Use Services" means the software as a service ("**SaaS**"), including Third Party Services, delivered securely to the Customer's and its Authorised Users' terminals (including mobile terminals) on a pay-per-use basis over a network from processors hosted remotely by the Supplier or its Third Party Services providers. Such services may include: (i) the Driving Licence Checking Services; (ii) the grey fleet document checking service; (iii) standard driver risk profiling; and (iv) standard vehicle condition reporting;

"Per Device Subscriptions" means the per telematics device subscriptions purchased by the Customer pursuant to clause 3 and the Client Agreement, which entitle Authorised Users to access and use the Enhanced Subscription Services and the Documentation in accordance with this Agreement;

"Portal" means the Continuum customer support portal located at <https://continuum.ttc-uk.com/> (or as otherwise notified to the Customer from time to time);

"Purpose" means the purposes for which the Customer Controlled Personal Data is processed, as set out in clause 13;

"Renewal Period" means the period described in clause a

"Security Measures" means the technical and organisational security measures set out in the Supplier's Security Policy Document;

"Security Policy Document" means the Supplier's security policy document as set out at <https://www.thettcgroup.com/privacy-policy/>, and as may be updated by the Supplier on notice to the Customer from time to time;

"Services" means the Subscription Services, the Pay per Use Services, and any Add-on Services purchased by the Customer pursuant to a Client Agreement and more particularly described in the Supplier's Documentation;

"Software" means the online software applications provided by the Supplier as part of the Services;

"Subscriptions" means the User Subscriptions and the Per Device Subscriptions purchased by the Customer pursuant to clause 3 and the Client Agreement to access and use the Subscription Services;

"Subscription Fees" means the subscription fees payable by the Customer to the Supplier for the Subscription Services, as set out in the Client Agreement;

“Subscription Services” means the subscription services provided by the Supplier to the Customer under this Agreement via <https://continuum.ttc-uk.com/>, or any other website notified to the Customer by the Supplier from time to time, as more particularly described in the Client Agreement and/or the Documentation, and includes Third Party Services. The Subscription Services include the Core Subscription Services as standard, and any Enhanced Subscription Services to the extent purchased by the Customer pursuant to the relevant Client Agreement only;

“Subscription Term” means the term during which this Agreement shall remain in full force and effect (including the Initial Subscription Term and any subsequent Renewal Period), subject to the terms of this Agreement;

“Supplier Controlled Personal Data” means any personal data which the Supplier processes in connection with this Agreement, in the capacity of a controller;

“Term” means the Subscription Term or the Engagement Period (as the context of the Services set out in the Client Agreement permits);

“Terms and Conditions” means these terms and conditions, as incorporated into the Client Agreement and accepted by the Customer upon signature of the Client Agreement;

“Third Party Services” means services provided by the Supplier which consist in whole or in part of services supplied by third parties, including the Supplier’s affiliates, subcontractors, partners, and other third parties;

“Training Materials” means as defined in clause d of this Agreement;

“Training Services” means the online or in-person training services, which may include Third Party Services, to be supplied by the Supplier to the Customer pursuant to a Client Agreement, which sets out the scope and nature of such services. Training Services includes the following types of services, as more particularly described in the relevant Client Agreement: (i) e-learning and mini-modules; (ii) workshops; and (iii) on road development training;

“User Subscriptions” means the per user subscriptions purchased by the Customer pursuant to clause 3 and the Client Agreement, which entitle Authorised Users to access and use the Subscription Services and the Documentation in accordance with this Agreement;

“Virus” means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices;

“Vulnerabilities” means weaknesses in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability of such components;

“UK GDPR” means the UK General Data Protection Regulation based on the EU GDPR and given effect by Part 2 of the DPA 2018, as amended by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc)(EU Exit) Regulations 2020.

- 1.2. Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.

- 1.3. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 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 as at the date of this agreement.
- 1.8. A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
- 1.9. A reference to writing or written includes faxes but not e-mail.
- 1.10. References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement;

2. Basis of contract

- a. The agreement between you and us (referred to in these Terms and Conditions as the "Agreement") is made up of:
 - i. these Terms and Conditions, including the Schedules (to the extent such Schedules are applicable to the Services) (lowest order of precedence);
 - ii. any extra terms and conditions which apply to a particular service and which are agreed to by you and us from time to time;
 - iii. the Client Agreement; and
 - iv. any service specifications set out in the Client Agreement (highest order of precedence).

Any additional terms and conditions agreed between you and us over and above these documents shall take precedence. In the event of an inconsistency in the individual components of this Agreement, the inconsistency shall be resolved in accordance with the above ascending order of precedence. Any marketing materials, do not form part of this Agreement and are not legally binding.
- b. The signed Client Agreement or use of the Services (whichever occurs first) is proof that you accept these Terms and Conditions.
- c. We will not be considered to have accepted your order until we have signed and dated the Client Agreement. The Agreement will come into force on the Commencement Date.
- d. The Supplier shall, during the Subscription Term or the Engagement Period (as the context permits), provide the Services set out in the Client Agreement to the Customer on and subject to the terms of such Client Agreement, and these Terms and Conditions (including any relevant Schedule(s)).
- e. The Customer may purchase Services using one or more Client Agreements. Each duly executed Client Agreement shall constitute a separate contract that incorporates and is subject to these Terms and Conditions.

3. The Services

- a. The Supplier shall provide the Subscription Services and make available the Documentation to the Customer on and subject to the terms of this Agreement during the Subscription Term.
- b. The terms at Schedule 1 to this Agreement shall apply in addition to these Terms and Conditions in respect of any Driving Licence Checking Services purchased by the Customer.
- c. The Supplier shall provide the Add-on Services and make available the Documentation and any Training Materials to the Customer on and subject to the relevant terms of this Agreement during the Engagement Period.
- d. The Parties shall finalise the relevant scope and requirements of the Services in the Client Agreement.
- e. Subject to: (i) the Customer paying the Subscription Fees, the Pay per Use Fees, and any relevant Add-on Services Fees due and payable pursuant to the Client Agreement (together the “**Fees**”); (ii) the restrictions set out in this clause 3; and (iii) the other terms and conditions of this Agreement, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Authorised Users to use the Services and the Documentation during the Subscription Term or the Engagement Period (as the context permits) solely for the Customer's internal business operations.
- f. In relation to the Authorised Users, the Customer undertakes that:
 - a. the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;
 - b. it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services and/or Documentation;
 - c. each Authorised User shall keep a secure password for his use of the Services and Documentation, that such password shall be changed no less frequently than quarterly, and that each Authorised User shall keep his password confidential;
 - d. it shall maintain a written, up to date list of current Authorised Users and provide such list to the Supplier within 10 Business Days of the Supplier's written request at any time or times;
 - e. it shall permit the Supplier or the Supplier's designated auditor to audit the Services in order to establish the name and password of each Authorised User and the Customer's data processing facilities to audit compliance with this Agreement. Each such audit may be conducted no more than once per quarter, at the Supplier's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;
 - f. if any of the audits referred to in clause 3(f)e reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to the Supplier's other rights, the Customer shall promptly disable such passwords and the Supplier shall not issue any new passwords to any such individual; and
 - g. if any of the audits referred to in clause 3(f)e reveal that the Customer has underpaid Subscription Fees to the Supplier, then without prejudice to the Supplier's other rights, the Customer shall pay to the Supplier an amount equal to such underpayment as calculated in accordance with the prices

set out in Appendix 2 to the Client Agreement within 10 Business Days of the date of the relevant audit.

- g. The Customer shall use the latest versions of anti-virus software available from an industry accepted anti-virus software vendor and shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:
 - a. is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - b. facilitates illegal activity;
 - c. depicts sexually explicit images;
 - d. promotes unlawful violence;
 - e. is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 - f. is otherwise illegal or causes damage or injury to any person or property;and the Supplier reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.
- h. The Customer shall not, except as may be allowed by any Applicable Law which is incapable of exclusion by agreement between the Parties and except to the extent expressly permitted under this Agreement:
 - a. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
 - b. attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
 - c. access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or
 - d. use the Services and/or Documentation to provide services to third parties; or
 - e. without the prior written consent of the Supplier, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users; or
 - f. attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 3; or
 - g. introduce or permit the introduction of, any Virus into the Supplier's network and information systems.
- i. The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify the Supplier.
- j. The rights provided under this clause 3 are granted to the Customer only and shall not be considered granted to any subsidiary or holding company of the Customer.
- k. The Customer may, from time to time during any Subscription Term, purchase additional User Subscriptions in excess of the number set out in in the Client Agreement, and the Supplier shall grant access to the Services and the

Documentation to such additional Authorised Users in accordance with the provisions of this Agreement.

- i. If the Customer wishes to purchase additional Subscriptions, the Customer shall notify the Supplier in writing. The Supplier shall evaluate such request for additional Subscriptions and respond to the Customer with approval or rejection of the request. Where the Supplier approves the request, the Supplier shall activate the additional Subscriptions within 10 days of its approval of the Customer's request.
- m. If the Supplier approves the Customer's request to purchase additional Subscriptions, the Customer shall, within 30 days of the date of the Supplier's invoice, pay to the Supplier the relevant fees for such additional Subscriptions as set out in an amendment to the Client Agreement, and, if such additional Subscriptions are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated from the date of activation by the Supplier for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).
- n. The Supplier shall use commercially reasonable endeavours to make the Subscription Services available 24 hours a day, seven days a week, except for:
 - i. planned maintenance carried out during the maintenance window of 20.00 to 23.59 UK time; and
 - ii. unscheduled maintenance performed outside Normal Business Hours, provided that the Supplier has used reasonable endeavours to give the Customer at least 3 Normal Business Hours' notice in advance, save that such notice shall not be required where the Supplier's Chief Information Security Officer determines that a delay to such maintenance may materially and adversely affect the Services or the Customer.
- o. The Supplier will, as part of the Services and at no additional cost to the Customer, provide the Customer with the Supplier's standard Customer Support Services during Normal Business Hours. The scope of the Customer Support Services is described in a separate document, which shall be made available to the Customer by the Supplier upon the Customer's request.

4. Term and Termination of the Services

- a. This Agreement starts on the Commencement Date, and with respect to the Subscription Services, will continue for the Initial Term. It will automatically be renewed after the Initial Term for a Renewal Period equal to the Initial Term (minus any free promotional months) until you end the Agreement by giving written notice at least six months before the end of the relevant Renewal Period, or we end the Agreement by giving written notice at least three months before the end of the relevant Renewal Period. The Agreement will then end at the end of the Renewal Period you or we gave notice in.
- b. Notwithstanding the foregoing, the Add-On Services shall be provided for the duration of the Engagement Period only, unless otherwise terminated in accordance with the terms of this Agreement.
- c. If you want to cancel an Add-on Service, you must send us written notice. If you cancel less than 7 full days prior to the date of service delivery (as described in the Client Agreement), we may charge the full Add-on Service Fees for the relevant service. If you cancel between 7 and 14 days prior to service delivery, we may charge 50% of the full Add-on Service Fees for the relevant service.
- d. You or we may end this Agreement immediately, by giving written notice to the other Party, if the other Party:
 - i. materially breaches the Agreement and, if the matter can be put right, fails to do so within 30 days of receiving written notice to take action; or

- ii. undergoes an Insolvency Event.
- e. Notwithstanding clause i we may end this Agreement immediately, by giving written notice, if you materially breach the Agreement, and such breach results in us being in material breach of a term in a Third Party Services agreement, whether or not such matter is capable of being remedied.
- f. Without limiting any other rights we have, we may suspend the Services under this Agreement, or any other agreement between you and us, if any of the situations in clauses d or e above arise or if you fail to pay any amount due under this Agreement by the date that payment is due.
- g. When the Agreement ends for any of the reasons set out in clauses d or e above, you must immediately pay us all amounts you owe us in connection with the Services. If we have not invoiced you for any service, we will immediately issue an invoice. You must pay that invoice as soon as you receive it. If you received free services for a period during this Agreement, we will add the cost of those services (calculated at their monthly rate) to the final invoice.
- h. If, at your request, you and we agree to terminate the Subscription Services with less than six months' notice before the end of the relevant Renewal Period (excluding for clarity any termination under condition 4(c)) then we will send you a final invoice for 75% of the Subscription Fees which have not been invoiced in respect of the remainder of the Renewal Period at the date that the Subscription Services terminate. If you received free services for a period during this Agreement, we will add the cost of those services (calculated at their monthly rate) to the final invoice.
- i. Any rights and remedies that arose before the Agreement ended will continue to apply and will not be affected by the Agreement ending. Any terms and conditions that expressly or by implication survive termination of the Agreement shall continue in full force and effect.
- j. We will not be liable for failing to meet, or a delay in meeting, our obligations under the Agreement if this failure is caused by an event beyond our control, which could not have been reasonably anticipated or avoided by us.

