

TORTUS TERMS OF USE AND DATA SHARING AGREEMENT

ORDER FORM

This Agreement is made and entered into as of the Effective Date, between TORTUS AI LTD (“**TORTUS**”) and the Subscriber listed above. This Agreement is subject to the TORTUS Terms and Conditions (“**Terms**”) as updated from time to time and available at osler.tortus.ai. The Order Form and the Terms constitute a binding agreement between Subscriber and TORTUS (the “**Agreement**”). The Agreement sets forth the terms pursuant to which Subscriber will be permitted to use the TORTUS Services.

1. TERMS AND CONDITIONS

These Terms and Conditions (“**Terms**”) govern Subscriber’s Use of the TORTUS Services, as more fully described in the TORTUS order form (“**Order Form**”). Together the Order Form and these Terms constitute a binding agreement between Subscriber and TORTUS (the “**Agreement**”).

2. OVERVIEW

TORTUS is an AI healthcare technology company, delivering AI as a service for clinicians, to boost productivity, reduce paperwork, improve clinician and patient experience, and improve business efficiency. The OSLER application (“OSLER App”) is a downloadable desktop application that is designed to interact with and use computers at a human-level, making intelligent decisions to achieve specific tasks and manipulating the mouse and keyboard. The key features of the OSLER App are speech to text, text summarisation and referral letter generation (the “**Services**”).

3. SUBSCRIBER ELIGIBILITY

(a) Subscriber is a licensed clinician and is authorised to provide patient care to individuals in the UK.

(b) Subscriber must be at least 18 years old to use the Services.

(c) By agreeing to these Terms Subscriber represents and warrants that: (a) they are at least 18 years old; (b) have the authority to enter into this Agreement; (c) their use of the Service is in compliance with any and all applicable laws and regulations.

(d) If Subscriber is an entity, organisation, or company, the individual accepting these Terms on behalf of Subscriber represents and warrants that they have authority to bind the Subscriber to these Terms and Subscriber agrees to be bound by these Terms.

4. DEFINITIONS

(a) “**Documentation**” means TORTUS-provided user documentation, in all forms, relating to the Services (e.g., user manuals, on-line help files) found at osler.tortus.ai.

(b) “**Scope Limitations**” means the limitations on Subscriber’s use of the Services as follows:

(i) The Subscriber shall only use the Services consistent with the scope of their clinical license;

(ii) The Subscriber shall only use the Services for their intended purpose consistent with the Documentation.

(iii) The Subscriber shall confirm the accuracy of the content of all generated notes and letters.

(c) “**Services**” has the meaning set forth in Section 2 above.

5. USE OF THE SERVICES

(a) Trial Period. Any Trial Period will be subject to all Terms herein, except for the payment Terms.

(b) Limited License: Use of the Services. Subject to the Terms, TORTUS grants to Subscriber a limited, worldwide, non-exclusive, non-transferable, non-sublicensable, revocable license to (a) install and use one object code copy of the OSLER App; and (b) access and use the Services during the term of this Agreement solely in connection with Subscriber’s patient care practice. Subscriber’s right to use the Services is subject to the Scope Limitations and contingent upon Subscriber’s compliance with the Scope Limitations.

(c) Use of the Documentation. Subject to the Terms TORTUS grants to Subscriber a limited, worldwide, non-exclusive, non-transferable revocable license, without right of sublicense, during the term of this Agreement to internally use the Documentation solely in connection with use of the Services in accordance with this Agreement.

(d) Technical Support Services. For so long as Subscriber is current with its payment of the fees specified in the Order Form, TORTUS will use reasonable efforts to provide Subscriber with technical support services relating to the Services by email from 9am-5pm UK time, Monday through Friday, excluding holidays. Instructions to access support can be found at [found at osler.tortus.ai](https://osler.tortus.ai).

(e) Use Restrictions. Except as otherwise explicitly provided in this Agreement or as may be expressly permitted by applicable law, Subscriber will not, and will not permit or authorise third parties to: to use the Services or Documentation; copy, modify, disassemble, decompile, reverse engineer, or create derivative works of any part of the Service; use the Services for any benchmarking activity or in connection with the development of any competitive product; nor circumvent or disable any security or other technological features or measures of the Services.

(f) Compliance with Laws. Subscriber will use the Services and Documentation in compliance with all applicable laws and regulations.

