

DATED

2020

OXFORDSHIRE COUNTY COUNCIL

- and -

CHERWELL DISTRICT COUNCIL

**Agreement
under Section 101 of the Local Government Act 1972
and Section 9EA of the Local Government Act 2000**

relating to the delegation of functions to help
reduce risk of Coronavirus infections

person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity;

(b) requesting (directly or indirectly), agreeing to receive or accepting any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity;

(c) committing any offence: (i) under the Bribery Act 2010; (ii) under any enactment creating offences concerning fraudulent acts; (iii) at common law concerning fraudulent acts relating to this Agreement or any other agreement between the parties hereto; or

(d) defrauding, attempting to defraud or conspiring to defraud either of the parties hereto;

“Staff” means all persons, whether paid or unpaid, engaged by the District Council to perform the Delegated Functions including the District Council’s employees, agents and sub-contractors;

“Statutory Requirements” means requirements of any enactment (being any act or any subordinate legislation as defined in the Interpretation Act 1978) national guidance or practice guides;

“Sub-Contractor” means a third party at any stage of remoteness from the District Council in a subcontracting chain appointed for the purpose of performing (or contributing to the performance of) the whole or any part of the Delegated Functions;

“Transferring Employee” means an employee whose contract of employment becomes, by virtue of the application of the 2006 Regulations in relation to what is done for the purposes of carrying out this Agreement, a contract of employment with the District Council (or any sub-contractor of the District Council) and who was previously an employee of the County Council (or any sub-contractor of the County Council) in connection with the Delegated Functions;

“Working Day” means any Monday to Friday (other than Bank or Public Holidays); and

“2006 Regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 or any regulations replacing those regulations, as from time to time amended or replaced.

- 1.2. The expression “including” means including without limitation or prejudice to the generality of any preceding description, defining term, phrase or word(s) and “include” shall be construed accordingly.
- 1.3. Any reference to an enactment includes any amendment to or modification of it and the version of it for the time being in force shall apply.
- 1.4. Headings in this Agreement will be for convenience only and shall not be taken into account in its construction and interpretation.
- 1.5. Reference to clauses sub-clauses and schedules are references to clauses sub-clauses and schedules in this Agreement.
- 1.6. Where the context so requires:

- 1.6.1. the singular includes the plural and vice versa;
- 1.6.2. the masculine includes the feminine and vice versa; and
- 1.6.3 persons includes bodies corporate associations and partnerships and vice versa.
- 1.7 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that this is done and words placing a party under restriction include an obligation not to cause permit or allow infringement of this restriction.

2. **Background and Purpose of Agreement**

- 2.1. The County Council is the enforcement authority for Oxfordshire in relation to the Delegated Functions.
- 2.2. The County Council and the District Council wish to make arrangements for the discharge of the Delegated Functions as set out in this Agreement.
- 2.3. This Deed is entered into pursuant to Section 101 of the Local Government Act 1972, Section 9EA of the Local Government Act 2000, the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and all other enabling powers for the purpose of delegating the Delegated Functions.

3. **Delegation**

The County Council hereby delegates to the District Council, on a non-exclusive basis the power to discharge the Delegated Functions in accordance with the provisions of this Agreement and the District Council accepts the delegation of the Delegated Functions subject to the provisions of this Agreement.

4. **Commencement and Operation**

- 4.1 This Agreement shall operate on and from the date of this Agreement and will expire simultaneously with expiry of The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 on 17 January 2021, subject to a right to extend by mutual agreement for such period as The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 may be extended by the Secretary of State for Health and Social Care.
- 4.1A Either party may, at its absolute discretion, terminate this Agreement early provided that at least [3 weeks] prior written notice of such termination has been given.
- 4.1B No compensation by way of damages or otherwise (howsoever arising) shall be payable in respect of early termination under clause 4.1A above.
- 4.2 If at any time it appears to the County Council that the District Council is materially in default of its obligations under this Agreement the County Council may, if such default is capable of remedy, take such action as appears to be reasonably necessary to remedy such default and may recover its reasonable

costs in so doing from the District Council subject always to the default continuing after the County Council has given not less than 21 days' written notice (or in case of urgency such notice if any as is practicable) of the steps it requires to be taken to remedy the default.