5. Supplier obligations

- a. The Supplier undertakes that the Services will be performed substantially in accordance with any Documentation and with reasonable skill and care.
- b. The undertaking at clause 5(a) shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Supplier's instructions, or modification or alteration of the Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 5(a).
- c. The Supplier does not warrant that:
 - i. the Customer's use of the Services will be uninterrupted or error-free; or
 - ii. that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; or
 - iii. the Software or the Services will be free from Vulnerabilities or Viruses.
- d. is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities,

including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

- e. This Agreement shall not prevent the Supplier from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this agreement.
- f. The Supplier warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.
- g. The Supplier shall follow its archiving procedures for Customer Data as set out in the then current version of its Privacy Notice available at <https://www.thettcgroup.com/privacy-policy/>, or such other website address as may be notified to the Customer from time to time, as such document may be amended by the Supplier in its sole discretion from time to time. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy against the Supplier shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Supplier in accordance with the archiving procedure described in its Privacy Notice. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by the Supplier to perform services related to Customer Data maintenance and back-up for which it shall remain fully liable).

6. Customer obligations

- a. You, the Customer, agrees to the following:
 - i. Provide the Supplier with:
 - a. all necessary co-operation in relation to this Agreement and all matters relating to the Services; and
 - b. all necessary access to such information as may reasonably be required by the Supplier in order to provide the Services, including but not limited to Customer Data, security access information and configuration services, and make sure that the information is complete and accurate;
 - ii. Have sole responsibility for the legality, reliability, integrity, accuracy and quality of all Customer Data;
 - iii. Without affecting its other obligations under this Agreement, comply with all Applicable Laws with respect to its activities under this Agreement;
 - iv. Carry out all other Customer responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the Parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;
 - v. Ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this Agreement and shall be responsible for any Authorised User's breach of this Agreement;
 - vi. Obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services;

- vii. Ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time; and
- viii. Be, to the extent permitted by law and except as otherwise expressly provided in this Agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet;
- ix. Make sure that the information in the Client Agreement is complete and accurate;
- x. Provide the Supplier (including anyone working for and on behalf of the Supplier in connection with the Services) the access reasonably required to your premises and other facilities in order to provide the Services and prepare your premises for the Services as the Supplier may reasonably specify;
- xi. Give due consideration to the Supplier's advice and recommendations;
- xii. In relation to the provision of in-person Training Services (including but not limited to on-road development training), provide the Delegate with any equipment necessary for the delivery of the Training Services, or any equipment that is reasonably notified by the Supplier to the Customer in advance. Where training is being delivered on-road, provide the Delegate with an appropriate road-safe, clean and Legally Compliant Vehicle (and sufficient fuel) for the duration of training with appropriate and lawful authorisation to be driven on the public roads of the United Kingdom or any other country in which training is being conducted pursuant to the Customer Agreement. The Supplier reserves the right to cancel or suspend on-road Training Services at any time if a Delegate does not arrive for on-road Training Services in a Legally Compliant Vehicle, and the relevant Add-on Services Fee will not be refundable in such circumstances;
- xiii. Ensure that while using any vehicle for the purposes of the on-road Training Services, both the Delegate and the Instructor are covered by a fully comprehensive and valid policy of insurance, indemnity or security in respect of third party risks (and, on demand, produce evidence of payment thereof to us) so as to comply with all applicable statutory requirements at the time of provision of such on-road Training Services;
- xiv. Undertake that all Delegates using the on-road Training Services shall have current and lawful authorisation to do so and where applicable, to drive any vehicle provided by the Customer on the public roads of the United Kingdom or any other country in which Training Services are being conducted. The Supplier reserves the right to cancel or suspend on-road Training Services at any time without refunding the applicable Add-on Services Fee if the Instructor suspects that a Delegate is under the influence of drink or drugs, is not legal to ride on the road (e.g. the Delegate fails an eye test), attends late or in unsuitable clothing or footwear that prevents use of the vehicle controls in the correct manner, behaves in an abusive, disrespectful, dangerous, or unfit manner (at the sole discretion of the Instructor), or is not otherwise acting in accordance with the Instructor's instructions. The Customer undertakes to appraise Delegates of the terms of this Agreement, and to procure that Delegates enter into and comply with written undertakings that are no less stringent than the relevant terms of this Agreement;

- xv. Have sole responsibility for any unauthorised use of Customer or Supplier Controlled Personal Data by Authorised Users when accessing the Subscription Services (including but not limited to usernames or passwords) and notify Supplier immediately in writing upon becoming aware of any known or suspected misuse of Personal Data;
- xvi. For the avoidance of doubt, if we cannot meet any of our obligations under this Agreement, or we are delayed from meeting them, as a result of something you have or have not done, or you failing to meet any of your obligations under this Agreement, we will not be liable to you for this failure or delay and we can suspend the Services until you put the matter right. Taking this action will not affect any other rights we have under the Agreement.

7. Charges and payment

- a. The Fees for the Services are as set out in the Client Agreement.
- b. The Fees for the Services do not include VAT, which the Customer will also have to pay to the Supplier, at the rate that applies at the time.
- c. The Supplier will collect the Subscription Fees, plus VAT, from the Customer's bank account by direct debit; or the Customer shall pay the Subscription Fees, plus VAT, and (if applicable) the Add-on Services Fees, plus VAT, and the Pay per Use Fees, plus VAT, on presentation of the Supplier's invoice, as set out in the Client Agreement.
- d. The Customer shall on the Commencement Date provide to the Supplier valid, up-to-date and complete contact and billing information acceptable to and approved by the Supplier for payment of the Subscription Fees and (if applicable) the Add-on Services Fees and the Pay per Use Fees, and, if the Customer provides:
 - a. its billing details to the Supplier, the Customer hereby authorises the Supplier to bill:
 - i. on the Commencement Date for the Subscription Fees payable in respect of the Initial Subscription Term; and
 - ii. on each anniversary of the Commencement Date for the Subscription Fees payable in respect of the next Renewal Period;
 - b. its approved billing information to the Supplier, the Supplier shall invoice the Customer:
 - i. on the Commencement Date for the Subscription Fees payable in respect of the Initial Subscription Term; and
 - ii. at least 30 days prior to each anniversary of the Commencement Date for the Subscription Fees payable in respect of the next Renewal Period;and the Customer shall pay each invoice within 30 days after the date of such invoice.
- e. Without prejudice to any other rights and remedies of the Supplier, if the Supplier does not receive any payment due to the Supplier under the Agreement by the date it is due, the Supplier may:
 - a. charge you interest each day on the overdue amount at the rate of 5% per annum above The Bank of England published bank rate at the time, until the overdue amount and interest has been paid off in full. You will be responsible for any loss, liability, damage, costs and expenses (including legal costs) arising in connection with us recovering any unpaid and overdue amounts; and

- b. without liability to the Customer, disable the Customer's password, account and access to all or part of the Subscription Services and the Supplier shall be under no obligation to provide any or all of the Subscription Services while the invoice(s) concerned remain unpaid.
- f. The Customer must pay all amounts due under the Agreement without taking off any amount (except for any deduction that must be made by law). The Supplier may take any amount the Customer owes to the Supplier off any amount the Supplier must pay to the Customer. Taking this action will not affect any other rights the Supplier has under this Agreement.
- g. All amounts and Fees stated or referred to in this Agreement:
 - a. shall be payable in pounds sterling;
 - b. are non-cancellable and non-refundable unless otherwise set out in this Agreement; and
 - c. are exclusive of value added tax (VAT), which shall be added to the Supplier's invoice(s) at the appropriate rate.
- h. The Supplier shall be entitled to increase the Subscription Fees, the fees payable in respect of the additional User Subscriptions, the Pay per Use Fees, and the Add-on Services Fees payable pursuant to this Agreement at the start of each Renewal Period or upon 30 days' prior notice to the Customer and the Customer Agreement shall be deemed to have been amended accordingly.
- i. During the Subscription Term, The Pay Per Use Fees shall be estimated by the Supplier based on the Customer's forecasted use of the Pay Per Use Services for the Initial Subscription Term, and for each subsequent Renewal Period ("**Estimate**"). The Customer shall give to the Supplier not less than 10 days before the Commencement Date, and not less than one month before the end of the Initial Subscription Term and each subsequent Renewal Period, a forecast of the relevant Pay Per Use Services it expects to purchase during the following Term ("**Forecast**").
- j. Forecasts shall be given in writing by the Customer and the Customer shall act in good faith when forecasting its requirements for the Pay Per Use Services during the following Term. Forecasts provided under clause 7(i) shall not constitute a legally binding offer. The Pay per Use Fees shall be payable by the Customer in arrears at the unit price agreed by the Supplier in the Estimate corresponding to the relevant Subscription Term upon delivery of the relevant service. If during any 6 month period, the Customer's actual pro-rated use of the Pay Per Use Services is equal to or less than 75% of the Customer's Forecast for the corresponding period, the Supplier shall be entitled to reasonably and proportionately adjust its Estimate for the remainder of the relevant Term, and the Customer shall pay the revised unit price for the relevant Pay per Use Services.

8. **Third Party Services**

- a. Some or all of the Services provided by the Supplier may include or consist of (in whole or in part) Third Party Services. Unless otherwise agreed between the Parties the:
 - a. Third Party Services shall not be subject to, or otherwise covered by, any service levels under this Agreement; and
 - b. Third Party Service providers shall be solely responsible for providing support and service levels in respect of such Third Party Services.

- c. Should an outage occur in respect of a Third Party Service, the Supplier offers no guarantees and shall not be responsible for resolving such outage.
- b. Third Party Service providers are selected by the Supplier on the basis (amongst others) of their reputation and reliability. Should such reputation and reliability change, Supplier may appoint an alternative Third Party Service provider to provide such services as constitute the whole or part of the Services (as applicable). In any such event, all responsibility for the provision of the applicable Third Party Service shall remain with the applicable third parties at all times, and Supplier shall not be liable or otherwise responsible for such Third Party Services.
- c. In order to comply with its obligations to Third Party Service providers, the Supplier shall audit the Customer at least once in the first calendar year during which it provides the Subscription Services or the Pay for Use Services, and annually thereafter, and shall make evidence of such audits available to its Third Party Service providers. The Supplier shall notify its Third Party Service providers immediately of any defaults that the Supplier considers the Customer to have committed, whether discovered on audit by the Supplier or at any other time and the Supplier shall have the right to take any action it considers reasonable to ensure the Customer's compliance with this Agreement.
- d. The Customer shall defend, indemnify and hold harmless the Supplier against any claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Third Party Services that is not in accordance with these Terms and Conditions and/or any applicable Schedule to this Agreement.