(g) Protection against Unauthorised Use. Subscriber will use reasonable efforts to prevent any unauthorised use of the Services and Documentation and immediately notify TORTUS in writing of any unauthorised use that comes to Subscriber's attention. If there is unauthorised use by anyone who obtained access to the Services directly or indirectly through Subscriber, Subscriber will take all steps reasonably necessary to terminate the unauthorised use. Subscriber will cooperate and assist with any actions taken by TORTUS to prevent or terminate unauthorised use of the Services or Documentation.

(h) Ownership. TORTUS owns or controls all right, title, and interest, including all intellectual property rights, in and to the Services and Documentation, including any improvements, modifications, and enhancements thereto.

(i) Reservation of Rights. TORTUS grants to Subscriber a limited right to use the Services and Documentation under this Agreement. Subscriber will not have any rights to the Services or Documentation except as expressly granted in this Agreement. TORTUS reserves to itself all rights to the Services and Documentation not expressly granted to Subscriber in accordance with this Agreement.

(j) Feedback. If Subscriber provides any feedback to TORTUS concerning the functionality and performance of the Services (including identifying potential errors and improvements), Subscriber hereby assigns to TORTUS all right, title, and interest in and to the feedback, and TORTUS is free to use the feedback without payment or restriction.

6. FEES AND PAYMENT

(a) Fees and Payment Terms. Subscriber will pay TORTUS the fees and any other amounts owing under this Agreement, plus any taxes. Unless otherwise specified in the Order Form, Subscriber will pay monthly in advance, or as otherwise specified in the Order Form. All amounts are due within 15 days of the date of the applicable invoice. Any amount not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Subscriber will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by TORTUS to collect any amount that is not paid when due. Amounts due from Subscriber under this Agreement may not be withheld or offset by Subscriber against amounts due to Subscriber for any reason. All amounts payable under this Agreement are denominated in GBP pounds, and Subscriber will pay all such amounts in GBP pounds.

(b) Payment Authorisation. Subscriber will authorise TORTUS to charge all applicable sums (including the Price) for the Services, including all applicable taxes, to the payment method specified in Subscriber's account (the "**Applicable Payment Method**"). If the Applicable Payment Method is a credit card, then: (a) TORTUS may seek pre-authorisation of Subscriber's credit card account to verify that the credit card is valid and has the necessary funds or credit available to cover any fees that may apply; and (b) Subscriber will authorise TORTUS to place a hold on such credit card for sums sufficient to cover any other amounts that Subscriber may owe to TORTUS under this Agreement.

(c) All amounts payable under this agreement are denominated in GBP pounds and Subscriber will pay all such amounts in GBP pounds.

(d) Taxes. Other than net income taxes imposed on TORTUS, Subscriber will bear all value added taxes, duties, and other governmental charges (collectively, "taxes") resulting from this Agreement. Subscriber will pay any additional taxes as are necessary to ensure that the net amounts received by TORTUS after all such taxes are paid are equal to the amounts that TORTUS would have been entitled to in accordance with this Agreement as if the taxes did not exist.

7. DATA

(a) Use of Data. Subscriber grants TORTUS the non-exclusive, worldwide, sublicensable right to use, copy, store, disclose, transmit, transfer, publicly display, modify, and create derivative works from Subscriber data only as necessary to: (a) provide the Services, and technical support services; (b) derive or generate usage data; (c) create and compile aggregated data; and (d) as otherwise required by laws or as agreed to in writing between the parties. For clarity, TORTUS does not use health information data for any purpose other than to provide the Services.

(b) The parties acknowledge that in the course of providing the Services TORTUS will process Subscriber data consistent with the Data Processing Addendum (Table A) attached to the Order Form.

8. Confidential Information. Each party (the "Receiving Party") undertakes to retain in confidence information relating to the Services and all other non-public information and know-how of the other party disclosed or acquired by the Receiving Party pursuant to or in connection with this Agreement which is either designated as proprietary and/or confidential or by the nature of the circumstances surrounding disclosure, ought in good faith to be treated as proprietary and/or confidential ("Confidential Information"); provided that each party may disclose the terms and conditions of this Agreement to its legal and financial advisers in the ordinary course of its business. Each party agrees to use commercially reasonable efforts to protect Confidential Information of the other party, and in any event, to take precautions at least as great as those taken to protect its