- 4.3 Either party hereto may terminate this Agreement by notice in writing, such notice to have effect from the date specified in it, and recover from the other party the amount of any loss resulting from such termination if the non-terminating party or any of its employees, agents or sub-contractors (in all cases whether or not acting with the non-terminating party's knowledge):
- 4.3.1 commit a Prohibited Act, or
 - 4.3.2 give any financial or other advantage to any person working for or engaged by the terminating party.
- 4.4 If the District Council:
- 4.4.1 commits a material Default and the District Council has not remedied the Default to the satisfaction of the County Council within 21 days or such other shorter or longer period which may be specified by the County Council after issue of a written notice specifying the Default and requesting it to be remedied; or
 - 4.4.2 commits a material Default which is not capable of remedy; or
 - 4.4.3 commits a Default on a persistent or repeated basis, whether in respect of the same or different obligations of the District Council under this Agreement and whether or not rectified;
 - 4.4.4 is convicted (or any member of Staff is convicted) of a serious criminal offence related to the business or professional conduct; or
 - 4.4.5 commits (or any member of Staff commits) an act of grave misconduct in the course of its business;
- then in any such circumstances the County Council may, without prejudice to any other rights or remedies of the County Council, terminate this Agreement in whole or in part by notice in writing, such notice to have effect from the date specified in it.
- 4.5 On termination of this Agreement all rights or remedies for any antecedent breach and clauses which expressly or by implication have effect after termination shall continue in full force and effect

5 Performance of Delegated Functions

- 5.1 The District Council covenants with the County Council that:
- 5.1.1 it will perform the Delegated Functions and undertake them with all due skill care and diligence and in accordance with the provisions of this Agreement;
 - 5.1.2 it will in carrying out a Delegated Function comply with the conditions and requirements relating to that Delegated Function as set out in Schedule 1;
 - 5.1.3 it will in carrying out the Delegated Functions comply with all Statutory Requirements;
 - 5.1.4 it will in carrying out the Delegated Functions (including exercising all discretions and decision making powers relating to the Delegated Functions) comply with any policies procedures, protocols and guidance

of the County Council as so advised from time to time including the procedures, protocols and guidance referred to in Schedule 1;

- 5.1.5 it will be responsible for dealing with all enquiries and reports from the public in respect of the Delegated Functions and shall make available to the County Council, via a system compatible with corresponding systems of the County Council for monitoring performance and activity, information recording such matters and how and when they have been or will be addressed;
 - 5.1.6 Any written communication from the District Council in connection with the discharge of the Delegated Functions shall state that such functions are exercised by the District Council as delegated by the County Council but no such document shall be invalid by reason only that this requirement is not complied with and no person acting in pursuance of any such document shall be concerned to see if such requirements are observed; and
 - 5.1.7 it will for the purposes of processing personal data, act at all times as an independent data controller in its own right and will (i) respond to data subject requests under Articles 15-22 GDPR; (ii) share data in accordance with the data sharing protocol in Schedule 2; (iii) notify the Information Commissioner (and data subjects) where necessary about data breaches resulting from the actions of the District Council under this Agreement; and (iv) maintain records of processing under Article 30 GDPR (as all such terms are defined in the GDPR) and accept full liability for any breach of such GDPR related obligations resulting directly from its actions under this Agreement.
- 5.2. The County Council covenants with the District Council that:-
- 5.2.1 it will, for the purposes of processing personal data, act at all times as an independent data controller alongside the District Council and will (i) share data with the District Council in accordance with the data sharing protocol in Schedule 2; (ii) notify the Information Commissioner (and data subjects) where necessary about data breaches resulting from the actions of the County Council under this Agreement; and (iii) maintain records of processing under Article 30 GDPR (as all such terms are defined in the GDPR) and accept full liability for any breach of such GDPR related obligations resulting directly from its actions under this Agreement.
- 5.3. Where any requests for information are brought against any party by a data subject or by a supervisory authority in connection with the Delegated Functions, both parties shall each provide to the other such evidence and other information and assistance as may reasonably be required in connection with that request for information.
- 5.4 The District Council shall not sub-contract the provision of the Delegated Functions to any person without the prior written consent of the County Council and should such consent be given it shall not relieve the District Council from any liability or obligation under this Agreement and the District Council shall be responsible for the acts, omissions, defaults or neglect of any Sub-Contractor and its agents or employees in all respects as if they were the acts, omissions, defaults or neglect of the District Council.