9. Intellectual Property Rights

- a. The Customer acknowledges and agrees that the Supplier and/or its licensors own all Intellectual Property Rights in the Services and the Documentation. Except as expressly stated in clause 3(e) and this clause 9, this Agreement does not grant the Customer any rights to, under or in the Intellectual Property Rights, or any other rights or licences in respect of the Services or the Documentation.
- b. The Supplier confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.
- c. For the avoidance of doubt, all Intellectual Property Rights relating to our Training Materials belong to us or the relevant third-party rights owner. You will not own any of the Intellectual Property Rights in any of our Training Materials provided pursuant to the Training Services, or which arise as a result of us providing the Training Services.
- d. The Supplier grants a non-exclusive, non-transferable right to use the materials provided as part of the Training Services (for example, handbooks and policies) (the "**Training Materials**") only for the purpose of receiving the Services. The Customer shall and shall procure that the Delegates keep these safe and not give or show them to any third party or use the Services or the deliverables to provide a service to any third party.
- e. We may tell third parties that we provide, or have provided, the Services to you. You agree that we can use your name and logos for this purpose.

10. Indemnity

- a. The Customer shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services and/or Documentation, provided that:
 - a. the Customer is given prompt notice of any such claim
 - b. the Supplier provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
 - c. the Customer is given sole authority to defend or settle the claim.
- b. The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Customer's use of the Services or Documentation in accordance with this Agreement infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:
 - a. the Supplier is given prompt notice of any such claim;
 - b. the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and
 - c. the Supplier is given sole authority to defend or settle the claim.
- c. In the defence or settlement of any claim, the Supplier may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement on 2 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.
- d. In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:
 - a. a modification of the Services or Documentation by anyone other than the Supplier; or
 - b. the Customer's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by the Supplier; or
 - c. the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from the Supplier or any appropriate authority.
- e. The foregoing and clause 11 (c) state the Customer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trademark, database right or right of confidentiality.

11. Liability

- a. Except as expressly and specifically provided in this Agreement:
 - a. the Customer assumes sole responsibility for results obtained from the use of the Subscription Services and the Documentation by the Customer, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Supplier by the Customer in

connection with the Services (including, for the avoidance of doubt, any Third Party Services), or any actions taken by the Supplier at the Customer's direction;

- b. all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by Applicable Law, excluded from this Agreement;
 - c. the Services (including any Third Party Services) and the Documentation are provided to the Customer on an "as is" basis;
 - d. the Supplier shall have no liability to the Customer for any inability to access, or for any errors in the functioning of the Subscription Services or any Third Party Services, which are attributable to: (i) an event beyond our control; (ii) non-compliance with clause 11(e); or (iii) operator error;
 - e. the Supplier shall have no liability to the Customer and shall not be obliged to provide support in respect of any problem attributable to an event beyond our control, network communications errors or faults, or the quality or integrity of Supplier Controlled Personal Data or any other data collected by the Supplier or a third party in the provision of the Services. Should the Supplier or an affiliate, subcontractor, partner, or other third party engaged by the Supplier to provide the Services agree to provide any support that falls within this clause 11(e), the Supplier shall be entitled to make an additional charge in accordance with its standard rates from time to time in force.
 - f. the Customer is solely responsible for ensuring that the computer systems used by any Authorised User for accessing and using the Services meet the minimum requirements made known to the Customer by the Supplier;
- b. Nothing in this Agreement excludes the liability of the Supplier:
- a. for death or personal injury caused by the Supplier's negligence; or
 - b. for fraud or fraudulent misrepresentation.
- c. Subject to clause 11(a) and clause 11(b):
- a. the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and
 - b. the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Subscription Services shall be limited to the total Subscription Fees paid during the 12 months immediately preceding the date on which the claim arose; and
 - c. the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Add-on Services shall be limited to the total Add-on Services Fees actually paid to the Supplier pursuant to the Client Agreement.

12. Confidentiality

- a. Subject to clause 12(b) and 12(c) you must:

- i. Use our confidential information only for the purpose of allowing us to provide the services; and
 - ii. Not reveal our confidential information to anyone else without our written permission.
- b. You may give our confidential information to your employees, officers, representatives or advisers who need that information for the purposes of exercising your rights or carrying out your obligations under or in connection with the Agreement.
- c. You may provide our confidential information when this is required by law, or by a court or any government or regulatory authority. You may also provide our confidential information when the information is public knowledge (unless this is a result of unauthorised release of the information) or if you already knew it before we gave it to you.
- d. We have the same obligations to you in respect of your confidential information as those set out in 12(a), 12(b), and 12(c) above.
- e. This clause 12 will continue to apply after the Agreement has ended.

13. Data protection

- a. For the purposes of this clause 13, the terms controller, processor, data subject, personal data, personal data breach and processing shall have the meaning given to them in the Applicable Data Protection Laws.
- b. Both Parties will comply with all applicable requirements of Applicable Data Protection Laws together with any relevant guidance and/or codes of practice issued by the Information Commissioner's Office. This clause 13 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.
- c. The Parties have determined that, for the purposes of Applicable Data Protection Laws, and depending on the purpose of the specific processing activity:
 - a. the Supplier shall act as controller of the Account Data and the Customer Data;
 - b. the Supplier shall process the Customer Controlled Personal Data, including data relating to Authorised Users (such as names and business email addresses) used by the Supplier in the provision of the Add-on Services, as a processor on behalf of the Customer; and
 - c. the Supplier and Customer shall act as joint controllers in respect of the Customer Data and the personal data set out in paragraph 5 of Schedule 2 and processed for the purpose of supplying and receiving the Subscription Services.
- d. Should the determination in clause 13(c) change, then each party shall work together in good faith to make any changes which are necessary to this clause 13 or the related schedules.
- e. By entering into this Agreement, the Customer consents to (and shall procure all required consents, from its personnel, representatives and agents, in respect of) all actions taken by the Supplier in connection with the processing of Supplier Controlled Personal Data, provided these are in compliance with the then-current version of the Supplier's Privacy Notice available at <https://www.thettcgroup.com/privacy-policy/>. In the event of any inconsistency or conflict between the terms of the Privacy Notice and this Agreement, the Privacy Notice will take precedence.

- f. Without prejudice to the generality of clause 13(e) the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Supplier Controlled Personal Data and Customer Controlled Personal Data to the Supplier and/or lawful collection of the same by the Supplier for the duration and purposes of this Agreement.
- g. In relation to the Customer Controlled Personal Data, the current version of the Supplier's Privacy Notice available at <https://www.thettcgroup.com/privacy-policy/>, sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of personal data and categories of data subject.
- h. Without prejudice to the generality of clause 13(b) the Supplier shall, in relation to Customer Controlled Personal Data:
 - a. process that Customer Controlled Personal Data only on the documented instructions of the Customer, which shall be to process the Customer Controlled Personal Data for the purposes of providing the Services set out in the Client Agreement, unless the Supplier is required by Applicable Laws to otherwise process that Customer Controlled Personal Data. Where the Supplier is relying on Applicable Laws as the basis for processing Customer Processor Data, the Supplier shall notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Provider from so notifying the Customer on important grounds of public interest. The Supplier shall inform the Customer if, in the opinion of the Supplier, the instructions of the Customer infringe Applicable Data Protection Laws;
 - b. implement appropriate technical and organisational measures as may be further particularised in an appendix to the Client Agreement, to protect against unauthorised or unlawful processing of Customer Controlled Personal Data and against accidental loss or destruction of, or damage to, Customer Controlled Personal Data, which the Customer has reviewed and confirms are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - c. ensure that any personnel engaged and authorised by the Supplier to process Customer Controlled Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
 - d. assist the Customer insofar as this is possible (taking into account the nature of the processing and the information available to the Supplier), and at the Customer's cost and written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - e. notify the Customer without undue delay on becoming aware of a personal data breach involving the Customer Controlled Personal Data;
 - f. at the written direction of the Customer, delete or return Customer Controlled Personal Data and copies thereof to the Customer on termination of the Agreement unless the Supplier is required by Applicable Law to continue to process that Customer Controlled Personal Data. For the purposes of this clause 13(h)f Customer Controlled Personal Data shall be considered deleted where it is put beyond further use by the Supplier; and

- g. maintain records to demonstrate its compliance with this clause 13.
- i. The Customer hereby provides its prior, general authorisation for the Supplier to:
 - a. appoint processors to process the Customer Controlled Personal Data, provided that the Supplier:
 - i. shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Supplier in this clause 13;
 - ii. shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Supplier; and
 - iii. shall inform the Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the Customer the opportunity to object to such changes provided that if the Customer objects to the changes and cannot demonstrate, to the Supplier's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Customer shall indemnify the Supplier for any losses, damages, costs (including legal fees) and expenses suffered by the Supplier in accommodating the objection.
 - iv. transfer Customer Controlled Personal Data outside of the UK as required for the Purpose, provided that the Supplier shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, the Customer shall promptly comply with any reasonable request of the Supplier, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the Commissioner from time to time (where the UK GDPR applies to the transfer).
 - j. Either party may, at any time on not less than 30 days' notice, revise clause 13 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 replaced by attachment to this Agreement).
 - k. To the extent the Parties act as joint-controllers in respect of personal data pursuant to this Agreement, the Parties have agreed to allocate responsibility for each of their controller obligations under Applicable Data Protection Laws in accordance with Schedule 2.
 - l. Subject to clause 11(b), and in addition to clause 11(c), the Supplier's total aggregate liability in contract, tort (including negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement or any collateral contract insofar as it relates to the obligations set out in this clause 13, or Applicable Data Protection Laws shall be limited to £500,000.

14. General

Entire agreement

- a. The Agreement is the whole agreement between you and us. It replaces and supersedes all previous agreements, promises, assurances and understandings relating to the Services, as outlined in the Client Agreement. You agree that you have not relied on any statement, promise or assurance not set out in the Agreement.

Rights and remedies

- b. Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

Waiver

- c. If you or we fail to, or delay in, exercising any right or remedy under the Agreement or provided by law, this will not prevent you or us from exercising that or any other right in the future. No single or partial exercise of such right or remedy will prevent or restrict any further exercise of that or any other right or remedy.

Severance

- d. If any part of the Agreement is or becomes illegal, invalid or cannot be enforced, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision shall be deemed deleted. Any modification or deletion of a provision will not affect the other parts of the Agreement, which will continue to apply.

Interpretation

- e. Any words following the terms 'including', 'include', 'in particular', 'for example' or any similar expression are illustrative and do not limit the sense of the words, description, definition, phrase or term preceding those terms.

15. Notices

- a. Any notice given under or in connection with the Agreement must be in writing and be either delivered by hand or sent by first-class post to the other's registered office (if a company) or main place of business (in any other case).
- b. Any notice will be considered to have been received:
 - i. if delivered by hand, at the time the notice is left at the correct address;
 - ii. if sent by first-class post, at 8:30am on the weekday after posting; and
 - iii. if sent by a signed-for next-day delivery service, at the time the delivery notice is signed for.
- c. This clause does not apply to any documents sent or delivered in any legal proceedings, arbitration or dispute resolution.
- d. A notice given under this Agreement is not valid if it is sent by email.

16. Third-party rights

No one, other than the Customer, the Supplier, and any affiliates, subcontractors, partners, and other third parties to the extent engaged by the Supplier to provide the Third Party Services only, has any right to enforce all or part of this Agreement. The Parties to this Agreement may by agreement rescind or vary this Agreement without the consent of the relevant third party.

17. Amendments required by DVLA

The Supplier may vary this Agreement from time to time where and to the extent that it is required to do so by the DVLA. Such variations will be effective immediately.

1. Relationship

Nothing in the Agreement creates a partnership or joint venture between you and us or authorises either you or us to enter into any commitments for or on behalf of the other.

17. Governing law

The Agreement and any dispute or claim arising out of or in connection with it will be governed by, and interpreted in line with, the laws of England and Wales.