own confidential information of a similar nature. The foregoing restrictions shall not apply to any information that: (a) was known by the Receiving Party prior to disclosure thereof by the other party; (b) was in or entered the public domain through no fault of the Receiving Party; (c) is disclosed to the Receiving Party by a third party legally entitled to make such disclosure without violation of any obligation of confidentiality; (d) is required to be disclosed by applicable law or regulation (but in such event, only to the extent required to be disclosed and provided that advance written notice has been provided to the other party to the extent permitted under applicable law and regulation); or (e) is independently developed by the Receiving Party without reference to any Confidential Information of the other party. Upon request of the other party, or in any event upon any termination or expiration of the Term, each party shall return to the other party all materials, in any medium, which contain, embody, reflect or reference all or any part of any Confidential Information of the other party. Each party acknowledges that breach of this provision by it would result in irreparable harm to the other party, for which money damages would be an insufficient remedy, and therefore that the other party shall be entitled to seek the remedies of injunction, specific performance or other equitable relief to enforce the provisions of this Section 8.

9. TERM AND TERMINATION

(a) Term. This Agreement will commence upon the Effective Date and continue for an initial twelve (12) month term unless this Agreement is terminated earlier in accordance with the terms of this Agreement. If there is a Trial Period specified in the Order Form, the Term will run twelve (12) months from the end of the Trial Period. This Agreement will automatically renew for additional successive one-year terms at the then current list price for the Services, unless at least 60 days before the end of the then-current term either party provides written notice to the other party that it does not want to renew.

(b) Termination for Material Breach. If Subscriber fails to timely pay any fees, TORTUS may, without limitation to any of its other rights or remedies, suspend performance of the Services until it receives all amounts due.

(c) Termination for Convenience. TORTUS may terminate this Agreement at any time with thirty (30) days' notice.

(d) Post-Termination Obligations. If this Agreement is terminated for any reason, Subscriber will pay to TORTUS any fees or other amounts that have accrued prior to the effective date of the termination, and any and all liabilities accrued prior to the effective date of the termination will survive.

10. WARRANTIES AND DISCLAIMER

(a) Subscriber Warranties. Subscriber represents and warrants to TORTUS that (i) they are a licensed

clinician; (ii) they will only use the Services for its intended purposes, in accordance with applicable laws and regulations, including (without limitation) health and safety laws, the UK General Data Protection Regulation and the Data Protection Act 2018; (iii) they will keep account information secure and confidential, and promptly notify TORTUS of any unauthorised use of their account or any other breach of security; (iv) they will not attempt to gain unauthorised access to the Services or engage in any activity that disrupts, diminishes the quality of, or interferes with the performance of the Services; (v) they are solely responsible for confirming the accuracy, quality, integrity, and legality of any data, information, or content transmitted through the Services; (vi) they agree to use reasonable efforts to ensure the accuracy of all information they input or store in the Services and to promptly correct any errors or inaccuracies.

(b) Disclaimer. TORTUS MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. TORTUS EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. TORTUS DOES NOT WARRANT AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE SERVICES. THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE". TORTUS DOES NOT WARRANT THAT THE SERVICES ARE ERROR-FREE OR THAT OPERATION OF THE SERVICES WILL BE SECURE OR UNINTERRUPTED. TORTUS DOES NOT WARRANT THAT ANY INFORMATION PROVIDED THROUGH THE SERVICES IS ACCURATE OR COMPLETE OR THAT ANY INFORMATION PROVIDED THROUGH THE SERVICES WILL ALWAYS BE AVAILABLE. TORTUS EXERCISES NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY ARISING OUT OF OR BASED UPON THE RESULTS OF SUBSCRIBER'S USE OF THE SERVICES.

11. SUBSCRIBER INDEMNIFICATION

(a) Defence. Subscriber will defend TORTUS from any actual or threatened third party Claim arising out of or based upon Subscriber's use of the Services, including any claim from a patient related to Subscriber's provision of care, or Subscriber's breach of any of the provisions of this Agreement if: TORTUS gives Subscriber prompt written notice of the Claim; TORTUS reserves the right to assume the exclusive defence and control of any matter otherwise subject to indemnification by Subscriber (without limiting Subscriber's indemnification obligations with respect to the matter). Subscriber shall cooperate with the TORTUS defence of the claims.

(b) Indemnification. Subscriber will indemnify TORTUS from and pay all damages, costs, and attorneys' fees finally awarded against TORTUS in any Claim under Section 11(a); all out-of-pocket costs

(including reasonable attorneys' fees) reasonably incurred by TORTUS in connection with the defence of a Claim under Section (a).