- 5.5 Where the County Council gives consent to the District Council sub-contracting the Delegated Functions (or any part of the Delegated Functions) under Clause 5.4, such consent shall be limited to the matters within the scope of that permission and the District Council shall not proceed unless it has satisfied any matters required by the County Council as a condition of grant of its consent.
- 5.6 Where the District Council enters into a Sub-Contract such Sub-Contract must impose obligations on the proposed Sub-Contractor in the same terms as those imposed on it pursuant to this Agreement to the extent practicable and the District Council shall procure that the Sub-Contractor complies with such terms.
- 5.7 In Clause 5.6 “**Sub-Contract**” means a contract between two or more suppliers, at any stage of remoteness from the District Council in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.

6 **Finance/Funding**

- 6.1. In consideration of the performance of the Delegated Functions under this Agreement, the County Council shall pay the Price.
- 6.2. The Price shall be the full and exclusive remuneration of the District Council in respect of the performance of the Delegated Functions. The Price shall be deemed to include every cost and expense of the District Council directly or indirectly incurred in connection with the performance of the Delegated Functions.

7 **Employment**

- 7.1 The District Council will following a request from the County Council fully and accurately disclose all information relating to Staff engaged in performing the Delegated Functions including the total number of Staff whose employment with the District Council or a Sub-Contractor is liable to be terminated at the termination of this Agreement (but for operation of law) (the “**Relevant Staff**”), their age and gender, the terms and conditions of their employment (including salary, bonus payments, allowances, pay settlements, redundancy entitlement, relevant collective agreements, pension entitlement and working arrangements), their job titles and the qualifications required for each position.
- 7.2 The District Council shall comply with any such requests as soon as reasonably practicable and in any event, within 21 days of being so requested, and at no cost to the County Council. The District Council agrees with the County Council that the information provided shall be complete, accurate and up to date and that it shall notify the County Council promptly of any changes occurring between the date of submission of the information and the termination of the Agreement.
- 7.3 The District Council shall permit the County Council to use the information for the purposes of the 2006 Regulations and related Enactments and for the purposes of tendering, re-delegating or taking the Delegated Functions back in-house.

- 7.4 The District Council shall enable and assist the County Council and any such persons as the County Council may determine to communicate with and meet Staff and relevant Staff representatives and the District Council shall co-operate with any new provider to ensure a smooth transition.
- 7.5 The District Council shall within the period of 12 months immediately preceding the scheduled termination of the Agreement or, if earlier, following the making of a request pursuant to Clause 7.1 be precluded from:
- 7.5.1 making any material increase or decrease in the numbers of Relevant Staff other than in the ordinary course of business and with the County Council's prior written consent (such consent not to be unreasonably withheld or delayed);
 - 7.5.2 making any increase in the remuneration or other change in the terms and conditions of the Relevant Staff other than in the ordinary course of business and with the County Council's prior written consent (such consent not to be unreasonably withheld or delayed); and
 - 7.5.3 transferring any of the Relevant Staff to another part of its business or moving other employees from elsewhere in its business who have not previously been employed or engaged in performing the Delegated Functions to perform the Delegated Functions save with the County Council's prior written consent (such consent not be unreasonably withheld or delayed).
- 7.6 The District Council shall indemnify the County Council and any service provider engaged by the County Council to perform any of the Delegated Functions or any service equivalent or similar to any of the Delegated Functions and keep them both fully indemnified in respect of any claims, losses, costs, expenses, demands and liabilities:
- 7.6.1 arising from the provision of information or the failure to provide information under this Clause 7; or
 - 7.6.2 which relate to any claim which is or may be brought by any employee or person claiming to be an employee on any date upon which this Agreement is terminated and/or transferred to any third party arising out of their employment with the District Council or a Sub-Contractor or its termination; or
 - 7.6.3 arising from any breach of the requirements of Clause 7.5.