18. Jurisdiction

You agree that only the courts of England and Wales can settle any dispute or claim arising out of or in connection with the Agreement or service, unless we can solve the matter direct with you. Nothing in this clause limits our right to take legal action against you in any other court. Taking action in any other court does not prevent us from taking action under any other laws.

Schedule 1

Driving Licence Checking Services

Part 1

1. DEFINITIONS

1.1. In this Schedule 1, the following words shall have the following meanings:

“ADD Service” means the transmission of Data using the electronic service detailed in the Access to Driver Data (ADD) Interface Specification located at gov.uk.

“Companies House” means the official government organisation that keeps a record of all UK companies and information about them. A company that wishes to become a limited company must, by Applicable Law, be registered with Companies House.

“Conviction” means, other than for minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding-over orders (including any spent convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 (as amended) by virtue of the exemptions specified in Part II of Schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023) (as amended) or any replacement or amendment to that Order, or being placed on a list kept pursuant to the safeguarding of Vulnerable Groups Act 2006 (as amended).

“Data” means the driver data that is to be provided to the Customer pursuant to the Driving Licence Checking Services, including but not limited to:

- licence status codes;
- ADD message codes;
- entitlement information codes;
- endorsement offences codes;
- licence categories;
- licence date formats;
- CPC card start/expiry date (where appropriate); and
- Tachograph card status code (where appropriate).

“Data Loss Event” means any event that results, or may result, in unauthorised access to Personal Data held by the Customer 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 Subject” has the meaning given to that term in the Applicable Data Protection Laws.

“Default” means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject matter of the Agreement and in respect of which such Party is liable to the other.

“DVLA” means the Driver and Vehicle Licensing Agency, which provides Data to the Supplier under its Agreement with the Supplier for the Provision of Driver Data via the ADD Service, dated 30 May 2023.

“European Union” (EU) is a political and economic union of 27 member states that are located primarily in Europe.

“Evidence” means the Customer’s proof that the Data Subject has confirmed his understanding as to the purposes and limitations of the enquiry and does not object to his Personal Data being processed for these purposes. This is to be made via a signed Data Protection Declaration. These are described more specifically in Part 3 (MINIMUM REQUIREMENTS FOR DATA PROTECTION DECLARATION) of this Schedule.

“Information Commissioner’s Office (ICO)” means the UK’s independent regulatory authority set up to uphold information rights in the public interest promoting openness by public bodies and data privacy for individuals.

“Key Staff” means the Staff on the Customer’s list of Key Staff to be provided to the Supplier pursuant to paragraph 3.4.1 of this Schedule 1.

“Permitted Purpose” means the purpose for which the Data is provided to the Customer, which must relate to the need to check driving entitlements, endorsements and disqualifications for a legitimate business purpose and need.

“Personal Data” means any information relating to an identified or identifiable natural person (**“Data Subject”**); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

“Personal Data Breach” means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Conviction Data, Personal Data or Special Categories of Personal Data, transmitted, stored or otherwise processed (as such capitalised terms are used and defined in the Applicable Data Protection Laws).

“Registered Company Name” means the company name as registered with Companies House, where applicable.

“Relevant Conviction” means a Conviction which the Customer, acting reasonably and in accordance with Industry Best Practice, deems to preclude a person from being involved in any way with use of the Data.

“Removable Media” means all physical items and devices that can carry and transfer electronic information. Examples include but are not limited to DVDs, CD-ROMs, floppy disks, portable hard disk drives, USB memory sticks, flash drives, portable music and video players including mobile phones, handheld devices such as smartphones and personal digital assistants.

“Staff” means all persons employed by the Customer to perform its obligations under this Agreement together with the Party’s servants, agents, suppliers and sub-contractors used in the performance of its obligations under this Agreement.

“Trading Name” means a name used by a person, partnership or company for carrying out business, which is not the same as their Registered Company Name. Trading Names must not:

- a. Be the same as an existing trademark

- b. Include 'limited', 'Ltd', 'limited liability partnership', 'LLP', public limited company' or 'plc'
- c. Contain a sensitive word or expression.

2. OVERVIEW

- 2.1. This Schedule 1 sets out additional terms and conditions that shall apply to the Driving Licence Checking Services provided by the Supplier under the Terms and Conditions and where the Customer purchases, through the Client Agreement, the Driving Licence Checking Services.
- 2.2. The terms of this Schedule 1 shall apply in addition to the Terms and Conditions, and together with the Client Agreement form the contract that shall govern the provision of the Driving Licence Checking Services.
- 2.3. In the event of any inconsistency between the terms and conditions of this Schedule 1 and the main Terms and Conditions, then this Schedule 1 shall override and apply.
- 2.4. Capitalised terms used in the Schedule 1 without definition shall have the meaning assigned to them in the main Terms and Conditions.
- 2.5. The Parties agree that the Data constitutes Personal Data which may include Conviction Data and Special Categories of Personal Data, as they relate to a living individual who can be identified directly or indirectly from the Data.
- 2.6. It is the duty of the Controller to comply with the data protection principles. The Customer, separately from the Supplier, must be the Controller of each item of Data received from the Supplier from the point of receipt of that Data by the Customer or its Sub-Contractor and must be responsible for complying with Data Protection Legislation in relation to its further Processing of that Data.
- 2.7. The Customer (including each member of its staff) must comply with Data Protection Legislation and must duly observe all their obligations under Data Protection Legislation which arise in connection with the Contract.
- 2.8. The Customer must answer any Data Subject Requests that it receives for the Data and for which it is the Controller.
- 2.9. The Customer must instruct the Data Subject to contact Supplier where the Data Subject Request is pursuant to Supplier's activities as a Controller

3. THE SUPPLIER'S DRIVING LICENCE CHECKING SERVICES

- 3.1. The Supplier shall use its reasonable endeavours to provide the Driving Licence Checking Services subject to the terms and conditions set out in this Schedule 1 relating to the provision of data under this Agreement.

3.2. The Legal Basis for Release of Data to the Customer

- 3.2.1. The basis for release of the DVLA's driving licence Data to the Customer is that it is necessary for the performance of a task carried out in the public interest or the exercise of an official authority vested in DVLA. This is in line with Applicable Data Protection Laws. The requirements for this

approval are detailed in Part 3 (MINIMUM REQUIREMENTS FOR DATA PROTECTION DECLARATION) of this Schedule 1.

- 3.2.2. Special Categories of Personal Data is processed under Article 9.2.g of UK GDPR – necessary for reasons of substantial public interest for the reasons stated above. In addition, the Data Subject will be given notice of fair processing by way of the Data Protection Declaration and will be aware that this category of data is being shared as part of the process.

3.3. Permitted Purpose for use of Data

- 3.3.1. The Customer will provide the Supplier with a statement detailing the type of business it conducts that involves the use of the Data. This shall include a description of any products or services it offers that are based on the Data. The Supplier reserves the right to refuse to provide the Driving Licence Checking Services to the Customer if the Customer cannot prove that it has a Permitted Purpose. Categories of business that meet this prerequisite include:
- a. Employers of drivers;
 - b. Auto insurance companies (at point of claim only);
 - c. Car rental companies;
 - d. Fleet companies; and
 - e. Taxi Licensing for Local Authorities.
- 3.3.2. The Customer shall use the Data only for the Permitted Purpose for which it was provided and in accordance with its obligations under Applicable Data Protection Laws. The Customer shall keep the Data confidential. The Customer will not sell the Data or permit it to be sold or otherwise disclosed to any third party. The Data must not be used for identity checking of any kind.
- 3.3.3. The Customer must provide the Supplier with estimated usage of the Driving Licence Checking Services, to include volume and frequency information. The Customer shall inform the Supplier of any factors that could cause a significant increase or decrease in usage.
- 3.3.4. Where there is a change of or additional use of Data from that specified, the Customer is required to detail in writing to the Supplier the proposed use of the Data and any third parties to whom it will be provided. The Supplier shall be entitled to suspend or terminate the Driving Licence Checking Services if such use is not authorised by the Supplier or the DVLA.
- 3.3.5. The Customer will notify the Supplier of any changes to their business need for access to the Driving Licence Checking Services.
- 3.3.6. The Customer will inform the Supplier of changes to their business processes, which may impact how the Driving Licence Checking Services are used.
- 3.3.7. The Customer will only make enquiries on those drivers for which they are in receipt of a signed Data Protection Declaration, as stipulated in Part 3 of this Schedule 1 (MINIMUM REQUIREMENTS FOR DATA PROTECTION DECLARATION).
- 3.3.8. Staff must not use the Driving Licence Checking Services in order to view their own DVLA driver record. There must be separation of duty between the Data Subject and the Data obtained via the Driving Licence Checking Services.

- 3.3.9. The Customer must (and must ensure that each member of the Customer's Staff) comply with any notification requirements under the Applicable Data Protection Laws and will duly observe all their obligations under Applicable Data Protection Laws which arise in connection with this Agreement.
- 3.3.10. The Customer must be registered with Companies House, His Majesty's Revenue and Customs (HMRC) and The Charities Commission, where applicable.
- 3.3.11. Before making each request for Data, the Customer must gather Evidence to demonstrate the Permitted Purpose to request the Data.
- 3.3.12. The Customer shall hold the Data on the minimum amount of databases required for the purposes of processing the Data for the defined Permitted Purpose. This does not apply to the Data stored for backup or disaster recovery purposes.
- 3.3.13. The requirements of this Schedule 1 relating to transfer of the Data outside the UK apply to the Customer's backup or disaster recovery sites.

3.4. Management of the Agreement – The Customer's Key Staff

- 3.4.1. The Customer must provide to the Supplier a list of the individuals who have direct responsibilities for the use of the Data and for the Customer's other obligations under this Agreement. The Customer will provide the individuals names, business addresses and other contact details, specifying the capacities in which they are concerned with the Data.
- 3.4.2. Requests for Data from any members of staff that are not listed as Key Staff will not be accepted by the Supplier.
- 3.4.3. As a minimum, the list of Key Staff must include details of the Customer's registered office, as recorded by Companies' House and:
 - a. the manager who must be responsible for the Customer's general contractual matters and shall receive notices sent to the Customer's registered office, and who shall be referred to in this Agreement as the Commercial Manager; and
 - b. the manager who is responsible for the management of the Data once in the hands of the Customer, to be referred to in this Agreement as the Data Manager.
- 3.4.4. The Customer must inform the Supplier immediately of any changes in personnel listed in the list of Key Staff, or their business contact details. Failure to do so may result in delayed communications between the Customer and the Supplier.

3.5. Statutory Obligations

3.5.1. Prevention of Corruption

- a. The Customer must not offer or give, or agree to give, to the Supplier, or any other body or person employed by or on behalf of the Supplier any gift or consideration of any kind as 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 the Agreement or any other agreement with the Supplier, or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement or any such contract.
- b. If the Customer, its Staff or anyone acting on the Customer's behalf, engages in conduct prohibited by this paragraph 3.5 or the Bribery Act 2010 (as amended), the Supplier may:

- i. terminate and recover from the Customer the amount of any loss suffered by the Supplier resulting from the termination; or
- ii. recover in full from the Customer any other loss sustained by the Supplier in consequence of any breach of that clause.

3.5.2. Prevention of Fraud

- a. The Customer must take all reasonable steps, in accordance with Good Industry Practice, to prevent fraud by the Customer's Staff and the Customer (including its shareholder, members, and directors) in connection with the receipt of the Driving Licence Checking Services.
- b. The Customer must notify the Supplier immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.
- c. If the Customer or its Staff commits fraud in relation to this or any other agreement with the Supplier, the Supplier may:
 - i. terminate the Agreement and recover from the Customer the amount of any loss suffered by the Supplier resulting from the termination; or
 - ii. recover in full from the Customer any other loss sustained by the Supplier in consequence of any breach of this paragraph 3.5.2.