12. LIMITATIONS OF LIABILITY

(a) Disclaimer of Indirect Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, TORTUS WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO SUBSCRIBER FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS, EVEN IF TORTUS IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. NOTHING IN THIS AGREEMENT SHALL LIMIT OR EXCLUDE THE LIABILITY OF EITHER PARTY FOR (I) DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE OR THE NEGLIGENCE OF ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS, (II) FRAUD OR FRAUDULENT MISREPRESENTATION, OR (III) ANY OTHER MATTER IN RESPECT OF WHICH IT WOULD BE UNLAWFUL TO EXCLUDE OR RESTRICT LIABILITY.

(b) Cap on Liability. UNDER NO CIRCUMSTANCES WILL TORTUS' TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY SUBSCRIBER TO TORTUS DURING THE SIX MONTHS IMMEDIATELY PRECEDING THE CLAIM (DETERMINED AS OF THE DATE OF ANY FINAL JUDGMENT IN AN ACTION).

(c) Independent Allocations of Risk. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY TORTUS TO SUBSCRIBER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT. THE LIMITATIONS IN THIS SECTION 12 WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THIS AGREEMENT.

13. GENERAL

(a) Relationship. TORTUS will be and act as an independent contractor (and not as the agent or representative of Subscriber) in the performance of this Agreement.

(b) Assignability. Subscriber may not assign this Agreement. TORTUS may assign this Agreement without consent to any successor (including a successor by way of merger, acquisition, sale of assets, or operation of law).

(c) Subcontractors. TORTUS may utilise a subcontractor or other third party to perform its duties under this Agreement so long as TORTUS remains responsible for all of its obligations under this Agreement.

(d) Notices. Any notice required or permitted to be given in accordance with this Agreement will be effective if it is in writing and sent by email, certified mail or express courier to the appropriate party at the address set forth on the Order Form. Either party may change its address for receipt of notice by notice to the other party in accordance with this Section 13(f). Notices will be considered as properly received: (i) one business day after dispatch, if dispatched by an express courier that provides signed acknowledgment of receipt; or (ii) three business days after deposit if sent by certified mail, postage prepaid, return receipt requested or (iii) if sent by email at the time of completion of transmission by the sender, except that if a communication is received between 5.30 pm on a Business Day and 9.30 am on the next Business Day, it shall be deemed to have been received at 9:30 am on the second of such Business Days. All references to time in this Section 13(d) are to the time in London, United Kingdom.

(e) Force Majeure. Neither party will be liable for, be considered to be in breach of, or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any cause or condition beyond its reasonable control, so long as that party uses all commercially reasonable efforts to avoid or remove the causes of non-performance. Notwithstanding the foregoing, Subscriber shall continue to pay TORTUS.

(f) Governing Law. This Agreement (and any dispute or claim relating to it or its subject matter (including non-contractual claims)) is governed by and is to be construed in accordance with English law. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any claim, dispute or issue (including non-contractual claims) which may arise out of or in connection with this Agreement.

(g) Waiver. The waiver by either party of any breach of any provision of this Agreement does not waive any other breach. The failure of any party to insist on strict performance of any covenant or obligation in accordance with this Agreement will not be a waiver of such party's right to demand strict compliance in the future, nor will the same be construed as a novation of this Agreement.

(h) Severability. If any part of this Agreement is found to be illegal, unenforceable, or invalid, it shall be deemed modified to the minimum extent necessary to make it legal, enforceable and valid, and the remaining portions of this Agreement will remain in full force and effect. If any material limitation or restriction on the use of the Services under this Agreement is found to be

illegal, unenforceable, or invalid, Subscriber's right to use the Services will immediately terminate.

(i) Third Party Rights. Nothing in this Agreement is intended to or shall be construed as establishing or implying any partnership of any kind between the parties. Save as expressly provided in this Agreement, this Agreement does not confer any rights on any person or party (other than the parties to this Agreement) pursuant to the Contracts (Rights of Third Parties) Act 1999.

(j) Entire Agreement. This Agreement, including any exhibits, the Data Processing Addendum, and Order Form contains the entire agreement between the parties regarding Subscriber's use of the Services. This Agreement supersedes, and the terms of this Agreement govern, all previous oral and written communications regarding these matters, all of which are merged into this Agreement, except that this Agreement does not supersede any prior nondisclosure or comparable agreement between the parties executed prior to this Agreement being executed, nor does it affect the validity of any agreements between the parties relating to professional services relating to the Services that TORTUS may provide. No employee, agent, or other representative of TORTUS has any authority to bind TORTUS with respect to any statement, representation, warranty, or other expression unless the same is specifically set forth in this Agreement.