8. **Equipment**

For the avoidance of doubt all tools and equipment necessary to carry out the Delegated Functions shall be provided and maintained by the District Council or a Sub Contractor at their expense.

9. **Liaison – Programmes and Periodic meetings**

- 9.1 Meetings attended by designated representatives of the County Council and the District Council shall be held weekly or at such other intervals as the parties may agree. Performance may be reviewed at such meetings
- 9.2 A special meeting attended by designated representatives of the County Council and the District Council will be held at about December in each year that this Agreement remains in force. The meeting shall also cover a review of the terms and operation of this Agreement.

10. **Legal Proceedings**

10.1 The District Council will notify the County Council of any claim made against the District Council in respect of the Delegated Functions within 21 days of receipt of such a claim.

10.2 Where any proceedings are brought against the District Council in connection with the Delegated Functions the County Council or the District Council (or both as the case may require) shall each provide to the other such evidence and other information and assistance as may reasonably be required for the purpose of those proceedings.

11. **Indemnity and Insurance**

11.1 With the exception of claims arising under the indemnity contained in Schedule 2 which shall remain uncapped, the District Council will indemnify the County Council, subject to a cap of £10,000,000 per claim, in respect of all actions claims costs demands proceedings and liabilities which may arise from any act omission or neglect on the part of the District Council its agents, contractors, volunteers or employees in connection with the performance of any of the Delegated Functions or from any breach by the District Council of the provisions of this Agreement save to the extent that liability arises out of the negligence or default of the County Council.

11.2 The District Council covenants with the County Council that it will inform its insurers of its agreement to carry out the Delegated Functions under this Agreement and will maintain insurance cover with a reputable company to include public liability insurance in the minimum sum of Ten Million Pounds (£10,000,000) per claim and employers liability insurance in the sum of Ten Million Pounds (£10,000,000) per claim. The District Council will within 14 days of request supply evidence to the County Council that such insurance is being maintained by the District Council.

12. **Freedom of Information**

12.1 The parties recognise that they are subject to legal duties, which may require the disclosure of information under the FOIA or any other applicable legislation or codes governing access to information and that the parties may be under an obligation to provide information on request. Such information may include matters relating to, arising out of or under this Agreement in any way.

12.2 Where any party receives a request for information held, the parties shall fully co-operate in complying with the obligations under the FOIA and all other relevant legislation in relation to that information.

13. **Notices**

13.1 Any notice or notification to be given under this Agreement to:

13.1.1 the District Council shall be sent to the Deputy Monitoring Officer for Cherwell District Council at Bodicote House, Bodicote, Banbury, Oxfordshire, OX15 4AA or to such other person at such other address as the District Council shall direct from time to time.

13.1.2 the County Council shall be sent to the Deputy Monitoring Officer for Oxfordshire County Council at County Hall, New Road, Oxford OX1 1ND or to such other person at such address as the County Council shall direct from time to time.

13.2 Any notice or notification to be given pursuant to this Agreement shall be in writing and delivered personally or sent by post.

13.3 A notice approval consent or written communication under this Agreement shall be deemed to have been served as follows:

13.3.1 if personally delivered at the time of delivery; or

13.3.2 if posted at the expiration of 48 hours after the envelope,

containing the same was delivered into the custody of the postal authority.

13.4 If a notice, demand or any other communication is served after 4.00pm on a Working Day, or on a day that is not a Working Day, it is to be treated as having been served on the next Working Day.

13.5 For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings

14. **Third Party Rights**

Otherwise than pursuant to Clause 7, this Agreement gives no rights under the Contracts (Rights of Third Parties) Act 1999 but this does not affect any rights which are available apart from that Act.