3.5.3. Discrimination

- a. The Customer must not unlawfully discriminate either directly or indirectly or by way of victimisation or harassment against a person on such grounds as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, colour, ethnic or national origin, sex or sexual orientation, and without prejudice to the generality of the foregoing the Customer must not unlawfully discriminate within the meaning and scope of the Equality Acts 2006 and 2010 (as amended), the Human Rights Act 1998 (as amended) or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.
- b. The Customer must take all reasonable steps to secure the observance of paragraph 3.5.3(a) by all of its Staff.

3.5.4. The Contracts (Rights of Third Parties) Act 1999 (as amended)

- a. A person who is not a party to this Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written approval of both Parties. This clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 (as amended).

3.5.5. Health and Safety

- a. The Customer must promptly notify the Supplier of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement.
- b. While on the Customer's premises, the Supplier shall comply with any health and safety measures implemented by the Customer in respect of its Staff and other persons working there.

- c. The Supplier shall notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- d. The Customer must comply with the requirements of the Health and Safety at Work Act 1974 (as amended) and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to the Customer's Staff and other persons working on the premises in the performance of its obligations under the Agreement.

3.6. Publicity and Media

- 3.6.1. The Customer must notify the Supplier immediately if any circumstances arise which could result in publicity or media attention to the Customer which could adversely reflect on the Supplier or any provider of Third Party Services.
- 3.6.2. The Customer must not misrepresent their relationship with the DVLA. The Customer must not publish information that implies a direct relationship with the DVLA where no such relationship exists. The Customer must comply with the following restrictions:
 - a. The Customer must not create, approve or distribute any publicity, media or website content implying or stating any of the following:
 - a. that the DVLA has a connection with or any service provided by the Customer without the prior written approval of the Supplier and the DVLA.

3.7. Transfer and Sub-Contracting

- 3.7.1. The Customer shall not assign, sub-contract or in any other way dispose of this Agreement or any part of it without the prior written approval of the Supplier.
- 3.7.2. Sub-Contracting any part of the Agreement shall not relieve the Customer of any of its obligations or duties under the Agreement. The Customer shall be responsible for the acts and omissions of its sub-Contractors as though they are its own. Where the Supplier has approved the placing of sub-contracts, copies of each sub-contract shall, at the request of the Supplier, be sent by the Customer to the Supplier as soon as reasonably practicable. The Supplier shall be entitled to disclose copies of the Customer's sub-contracts to such of the Supplier's affiliates, subcontractors, partners, and other third parties as are engaged in the provision of the Driving Licence Checking Services.

3.8. Insolvency

- 3.8.1. The Customer must notify the Supplier immediately in writing where the Customer is a company and in respect of the Customer:
 - a. a proposal is made for a voluntary arrangement within Part 1 of the Insolvency Act 1986 (as amended) or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
 - b. a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or

- c. a petition is presented for its winding up (which is not dismissed within 14 Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986 (as amended); or
- d. a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
- e. an application order is made either for the appointment of an administrator or for an administration order, and administrator is appointed, or notice of intention to appoint an administrator is given; or
- f. it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986 (as amended); or
- g. being a "small company" within the meaning of section 247(3) of the Companies Act 1985 (as amended); a moratorium comes into force pursuant to Schedule 1A of the Insolvency Act 1986 (as amended); or
- h. any event similar to those listed in this clause occurs under the law of any other jurisdiction.

3.8.2. The Customer must notify the Supplier immediately in writing where the Customer is an individual and:

- a. an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 (as amended) or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Customer's creditors; or
- b. a petition is presented and not dismissed within 14 days or order made for the Customer's bankruptcy; or
- c. a receiver, or similar officer is appointed over the whole or any part of the Customer's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets; or
- d. the Customer is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of section 268 of the Insolvency Act 1986 (as amended); or
- e. a creditor or encumbrancer 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 the Customer's assets and such attachment or process is not discharged within 14 days; or
- f. suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business.

3.9. Change of Control

3.9.1. The Customer must seek the prior written approval of the Supplier to any change of control within the meaning of section 450 of the Corporation Taxes Act 2010 (as amended) ("Change of Control"). Where the Supplier has not given its written agreement before the Change of Control, the Supplier may terminate the Agreement by notice in writing with immediate effect within 26 weeks of:

- a. being notified that that change of control has occurred; or

- b. where no notification has been made, the date that the Supplier becomes aware of that change of control.

3.10. Consequences of Suspension and Termination

- 3.10.1. After the Driving Licence Checking Services have been suspended or the Agreement has been terminated, or both, the Customer must continue to comply with its obligations under this Agreement and under Applicable Data Protection Laws in relation to the Data which it holds, including as to the proper use of the Data, retention of the Data and secure destruction of the Data.

3.11. Accuracy of the Data

- 3.11.1. The Customer must ensure before relying on any item of Data that the Data provided matches the information in the request and that the Data pertains to the licence holder for whom they possess a standard electronic Data Protection Declaration. Any records passed to the Customer from the Supplier that do not pertain to a Data Protection Declaration held by the Customer must be disregarded and deleted from any systems. The Data Manager must be contacted in this instance.

3.12. Reviews and Meetings

- 3.12.1. The Customer must upon receipt of reasonable notice and during normal office hours attend all meetings arranged by the Supplier for the discussion of matters connected with the performance of this Agreement.
- 3.12.2. Without prejudice to any other requirement in this Agreement, the Customer must provide such reports on the performance of the Agreement or any other information relating to the Customer's requests for and use of the Data as the Supplier may reasonably require.
- 3.12.3. The Supplier reserves the right to review the Contract at any time. Where required, the Supplier and the Customer shall meet in person or via video or telephone conference to review:
 - a. the ongoing need for the Driving Licence Checking Services as defined and any consequential variation to the terms of the Contract;
 - b. the Permitted Purpose for which the Data is provided;
 - c. the performance of the Driving Licence Checking Service;
 - d. the volume of Data which the Supplier is providing to the Customer;
 - e. the security arrangements governing the Customer's safe receipt of the Data and the Customer's further use of the Data;
 - f. the arrangements that the Customer has in place relating to the retention and secure destruction of the Data;
 - g. any audits that have been carried out that have relevance to the way that the Customer is Processing the Data;
 - h. any security incidents that have occurred with the Data involving the Customer;
 - i. the continued registration of the Customer's company under the same registered number;
 - j. the training and experience of the Customer's Staff in their duties and responsibilities under Data Protection Legislation.

3.13. Data Protection

- 3.13.1. The Customer shall carry out its own internal compliance checks at least annually and shall notify the Supplier of such checks by using the data governance assessment form prescribed by the Supplier.
- 3.13.2. The Customer must share with the Supplier the outcome of any other checks, audits or reviews that have been carried out on its activities as a Data Controller that are relevant to the processing of the Data.
- 3.13.3. The Customer must notify the Supplier immediately, or within a maximum of 24 hours of becoming aware, of any audits that are being carried out by the Information Commissioner's Office under Applicable Data Protection Laws that are relevant to the processing of the Data.
- 3.13.4. Without prejudice to paragraph 3.13.5, the Customer shall notify the Supplier promptly, within a maximum of 24 hours of becoming aware, of any losses, compromise or misuse of the Data or any Personal Data Breach and keep the Supplier informed of any communications about the incident with; the individuals whose Personal Data is affected; the Information Commissioner's Office; or the media.
- 3.13.5. The Customer must notify the Supplier immediately of any as Event involving the Data that meets the criteria for notification to the Information Commissioner's Office or affected Data Subjects.
- 3.13.6. The Customer understands that where it is the relevant Controller it must be responsible for notifying the incident to the Information Commissioner's Office and, where appropriate, Data Subjects, and to do so within the time limits required by Data Protection Legislation, and also for taking such action as is necessary to resolve the incident.
- 3.13.7. In exceptional circumstances in relation to abuse of the Driving Licence Checking Services, access to Customer's premises may be required. Other than in exceptional circumstances, such as a suspected serious breach of Data security, examinations will be by prior contact and the Supplier will notify the Customer in advance of any premises they wish to examine.

3.14. Action on Complaint

- 3.14.1. Where a complaint is received by the Supplier or the DVLA which relates to any matter connected with the performance of the Customer's obligations under this Agreement or the use of Data, the Supplier or the DVLA may investigate the complaint.
- 3.14.2. The Customer must provide any information relating to the Customer's requests for and use of the Data as the Supplier or DVLA may reasonably require as part of any investigation. The Supplier or the DVLA may, in its sole discretion, acting reasonably, uphold the complaint and take further action in accordance with paragraphs 3.15, 3.16 and/or 3.19 of this Schedule 1.

3.15. Termination for Material Breach

- 3.15.1. A Party may terminate the Agreement with immediate effect by written notice to the other Party on or at any time after the occurrence of an event specified in this paragraph 3.15.
- 3.15.2. The events are that:
 - a. The Customer fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 60 days after being notified in writing to make such payment;
 - b. The Customer commits any three or more Defaults, whether simultaneously or singly at any time during the operation of the

Agreement, irrespective of whether any or all of such breaches is minimal or trivial in nature;

- c. The Customer commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 26 weeks after being notified in writing to do so.

- 3.15.3. For the purposes of paragraph 3.15.2(c), a material breach is remediable if time is not of the essence in performance of the obligation and if in the reasonable opinion of the Supplier the material breach is capable of remedy within the 26 week period.

3.16. Suspension of the Driver Licence Checking Services

- 3.16.1. If it comes to the attention of the Supplier that the Customer has committed any Default (including material breaches and all other defaults), the Supplier may suspend the Driver Licence Checking Services without further notice and with immediate effect and investigate the nature and effect of the breach.
- 3.16.2. The Supplier may from time to time issue guidance on its principles on suspending the Driver Licence Checking Services and terminating agreements to supply Data using the Driver licence Checking Services. The guidance may include guidance concerning: types of Defaults which the Supplier may consider to be material breaches; guidance as to specific types of breach that the Supplier will consider to be remediable; how such breaches may be remedied; how long suspension may last; when following any period of suspension the Customer may resume making requests and in relation to which dates of events such requests may be made; and guidance as to which types of breach the Supplier may consider to be irremediable.

3.17. Effect of Suspension

- 3.17.1. If the Supplier suspends the Driver Licence Checking Services at any time, the Customer shall co-operate with any further investigation, audit or review that the Supplier requires to be carried out in relation to the Data provided to the Customer.
- 3.17.2. The Supplier may refuse to resume the Driver Licence Checking Services until the Customer provides assurances that the matter resulting in the suspension has been resolved to the satisfaction of the Supplier and takes specified actions within a reasonable period set by the Supplier.
- 3.17.3. The Supplier may require that an inspection is carried out after the Driver Licence Checking Service is resumed, to check the Customer's compliance with the Agreement and Applicable Data Protection Laws.
- 3.17.4. The Supplier may require the Customer to pay the fee for any inspection, as set out in the Client Agreement (or if not set out in the Client Agreement, as reasonably determined by the Supplier at its sole discretion) before it will resume the Driver Licence Checking Service.
- 3.17.5. During any suspension period, the Supplier shall not provide Data to the Customer.
- 3.17.6. The Customer must reimburse the Supplier for all Supplier's cost and expenses incurred in relation to the Supplier's right under paragraph 3.17 to carry out an inspection, investigation, audit or review of the Customer.

3.18. Insolvency

- 3.18.1. Where the Supplier is notified in writing of any of the circumstances listed in paragraph 3.8 (Insolvency), the Supplier may suspend the Driver Licence Checking Service without further notice and with immediate effect and investigate further whether any of the Customer's directors or any liquidator, receiver, administrative receiver, administrator, or other officer is capable of ensuring that the provisions of this Agreement and of Applicable Data Protection Laws are complied with. If the Supplier is not satisfied that any such person shall ensure such compliance, the Supplier may terminate the Agreement by written notice with immediate effect.

