**DATA PROCESSING AGREEMENT**

**DATA PROCESSING AGREEMENT /ADDENDUM *[DELETE AS APPLICABLE]***

This [**agreement OR addendum**] is dated [DATE]

**PARTIES**

**(1)**[FULL COMPANY NAME] incorporated and registered in [England and Wales] with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] **(the Customer)**

**(2)**[FULL COMPANY NAME] incorporated and registered in [England and Wales] with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] **(the Provider)**

**BACKGROUND**

**(A)**  [DESCRIBE RELATIONSHIP BETWEEN THE PARTIES]

**(B)**  The Data Processor processes the personal data of the Data Controller subject to and on the terms and conditions of this [agreement and any other terms of business in place between the parties from time to time] **OR** [addendum to the terms of business between them dated …..]

**DEFINITIONS**

**Data Protection Legislation:** the Data Protection Act 2018, the General Data Protection Regulation (*(EU) 2016/679*) and any national laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and any successor legislation to the GDPR or the Data Protection Act 2018.

## 1.  DATA PROTECTION

* 1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party’s obligations under the Data Protection Legislation.

* 1. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Provider is the data processor (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation). The Schedule sets out the scope, nature and purpose of processing by the Provider, the duration of the processing and the types of personal data (as defined in the Data Protection Legislation, **Personal Data**) and categories of Data Subject.

* 1. Without prejudice to the generality of clause 1.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Provider for the duration and purposes of this agreement.

* 1. Without prejudice to the generality of clause 1.1, the Provider shall, in relation to any Personal Data processed in connection with the performance by the Provider of its obligations under this agreement:

1. process that Personal Data only on the written instructions of the Customer unless the Provider is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Provider to process Personal Data (**Applicable Laws**). Where the Provider is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Provider shall promptly 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;

1. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, 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 (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

1. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

1. not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

1. the Customer or the Provider has provided appropriate safeguards in relation to the transfer;

1. the data subject has enforceable rights and effective legal remedies;

1. the Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

1. the Provider complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

1. assist the Customer, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

1. notify the Customer without undue delay on becoming aware of a Personal Data breach;

1. at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and

1. maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the Customer or the Customer’s designated auditor.

* 1. The Customer does not consent to the Provider appointing any third party processor of Personal Data under this agreement without prior approval. As between the Customer and the Provider, the Provider shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause.

* 1. The Customer may, at any time on not less than 30 days’ notice, revise this agreement by replacing it with any applicable controller to processor standard clauses or similar terms forming party of an applicable certification scheme (which shall apply when replaced by attachment to this agreement). The Provider may suggest revisions to this Agreement, subject to agreement between the parties.

**THE SCHEDULE**

**PROCESSING, PERSONAL DATA AND DATA SUBJECTS**

## 1.  PROCESSING BY THE PROVIDER

* 1. **SCOPE**

Example: Professional training delivered to registrants

* 1. **NATURE**

Example: Personal data of training registrants provided to Provider in respect of training to be delivered by Provider

* 1. **PURPOSE OF PROCESSING**

 Example: to undertake a pre training call

* 1. **DURATION OF THE PROCESSING**

 Immediately before training. Personal Data should be deleted after the training has been completed.

## 2.  TYPES OF PERSONAL DATA

Example: Name, email address, telephone number

## 3.  CATEGORIES OF DATA SUBJECT

Example: Training Registrants

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| Signed by [NAME OF DIRECTOR] |   |   |
| for and on behalf of [NAME OF **the Customer**] |   | Director |

|  |  |  |
| --- | --- | --- |
| Signed by [NAME OF DIRECTOR] |   |   |
| for and on behalf of [NAME OF **the Provider**] |   | Director |