15. **No Waiver**

No alterations in the terms of this Agreement nor any forbearance or forgiveness on the part of any party in or in the extent or nature of any matter or thing concerning this Agreement shall in anyway release any party from liability under this Agreement.

16. **No Fetter**

Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations of the County Council or District Council in the exercise of their respective functions in any capacity.

17. **Variations**

Any provision of this Agreement may be varied at any time by written agreement between the parties such variation to be attached to this Agreement.

18. **Partial Invalidity**

In so far as a provision of this Agreement is found for whatever reason to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement and

in so far as is reasonably practicable the parties shall amend that provision in such reasonable manner as records the intention of the parties without illegality.

IN WITNESS whereof the parties have executed this Deed the day and year first above written

THE COMMON SEAL of THE)
OXFORDSHIRE COUNTY COUNCIL)

was affixed to this Deed in the presence of:)

Director of Law and
Governance/Designated Officer

THE COMMON SEAL OF CHERWELL DISTRICT
COUNCIL was affixed to this Deed in the
presence of:

Authorised Signatory

SCHEDULE 1

DELEGATED FUNCTIONS

Operating Arrangements

General:

- 1) The District Council acts as an agent of the County Council in carrying out the Delegated Functions.
- 2) The County Council retains the ability to enforce any provision of The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 regardless of any delegations that apply.
- 3) The District Council will nominate and authorise appropriately competent officers to enforce any requirement of The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 delegated to them in accordance with its own schemes of delegations and authorisation processes.

Responsibilities of the District Council under this Agreement:

- 1) Nominate a single point of contact by job title for the purpose of communication and liaison with the County Council.
- 2) Provide to the County Council details of relevant enforcement policies that apply for the purposes of enforcement under the Delegated Functions.
- 3) Advise the County Council of its intention to exercise enforcement powers or give directions under The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 prior to taking that action or giving those directions. In doing so the District Council will advise the County Council of the details of the entity subject to the enforcement action or direction, providing enough detail to accurately identify the entity concerned and any other associated businesses (e.g. legal name, known operating addresses, head office address, property to which the enforcement action relates, etc.).
- 4) Informing the County Council of the exercise of any enforcement powers or the giving of any directions under The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 as soon as is reasonably practicable.
- 5) Support processes for the coordination of enforcement activity under the Delegated Functions by providing information on businesses of interest to the District Council (e.g. being advised, subject to complaints, being investigated, etc.) to the County Council when reasonably requested.
- 6) Ensure that all appeals against a fixed penalty notice and any other relevant legal proceedings in the court and tribunal system are properly managed by the District Council exercising due care and skill including liaising with the legal representatives of the other parties to the proceedings and where necessary appearing in court on behalf of the County Council.

- 7) Report when reasonably requested and upon being given sufficient notice to the Monitoring Officer of the County Council on the status of any legal proceedings and respond promptly to any reasonable request from the Monitoring Officer for information on any case.

Responsibilities of the County Council

- 1) Nominate a single point of contact by job title for the purpose of communication and liaison with the District Council.
- 2) Maintain records of enforcement actions by the District Council under The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 in Oxfordshire in order to reduce the likelihood of duplication of enforcement action against the same entity.
- 3) Review the operation of this Agreement every 2 weeks with the District Council.
- 4) The County Council may arrange meetings with representatives of all enforcement authorities in order to facilitate coordination of enforcement under The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 if considered necessary or requested to do so by the District Council.

(a) **Schedule 2**
Data Sharing Protocol (DSP)

(b)

1. The following terms shall have the following meanings in this Schedule 2:

2.