3.19. Other Termination Rights

- 3.19.1. The Supplier may terminate the Agreement by written notice with immediate effect if in the reasonable view of the Supplier, during any period of suspension of the Driving Licence Checking Service the Customer:
 - a. fails to co-operate with any investigation, audit or review;
 - b. fails to provide any assurances or take any actions within the reasonable period set by the Supplier; or
 - c. fails to provide assurances that satisfy the Supplier (acting reasonably) that the Customer has complied and shall continue to comply with the requirements of this Agreement and of Applicable Data Protection Laws.
- 3.19.2. The Supplier may terminate the Agreement by written notice with immediate effect if the Customer fails to pay the Supplier undisputed sums of money when due by variable direct debit in two or more consecutive months.
- 3.19.3. The Supplier may terminate the Agreement by written notice with immediate effect if the Customer is found to be in breach of any aspect of the Applicable Law that could, in the reasonable opinion of the Supplier, bring the Supplier into disrepute.
- 3.19.4. The Supplier may terminate the Agreement by written notice with immediate effect if the Customer is an individual and he has died or is adjudged incapable of managing his affairs within the Mental Capacity Act 2005 (as amended).

3.20. Inspection by the Supplier or an agent acting on its behalf

- 3.20.1. The Supplier or an agent acting on its behalf reserves the right to carry out an inspection at any time of the Customer's compliance with the terms of this Agreement. Where possible, the Supplier shall give the Customer 7 days' written notice of any such inspection.
- 3.20.2. In exceptional circumstances in relation to abuse of the Driver Licence Checking Service, access to the Customer's premises may be required. Other than in exceptional circumstances, such as a suspected serious breach of Data security, examinations will be by prior contact and Supplier will notify the Customer in advance of any premises they wish to examine.
- 3.20.3. The Customer agrees to co-operate fully with any such inspection and to allow the Supplier, or an agent acting on its behalf, access to its Premises, equipment, Evidence and the Customer's Staff for the purposes of the inspection.
- 3.20.4. The Customer will respond as required to the findings and recommendations of any Supplier inspection and will provide updates as required on the implementation of any required actions.

- 3.20.5. The Supplier may at any time check the electronic trail relating to any activity made by the Customer and contact the person responsible for such activity.
- 3.20.6. The Supplier may, by written notice to the Customer, forbid access to the Data, or withdraw permission for continued access to the Data, to:
 - a. any member of the Customer's Staff; or
 - b. any person employed or engaged by any member of the Customer's Staff; whose access to or use of the Data would, in the reasonable opinion of the Supplier, be undesirable.
- 3.20.7. The decision of the Supplier as to whether any person is to be forbidden from accessing the Data and as to whether the Customer has failed to comply with this clause shall be final and conclusive.
- 3.20.8. The Supplier may be required by the DVLA to forbid Customer access to the Data, or withdraw permission for continued access by the Customer to the Data where the DVLA have determined that such access or use of Data would, in their reasonable opinion be undesirable. In such cases the decision of the DVLA will be final and conclusive.
- 3.20.9. The Supplier will be entitled to be reimbursed by the Customer for all Supplier's reasonable costs incurred in the course of the inspection.

Schedule 1

Driving Licence Checking Services

Part 2 - Minimum Data Security Requirements

1. Data Security Requirements

- 1.1. You agree to comply with the minimum security requirements, which are as follows:
 - a. Data, including back-up Data, must be retained in secure premises and locked away;
 - b. the Data supplied may only be copied for back-up and for the purposes of processing the Data. Copies must be erased immediately thereafter and they must not be otherwise duplicated;
 - c. the Customer will retain the Data only for as long as necessary with reference to the Permitted Purpose for which the Data is required;
 - d. the Customer, in accordance with Applicable Data Protection Laws should dispose of the Data where there is no business need to retain it;
 - e. Data, including back-up Data, must be protected from unauthorised access, release or loss;
 - f. a unique user ID and a robust password must be required to enter all databases on which the Data is stored;
 - g. a unique user ID and password must be allocated to each person with access to the Data;
 - h. user IDs must not be shared between the Customer's Staff;
 - i. an electronic trail relating to any activity involving the Data must be retained, identifying the user ID and individual involved in each activity;
 - j. access to the Data must be minimised so that only where necessary are individuals given the following levels of access:
 - ability to view material from single identifiable records

- ability to view material from many identifiable records
 - functional access including: searching, amendment, deletion, printing, downloading or transferring information;
- k. the Data must not be accessed from, copied onto or stored on Removable Media. Laptops may be used but only if the device has full disk encryption installed in line with Industry Best Practice and devices are securely protected when not in use;
 - l. all manual and electronic enquiries must be logged centrally and stored by the Customer;
 - m. enquiries must be checked by senior staff on a regular basis;
 - n. senior members of the Customer's Staff must conduct reconciliation checks between incoming and outgoing enquiry volumes on a regular basis;
 - o. Data must be used only for the Permitted Purpose for which it was obtained;
 - p. Data must only be kept for as long as necessary;
 - q. paper records must be securely destroyed so that reconstruction is unlikely;
 - r. electronic Data must be securely destroyed or deleted in accordance with current guidance from the Information Commissioner's Office as soon as it is no longer needed;
 - s. Data received by post (to the extent relevant to the Driving Licence Checking Services) must be available only to appropriately trained and experienced members of the Customer's Staff, who must abide by the requirements of this Agreement and Applicable Data Protection Laws;
 - t. all records containing personal information, including screen prints, reports or other Data which have been supplied or derived from the Driving Licence Checking Services in any format must be retained in a secure manner;
 - u. all Premises and buildings in which the Data is stored must be secure;
 - v. the Customer must be registered with the Information Commissioner and the permission must cover all activities actually carried out;
 - w. information must not be passed to third parties except with the prior written approval of the Supplier; and
 - x. transfer of the Data to third parties (where approval has been granted by the Supplier) must be in accordance with the principles of the Applicable Data Protection Laws. The Customer must ensure that the transport/transmission of the Data is in accordance with the appropriate technical and organisational measures. Any other conditions required by the Supplier in giving permission for disclosure to third parties must be satisfied.

2. Inspection, Internal Compliance and Audit

- 2.1. Upon the Supplier's request and the Customer must shall confirm whether or not the following requirements have been complied with:
 - a. all of the Data Security requirements in Part 2 of **SCHEDULE 1 (MINIMUM DATA SECURITY REQUIREMENTS)**;
 - b. all of the minimum requirements for the Data Protection Declaration detailed in Part 3 of **SCHEDULE 1 (MINIMUM REQUIREMENTS FOR DATA PROTECTION DECLARATION)**;

- c. All of the minimum requirements for electronic Data Protection Declaration Solutions (if applicable).

3. Minimum Requirements for the Customer's Staff Vetting and Disciplinary Procedures

- 3.1. The Customer must maintain policies for vetting, hiring, training and disciplining the Customer's Staff and must comply with these in respect of each person who has access to the Driving Licence Checking Services. The minimum requirements for the Customer's Staff vetting procedures are as follows:
 - a. the Customer confirm the identity of all of its new Staff;
 - b. the Customer must require all persons who are to have access to the Driving Licence Checking Services, or to the Data to complete and sign a written declaration of any unspent criminal Convictions;
 - c. the Customer must not allow any person with unspent criminal Convictions to have access to the Driving Licence Checking Services or to the Data, except with the prior written approval of the Supplier;
 - d. the Customer must ensure that no person who discloses that he or she has a Relevant Conviction, or who is found by the Customer to have any Relevant Conviction is allowed access to the Data or to the Driving Licence Checking Services, without the prior written approval of the Supplier;
 - e. the Customer must require all persons who are to have access to the Driving Licence Checking Services, or to the Data to complete and sign an agreement to use the Driving Licence Checking Services and the Data only for the Permitted Purpose set out in this Agreement and in accordance with the Customer's procedures;
 - f. the Customer must require that each person who has access to the Data or the Driving Licence Checking Services must sign a document confirming that the person must use the Data and the Driving Licence Checking Services only in accordance with the Customer's procedures and only for the Permitted Purpose;
 - g. the Customer must ensure that each person who has access to the Driving Licence Checking Services, or the Data must act with all due skill, care and diligence and must possess such qualifications, skills and experience as are necessary for the proper use of the Driving Licence Checking Services and the Data;
 - h. the Customer must ensure that each person who is authorised to use the Driving Licence Checking Services has been trained in the operation of the system and its associated procedures. The Customer must keep documentary records of attendance on such training by each person;
 - i. the Customer must ensure that each person who has access to the Data is appropriately trained in and aware of his or her duties and responsibilities under Applicable Data Protection Laws and this Agreement;
 - j. the Customer must create and maintain a unique user account ID for each person who has access to the Driving Licence Checking Services;
 - k. the Customer must maintain a procedure for authorising the creation of user accounts and for the prompt deletion of accounts that are no longer required. The customer must ensure that the person or persons carrying out this work are appropriately trained and that their duties are separate from that of a normal user account. A normal user must not be able to manage their own account;

- l. the Customer's disciplinary policy must state that misuse of the Driving Licence Checking Services, or the Data by any person shall constitute gross misconduct and may result in summary dismissal of that person. The Customer must notify such misuse to the Supplier and the person involved shall be refused all future access to the Data;
- m. system administrators must receive appropriate training;
- n. the system administration role must be separated from any other role to ensure a separation of duties.
- o. the Customer must notify the Supplier immediately, within a maximum of 24 hours of becoming aware, of any security breaches, losses, compromise or misuse of the Data, and keep the Supplier informed of any such communications about such incidents with:
 - the Data Subjects whose Personal Data is affected;
 - the Information Commissioner's Office (or relevant supervisory authority);
 - the media.

Schedule 1

Driving Licence Checking Services

Part 3 - Minimum Requirements for Data Protection Declaration

1. MINIMUM REQUIREMENTS FOR DATA PROTECTION DECLARATION

- 1.1. The Supplier is required to be satisfied that any processing (including disclosure) of Personal Data is compliant with Applicable Data Protection Laws. The Customer may make enquiries of the record holder (the Data Subject) for its own legitimate purposes in accordance with Applicable Data Protection Laws. The Customer must make the record holder fully aware that information from that person's driver record is to be obtained from the Supplier by the Customer, the categories of Data involved, the purposes and the period and frequency in which Data will be requested. The Supplier requires the Customer to Evidence this through the provision of a Data Protection Declaration signed by the record holder and containing a declaration to that effect.
- 1.2. The Customer must have a defined procedure in place for obtaining Evidence of the record-holder's Data Protection Declaration.
- 1.3. The Customer must retain Evidence at the Customer's main office for business operations for a period of 2 years from the date of the ADD Service enquiry regardless of the length of time for which the Evidence was valid. Evidence must be retained in a structured manner that permits the easy recovery of specific cases. Evidence must be produced by the Customer for any enquiry logged on the Supplier's system. Evidence can be stored electronically provided it meets the requirements stated in this Part 3 of Schedule 1 of this Agreement.
- 1.4. Section 1 of the Data Protection Declaration form (company details) must clearly state the Registered Company Name of the Customer, that is stated on the front of this Agreement of this Contract. The Customer may also state a Trading Name provided this is alongside the Registered Company Name. In the event of the Registered Company Name for the Customer changing, or if there is any restructuring of the company that affects its legal entities, subsidiary companies or its Trading Name, a new Data Protection Declaration form must be completed to reflect the change.
- 1.5. The Customer must ensure that all Data Protection Declarations clearly state the Supplier's Registered Company Name and the Customer's Registered Company Names. The Supplier may also use or refer to a Trading Name of the Customer. In the event of the Customer's Registered Company Name changing, or if there is any restructuring of the Customer that affects its legal entities, subsidiary companies or its Trading Name, a new Data Protection Declaration form must be completed to reflect the change. It is the responsibility of the Customer to inform the Supplier of any such changes.
- 1.6. When it is necessary for the Supplier to change the Data Protection Declaration within the three-year period it may be a requirement for a new Data Protection Declaration to be obtained from the record holders concerned within this period (using the revised format), depending on the nature of any changes made.
- 1.7. If the Customer procedures permit a separation or delay between obtaining the Data Protection Declaration and making the enquiry on the record, there must be a clear audit trail to identify the employee responsible for obtaining the Data Protection Declaration.
- 1.8. The Data Protection Declaration is valid for a period of not more than 3 years from the date of signature or until the record holder ceases to drive for the Customer, whichever occurs sooner.

- 1.9. It is the responsibility of the record holder to inform and obtain written acknowledgement from the Customer that his details will not be processed further if that is the instruction. The rights of the Customer under Applicable Data Protection Laws are not affected, but the Supplier reserves the right to withhold the record holder's Personal Data.
- 1.10. Where a paper Data Protection Declaration is used the Supplier will accept original forms, photocopies, fax copies and electronically scanned copies on the basis that they are of good quality and the information contained thereon is clearly legible. This includes, but is not limited to:
 - a. Handwriting and printed wording must not be obscured or tampered with in any way, shape or form;
 - b. The use of correction fluid or other tampering will render the form invalid and will require the completion of a new one;
 - c. Forms printed from an electronic scanning solution must meet the stipulations in paragraphs 1.16 of this Part 3, Schedule 1.
- 1.11. The Supplier offers a standard Data Protection Declaration which the Supplier recommends the Customer uses as Evidence. Alternatively, the Customer can produce a bespoke Data Protection Declaration. However, any such bespoke Data Protection Declaration must meet the Supplier's requirements and must first be approved by the Supplier prior to being used.
- 1.12. The Customer is permitted to develop and implement electronic Data Protection Declaration solutions, providing that the Customer can Evidence to the Supplier, upon request, that the following information has been electronically presented to and read by the record holder, on a given date to support Driving Licence Checking Services enquiries:
 - a. Company details
 - o the Registered Company Name of both the Supplier and the Customer that will be requesting the driving licence Data;
 - b. The reason for the request
 - o The Permitted Purpose for requesting the driving licence Data;
 - o If CPC information and/or tachograph information is required by the Customer;
 - c. The driver details
 - o Surname
 - o First name
 - o Date of Birth
 - o Address
 - o Driver Number
 - d. The following fair processing declaration;

"I am the person referred to in [refer to section]. I understand the [named companies] will ask the Supplier for my driver record information, as and when they require, for the purpose set out [refer to section]. I understand the Supplier will disclose to the [named companies] all relevant information held in the computerised register of drivers maintained by the Supplier. This includes personal details, driving entitlements, valid endorsements and disqualifications (if relevant), Certificate of Professional Competence (CPC) and Digital Tachograph Card details (where appropriate). This

declaration will expire when I cease driving in connection with the company or in any case, 3 years from the date of my signature.”

- 1.13. The Customer is responsible as Data Controller for ensuring that any electronic Data Protection Declaration solutions comply with Applicable Data Protection Laws.
- 1.14. All records containing Data obtained from the Driving Licence Checking Services will be retained by the Customer in accordance with Applicable Data Protection Laws. The Customer will retain responsibility for the storage of Data and any subsequent failure to do so may result in the withdrawal of the Driving Licence Checking Services. Data Protection Declarations, screen-prints and paper copies of records obtained from the Driving Licence Checking Services must be stored in a locked cupboard or similar in a lockable room with a suitable keypad or lock, which must be secured overnight. The Data Protection Declarations must be stored at the customer’s address given as a point of contact to the Supplier. Copies of records stored on electronic systems must meet the minimum level of security required. The minimum level of security must be implemented such that the controls described in this document are applied, and that electronic records can only be accessed by legitimate users who have authenticated correctly and have a Permitted Purpose to view the Data.
- 1.15. Any scanned images of paper Data Protection Declarations stored electronically must be encrypted and stored in a secure and auditable database provided the company has the facility and expertise to scan, store and destroy Data to required standards of legal admissibility.
- 1.16. Where the Customer utilises an electronic Data Protection Declaration solution, the Customer must ensure that all electronic Data Protection Declarations are encrypted, stored and destroyed to required standards of legal admissibility.
- 1.17. Where the Customer receives a Data Subject Request under Article 17 of UK GDPR (the right to erasure) the following shall apply:
 - a. It is for the Customer as Controller of the Personal Data collected on the Data Protection Declaration (and any other Personal Data they may collect from any source to provide driver entitlement checking services) to determine on a case-by- case basis whether the right to erasure applies and if the Data Subject Request can be fulfilled;
 - b. This consideration by the Customer will take account of their legal basis (including the relevant Processing conditions) in UK GDPR to process and retain that Personal Data. Information Commissioner’s Office advice states that a Data Subject’s right to erasure is not absolute and may only apply in certain circumstances;
 - c. Where a Customer chooses to fulfil a right to erasure Data Subject Request of the Personal Data collected on the Data Protection Declaration, the Supplier requires the Customer to retain evidence of the right to erasure Data Subject Request in accordance with the accountability principle of UK GDPR.

Schedule 2

Joint Controllers' Data Sharing Terms and Conditions

1. DEFINITIONS

1.1. In this Schedule 2, the following words shall have the following meanings:

Agreed Purposes and Means: has the meaning given to it in paragraph 3.4 of this Schedule 2.

Controller, Joint Controllers, Processor, Data Subject, Personal Data, Processing, Supervisory Authority and appropriate technical and organisational measures shall have the meanings given to them in the Applicable Data Protection Laws.

Criminal Offence Data: means Personal Data relating to criminal convictions and offences or related security measures to be read in accordance with section 11(2) of the DPA 2018.

Data Sharing Code: the Information Commissioner's Data Sharing Code of Practice of May 2011, as updated or amended from time to time.

Driver Data: means the driver data that is to be provided by the Supplier as Data Discloser to the Customer as Data Receiver pursuant to the Driving Licence Checking Services, including but not limited to:

licence status codes;

ADD message codes;

entitlement information codes;

endorsement offences codes;

licence categories;

licence date formats;

CPC card start/expiry date; and

Tachograph card status codes.

European Commission means the executive branch of the European Union (EU), responsible for proposing legislation, enforcing EU laws and directing the European Union's administrative operations.

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

Shared Personal Data: the Personal Data, Special Categories of Personal Data, and Criminal Offence Data to be shared between the Parties under paragraph 5 of this Schedule 2.

Special Category Personal Data: the categories of Personal Data set out in Article 9(1) of the UK GDPR.

Standard Contractual Clauses (SCCs) mean a standard set of data protection clauses that are adopted by the European Commission in accordance with Article 46(c) of the EU GDPR.

Subject Access Request: the exercise by a data subject of his or her rights under Article 15 of the UK GDPR and the DPA 2018.

Supervisory Authority: the relevant supervisory authority in the territories where the Parties to this Agreement are established.

Term: the Subscription Term or the Engagement Period (as set out in the Client Agreement).

2. OVERVIEW

- 2.1. This Schedule 2 sets out additional terms and conditions that shall apply to the provision of the Services to the Customer under the Terms and Conditions, where the Parties act as joint controllers in respect of personal data processed pursuant to this Agreement. The Parties have agreed to allocate responsibility for each of their controller obligations under Applicable Data Protection Laws in accordance with clause 13(k) of the Terms and Conditions.
- 2.2. In the event of any inconsistency between the terms and conditions of this Schedule 2 and the main Terms and Conditions, then this Schedule 2 shall override and apply in respect of the inconsistency.
- 2.3. Capitalised terms used in this Schedule 2 without definition shall have the meaning assigned to them in the main Terms and Conditions.

3. PURPOSE

- 3.1. The Parties have determined that they are Joint Controllers in relation to the Shared Personal Data and accordingly this Schedule 2 sets out the arrangements between them for the purposes of Article 26 of the UK GDPR.
- 3.2. The Data Discloser agrees to share the Personal Data with the Data Receiver on the terms set out in this Schedule 2 and the Data Receiver agrees to use the Personal Data on the terms set out in this Schedule 2.
- 3.3. This Schedule 2 sets out the framework for the sharing of Personal Data when one Joint Controller (the "Data Discloser") discloses Personal Data to another Joint Controller (the "Data Receiver"). It defines the principles and procedures that the Parties shall adhere to and the responsibilities the Parties owe to each other.
- 3.4. The Parties agree to only process Shared Personal Data for the following purposes by automated or partially automated means:
 - a. improving driving from a road safety perspective and for preventative or remote vehicle maintenance;
 - b. vehicle optimisation and improvement including wear and tear affecting the vehicle's parts based on the usage data of the data subject;
 - c. accidentology studies performed by the Customer or an agent on behalf of the Customer;
 - d. geolocating vehicles for the purpose of combatting theft, providing breakdown assistance, and for the other legitimate purposes pursued by the Data Receiver;
 - e. commercial fleet management activities; and
 - f. to satisfy vehicle insurance requirements.

The Parties shall not process Shared Personal Data by automated or partially automated means in a way that is incompatible with the purposes described in this paragraph 3.4 ("**Agreed Purposes and Means**").

- 3.5. Notwithstanding paragraph 3.3, if and to the extent that the Parties determine in respect of any Processing of Personal Data that the relationship between them is not one of Joint Controllers because it is between Controllers, or between one or more Controllers and one or more Processors, then they will cooperate in agreeing and documenting appropriate arrangements for that other relationship or those other relationships.
- 3.6. Each Party shall appoint a single point of contact (SPoC) for Data Subjects and also who will work together to reach an agreement with regards to any issues arising from the data sharing and to actively improve the effectiveness of the data sharing initiative. The points of contact for each of the Parties shall be specified in the Client Agreement.

4. COMPLIANCE WITH NATIONAL DATA PROTECTION LAWS

- 4.1. Each Party must ensure compliance with applicable national data protection laws at all times during the Term of the Agreement.
- 4.2. In the event the data protection law or approach to compliance of two countries conflict, the requirements of the country that necessitates stricter or additional requirements to protect data subjects' privacy and Personal Data shall be applied.
- 4.3. Each Party has such valid registrations and/or has paid such fees as are required by its national Supervisory Authority which, by the time that the data sharing is expected to commence, covers the intended data sharing pursuant to this Agreement, unless an exemption applies.
- 4.4. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Supplier may, amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioners Office on no less than 30 Working Days' notice to the Customer.

5. SHARED PERSONAL DATA

- 5.1. The following types of Personal Data may be shared between the Parties during the Term of this Agreement depending on the Services procured by the Customer under the Client Agreement:
 - a. Driver Data;
 - b. Vehicle condition, usage, location, maintenance and other technical data;
 - c. Vehicle serial number or any other unique identifier of the vehicle (e.g. the vehicle licence plate number);
 - d. Customer Data, including but not limited to:
 - i. data on individual driver behaviour including the duration of journeys, braking, and cornering
 - ii. GPS location, direction, and current speed data relating to individual drivers
 - iii. individual drivers' vehicle activity
 - iv. driver ID data
 - v. individual drivers' mileage data.
- 5.2. The following types of Special Category Personal Data may be shared between the Parties during the Term of this Agreement:
 - a. Data concerning a natural person's physical or mental health or condition.
- 5.3. Criminal Offence Data may be shared between the Parties during the Term of the Driving Licence Checking Services.
- 5.4. The Parties shall establish and agree in writing any specific access and processing restrictions applicable to the Shared Personal Data in addition to those set out in this Agreement.
- 5.5. The Shared Personal Data must not be irrelevant or excessive with regard to the Agreed Purposes and Means.