- (i) **Agreed Purposes:** to exercise powers to (i) close or otherwise restrict access to individual premises or public outdoor places; and (ii) prohibit or otherwise restrict events or gatherings of a specified description, or close or otherwise restrict individual premises and public outdoor places pursuant to The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020.
- (ii) **Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures:** as set out in the UK Data Protection Legislation in force at the time.
- (iii) **Data Discloser:** a party that discloses Shared Personal Data to the other party.
- (iv) **Data Recipient:** a party that receives Shared Personal Data from the other party;
- (v) **UK Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.
- (vi) **Data Protection Legislation:** the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications).
- (vii) **Permitted Recipients:** the parties to this DSP, the employees of each party, any third parties engaged to perform obligations in connection with this DSP.
- (viii) **Shared Personal Data:** the personal data to be shared between the parties under clause 2 of this DSP. Shared Personal Data shall be confined to the following categories of information relevant to the following categories of data subject:

Data Subjects:

Adults;
Children;
Landlords;
Business operators;
Trades persons; and
Enforcement officers.

3. (ix) **Categories of Personal Data**

- a) Names;
- b) Addresses; and

- c) Contact information (phone number, email);
- d) Health;
- e) Ethnic origin; and
- f) Financial circumstances.

4. Shared Personal Data.

5. This clause sets out the framework for the sharing of personal data between the parties as controllers. Each party acknowledges and agrees that one party (referred to in this clause as the Data Discloser) will regularly disclose to the other party Shared Personal Data collected by the Data Discloser for the Agreed Purposes.

6.

7. Effect of non-compliance with UK Data Protection Legislation.

Each party shall comply with all the obligations imposed on a controller under the UK Data Protection Legislation, and any material breach of the UK Data Protection Legislation by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate this DSP with immediate effect.

8.

9. Particular obligations relating to data sharing.

10. Each party shall:

- 10.1. ensure that it has all necessary notices in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes,
- 10.2. ensure that privacy notices are clear, giving full information to any data subject whose personal data may be processed under this DSP, outlining the nature of such processing, setting out the rights of data subjects and the circumstances in which data was shared, and identifying the controller/s.
- 10.3. give notice that, on the termination of this DSP, personal data relating to data subjects may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;
- 10.4. have policies and procedures in place to comply with the rights of the data subject including but not limited to the rights of access, rectification and profiling;
- 10.5. process the Shared Personal Data only for the Agreed Purposes;
- 10.6. not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
- 10.7. ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this DSP;
- 10.8. ensure that it has in place appropriate technical and organisational measures, reviewed and approved, in writing, by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data using appropriate technical or organisational measures in line with Article 5(1)(f) of GDPR;
- 10.9. in line with Article 24 of GDPR, ensure that it has implemented appropriate data protection policies across the organisation
- 10.10. not transfer any personal data received from the Data Discloser outside the EEA unless the transferor:

- 10.10.1. complies with the provisions of Articles 26 of the GDPR (in the event the third party is a joint controller); and
- 10.10.2. ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the GDPR; or (ii) there are appropriate safeguards in place pursuant to Article 46 of the GDPR; or (iii) binding corporate rules are in place or (iv) one of the derogations for specific situations in Article 49 of the GDPR applies to the transfer.

11. Mutual assistance. Each party shall assist the other in complying with all applicable requirements of the UK Data Protection Legislation. In particular, each party shall:

12.

- 12.1. consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;
- 12.2. promptly inform the other party about the receipt of any data subject access request;
- 12.3. provide the other party with reasonable assistance in complying with any data subject access request;
- 12.4. not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party wherever possible;
- 12.5. assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the UK Data Protection Legislation with respect to security, personal data breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;
- 12.6. notify the other party without undue delay on becoming aware of any breach of the UK Data Protection Legislation;
- 12.7. at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this DSP unless required by law to store the personal data;
- 12.8. use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;
- 12.9. maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the other party or the other party's designated auditor; and
- 12.10. provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the UK Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the UK Data Protection Legislation.

13. Indemnity.

14. Each party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated

on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of the UK Data Protection Legislation by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.

15. Warranties

- 16.** The Personal Data is provided by the Data Discloser on an 'as is' basis and no party warrants the accuracy or completeness of the Shared Personal Data, nor that the personal data does not infringe the intellectual property rights of any third party, nor undertakes that the personal data will meet the requirements of, or be fit for any purpose of, the Data Recipient.