6. LAWFUL, FAIR AND TRANSPARENT PROCESSING; JOINT CONTROLLER RESPONSIBILITIES

- 6.1. Each Party shall ensure that it processes the Shared Personal Data fairly and lawfully during the Term of this Agreement.
- 6.2. Each Party shall ensure that it has legitimate grounds under the Applicable Data Protection Laws for the processing of Shared Personal Data .

- 6.3. The Customer must not transfer the Data outside of the UK, and must not allow access to the Data from outside the UK, unless the prior written approval of the DVLA has been obtained via the Supplier and the following conditions are fulfilled:
 - i. the destination country has been recognised as adequate by the UK government in accordance with Article 45 UK GDPR or section 74 of the DPA 2018;
 - ii. the Customer has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 UK GDPR or section 75 DPA 2018);
 - iii. the Data Subject has enforceable rights and effective legal remedies;
 - iv. the Customer complies with its obligations under the Data Protection Legislation by providing an appropriate level of protection to any Personal Data that is transferred;
 - v. the Customer complies with any reasonable instructions notified to it in advance by the DVLA via the Supplier with respect to the Processing of Personal Data;
 - vi. ensure that transfers of Personal Data from the EEA to the UK comply with the EU GDPR.
- 6.4. Where the DVLA gives the prior and express written approval referred to in paragraph 6.3 to this Schedule 2, the Customer must disclose the Data only to the extent agreed and in accordance with any conditions attached to the giving of that approval.
- 6.5. The Data Discloser shall, in respect of Shared Personal Data, ensure that it provides clear and sufficient information to the Data Subjects, in accordance with the Applicable Data Protection Laws, of the purposes for which it will process their Personal Data, the legal basis for such purposes and such other information as is required by Article 13 of the GDPR including:
 - a. if Shared Personal Data will be transferred to a third party, that fact and sufficient information about such transfer and the purpose of such transfer to enable the data subject to understand the purpose and risks of such transfer; and
 - b. if Shared Personal Data will be transferred outside the UK, that fact and sufficient information about such transfer, the purpose of such transfer and the safeguards put in place by the controller to enable the Data Subject to understand the purpose and risks of such transfer.
- 6.6. The Data Receiver undertakes to inform the Data Subjects, in accordance with the Applicable Data Protection Laws, of the purposes for which it will process their Personal Data, the legal basis for such purposes and such other information as is required by Article 14 of the GDPR including:
 - a. if Shared Personal Data will be transferred to a third party, that fact and sufficient information about such transfer and the purpose of such transfer to enable the Data Subject to understand the purpose and risks of such transfer; and
 - b. if Shared Personal Data will be transferred outside the UK that fact and sufficient information about such transfer, the purpose of such transfer and the safeguards put in place by the controller to enable the Data Subject to understand the purpose and risks of such transfer.
- 6.7. Each Party shall comply with its obligations under Article 26 of the GDPR and:

- a. shall make available to Data Subjects the essence of the arrangements contemplated by this Agreement as is required by Article 26(2) of the GDPR;
- b. acknowledges that Data Subjects may exercise their rights under the GDPR in respect of and against each Party in accordance with Article 26(3) of the GDPR; and
- c. agrees to provide to each other Party such cooperation as may reasonably be required to assist that other Party in compliance with its obligations under Article 26 of the GDPR.

7. DATA SUBJECTS' RIGHTS

- 7.1. The Parties each agree to provide such assistance as is reasonably required to enable the other Party to comply with requests from Data Subjects to exercise their rights under the Applicable Data Protection Laws within the time limits imposed by the Applicable Data Protection Laws.
- 7.2. The SPoC for each Party is responsible for maintaining a record of individual requests for information, the decisions made and any information that was exchanged. Records must include copies of the request for information, details of the data accessed and shared and where relevant, notes of any meeting, correspondence or phone calls relating to the request. The SPoC for each Party is detailed in the Client Agreement.

8. DATA RETENTION AND DELETION

- 8.1. The Data Receiver shall not retain or process Shared Personal Data for longer than is necessary to carry out the Agreed Purposes and Means.
- 8.2. Notwithstanding paragraph 8.1, the Parties shall continue to retain Shared Personal Data in accordance with any statutory or professional retention periods applicable in their respective countries and / or industry.
- 8.3. The Data Receiver shall ensure that any Shared Personal Data are deleted or destroyed in accordance with an agreed deletion procedure in the following circumstances:
 - a. on termination of the Agreement;
 - b. on expiry of the Term of the Agreement;
 - c. once processing of the Shared Personal Data is no longer necessary for the purposes it was originally shared for.
- 8.4. Following the deletion of Shared Personal Data, the Data Receiver shall notify the Data Discloser that the Shared Personal Data in question has been deleted.

9. TRANSFERS

- 9.1. For the purposes of this paragraph 9, transfers of Personal Data shall mean any sharing of Shared Personal Data by the Data Receiver with a third party, and shall include, but is not limited to, the following:
 - a. subcontracting the processing of Shared Personal Data;
 - b. granting a third-party controller access to the Shared Personal Data.
- 9.2. The Data Receiver will consult with the Data Discloser before any transfer of Personal Data and if the Data Receiver appoints a third party processor to process the Shared Personal Data it shall comply with Article 28 and Article 30 of the GDPR and shall remain liable to the Data Discloser for the acts and/or omissions of the processor.

10. SECURITY AND TRAINING

- 10.1. Both Parties must ensure the safe transportation/transmission of the Data in accordance with appropriate technical and organisational measures, the requirements of the Data Protection Legislation and His Majesty's Government Security Policy Framework. The Data Discloser shall only provide the Shared Personal Data to the Data Receiver by using secure methods, as more specifically agreed between the Parties in writing.
- 10.2. The Parties undertake to have in place throughout the Term appropriate technical and organisational security measures to:
 - a. prevent:
 - i. unauthorised or unlawful processing of the Shared Personal Data; and
 - ii. the accidental loss or destruction of, or damage to, the Shared Personal Data.
 - b. ensure a level of security appropriate to:
 - i. the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
 - ii. the nature of the Shared Personal Data to be protected.
- 10.3. The level of technical and organisational measures agreed by the Parties as appropriate as at the Commencement Date having regard to the state of technological development and the cost of implementing such measures is set out in the Supplier's Security Policy Document, as may be updated by the Supplier on notice to the Customer from time to time. The Parties shall keep such Security Measures under review and shall carry out such updates as they agree are appropriate throughout the Term.
- 10.4. It is the responsibility of each Party to ensure that its staff members: (i) are appropriately trained to handle and process the Shared Personal Data in accordance with this Agreement and any Security Measures, together with any other applicable national data protection laws and guidance; and (ii) have entered into confidentiality agreements relating to the processing of Personal Data.
- 10.5. The level, content and regularity of training shall be proportionate to the staff members' role, responsibility and frequency with respect to their handling and processing of the Shared Personal Data.

11. PERSONAL DATA BREACHES AND REPORTING PROCEDURES

- 11.1. Each Party shall comply with its obligation to report a Personal Data Breach to the appropriate Supervisory Authority and (where applicable) data subjects under Article 33 of the GDPR and shall each inform the other Party of any Personal Data Breach irrespective of whether there is a requirement to notify any Supervisory Authority or data subject(s).
- 11.2. The Parties agree to provide reasonable assistance as is necessary to each other to facilitate the handling of any Personal Data Breach in an expeditious and compliant manner.

12. REVIEW OF DATA SHARING ARRANGEMENTS

- 12.1. The Parties shall review the effectiveness of these data sharing arrangements every 12 months, having consideration to the aims and purposes set out in this Schedule 2 and shall amend this Schedule 2 by mutual agreement in writing depending on the outcome of the review.
- 12.2. The review of the effectiveness of the data sharing arrangements will involve:
 - a. assessing whether the purposes for which the Shared Personal Data is being processed are still the ones listed in this Schedule 2;

- b. assessing whether the Shared Personal Data is still as listed in paragraphs 5.1 and 5.2 of this Schedule 2;
 - c. assessing whether the legal framework governing data retention, and data subjects' rights are being complied with; and
 - d. assessing whether personal data breaches involving the Shared Personal Data have been handled in accordance with this Schedule 2 and the applicable legal framework.
- 12.3. Each Party reserves its rights to inspect the other Party's arrangements for the processing of Shared Personal Data and to terminate the Agreement where it considers that the other Party is not processing the Shared Personal Data in accordance with this Schedule 2.

13. RESOLUTION OF DISPUTES WITH DATA SUBJECTS OR THE SUPERVISORY AUTHORITY

- 13.1. In the event of a dispute or claim brought by a data subject or the Supervisory Authority concerning the processing of Shared Personal Data against either or both Parties, the Parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.
- 13.2. The Parties agree to respond to any generally available non-binding mediation procedure initiated by a data subject or by the Supervisory Authority. If they do participate in the proceedings, the Parties may elect to do so remotely (such as by telephone or other electronic means). The Parties also agree to consider participating in any other arbitration, mediation or other dispute resolution proceedings developed for data protection disputes.
- 13.3. Each Party shall abide by a decision of a competent court of the Data Discloser's country of establishment or of the Supervisory Authority.

14. WARRANTIES

- 14.1. Each Party warrants and undertakes that it will:
- a. Respond within a reasonable time and as far as reasonably possible to enquiries from the relevant Supervisory Authority in relation to the Shared Personal Data.
 - b. Respond to Subject Access Requests in accordance with the Applicable Data Protection Laws.
 - c. Take all appropriate steps to ensure compliance with the Security Measures.
- 14.2. The Data Discloser warrants and undertakes that it is entitled to provide the Shared Personal Data to the Data Receiver.

Client Agreement

This Client Agreement and the Continuum Terms and Conditions detail the Services which we have agreed to provide to you, and the basis on which we will provide them. The terms of this Client Agreement (including any appendix hereto) may to some extent represent a change to, or modification of, our Continuum Terms and Conditions in order to reflect what we have specifically agreed with you. If there is any conflict between our Continuum Terms and Conditions and the terms of this Client Agreement, it is the terms of this Client Agreement which will prevail and which govern our contractual relationship with you.

The Services that will be supplied by the Supplier as part of this Agreement may include:

Service/s
CORE SUBSCRIPTION SERVICES:
Driver Management Fee
ENHANCED SUBSCRIPTION SERVICES:
Risk Assessment
Apps - Expenses Management/Telemetry/Pre-Road
PAY PER USE SERVICES:
Grey Fleet
Company Document Upload
Employee Management - Driver Declaration/Driving for Work Declaration
Driving Licence Checking Services
DVLA Electronic Check
Driver 401 Response
Non-GB driving licence checking service

DVANI Check
ADD-ON SERVICES:
Training Services
E-Learning
Mini Modules
On-Road Development Training
Workshops
Audit Services
Fleet Risk Management Audit

This Client Agreement, together with the Terms and Conditions in Appendix 1 (including all Schedules) comprise the Agreement between the Parties.

The Services procured pursuant to this Agreement are as follows:

Product Name	Price per Unit
	£

Agreed unit price based on the Customer Forecast and subject to clause 7(j) of the Continuum Terms and Conditions.

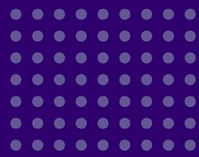
Contact details of Supplier's SPOC: [INSERT NAME, ROLE, TEAM AND CONTACT DETAILS OF SUPPLIER'S SPOC PURSUANT TO PARAGRAPH 3.6 of SCHEDULE 2]

Contact details of Customer's SPOC: , ,

Initial Term: [INSERT LENGTH OF INITIAL SUBSCRIPTION TERM]

Commencement Date:

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