(k) Amendment. No usage of trade or other regular practice or method of dealing between the parties will be used to modify, interpret, supplement, or alter the terms of this Agreement. TORTUS may modify these Terms from time to time. Material revisions will be effective 30 days after posting or notice to Subscriber of the revisions unless otherwise stated. TORTUS will not be bound by, and specifically objects to, any term, condition, or other provision that is different from or in addition to this Agreement (whether or not it would materially alter this Agreement) that is proffered by Subscriber in any receipt, acceptance, confirmation, correspondence, or otherwise, unless TORTUS specifically agrees to such provision in writing and signed by an authorised agent of TORTUS.

1.1

1.2 I hereby agree to the above terms and conditions.

1.3

1.4

Table A – Processing, Personal Data and Data Subjects

This Table A shall be completed by the Authority, who may take account of the view of the Supplier, however the final decision as to the content of this Table A shall be with the Authority at its absolute discretion.

1. The contact details of the Authority’s Data Protection Officer to be provided by the Subscriber upon request.
2. The contact details of the Supplier’s Data Protection Officer are: **8foldGovernance Ltd. – TORTUS@8foldgovernance.com**

| Description | Details |
|---|---|
| Identity of the Controller and Processor | The Parties acknowledge that the Authority is the Controller, and the Supplier is the Processor for the purposes of the Data Protection Legislation in respect of all personal data processed when providing the services as adopted by the Controller. |
| Subject matter of the Processing | The Processing is needed in order to ensure that the Processor can effectively deliver the Contract to provide the services to the Controller. |
| Duration of the Processing | The duration of the contract. |
| Nature and purposes of the Processing | <p>The processing shall include the collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means), as required in order to deliver the services.</p> <p>The purpose of the processing is to support the provision of direct care services provided by the Controller.</p> |
| Type of Personal Data being Processed | <p>Personal Data (relating to patients of the Controller):</p> <ul style="list-style-type: none"> • Names • Addresses • Dates of birth • Telephone Numbers • Email addresses • NHS Numbers <p>Personal Data (relating to healthcare and/or social care professionals):</p> |

| | |
|---|---|
| | <ul style="list-style-type: none"> • Name • Email address • Job role/title |
| Sensitive Data being Processed | Special Categories of Personal Data (relating to patients of the Controller): <ul style="list-style-type: none"> • Health data |
| Categories of Data Subject | Patients and their families Staff (including volunteers, agents, and temporary workers) |
| Plan for return and destruction of the data once the Processing is complete UNLESS requirement under union or member state law to preserve that type of data | Data will be retained for the duration of the contract at which point it will be securely destroyed. |
| Technical and organisational measures including technical and organisational measures to ensure the security of the data | Technical and organisational measures will be detailed within a Data Protection Impact Assessment (DPIA) and will include: <ul style="list-style-type: none"> • The Supplier will maintain a Data Security and Protection Toolkit Submission • Personal Data will be encrypted in transit and at rest • Pseudonymisation will be applied to confidential patient data to support privacy and data minimisation • Role Based Access Controls will be applied to manage access to personal data • Sub-processors will be engaged under data processing contracts and comply with relevant information and cyber security standards such as ISO27001 |

1.5.1 Definitions

The definitions and interpretative provisions at Schedule 4 (Definitions and Interpretations) of the Contract shall also apply to this Protocol. For example, the following terms are defined in Schedule 4 of the Contract: “Authority”, “Data Protection Legislation”, “UK GDPR”, “Process” and “Processor” and “Supplier” are defined in Schedule 4 of the Contract. Additionally, in this Protocol the following words shall have the following meanings unless the context requires otherwise:

| | |
|---|---|
| “Controller” | shall have the same meaning as set out in the UK GDPR; |
| “Data Protection Impact Assessment” | means an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data; |
| “Data Protection Officer” | shall have the same meaning as set out in the UK GDPR; |
| “Data Recipient” | means that Controller who receives the relevant Personal Data; |
| “Data Subject” | shall have the same meaning as set out in the UK GDPR; |
| “Data Subject Request” | means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data; |
| “Data Transferor” | means that Controller who transfers the relevant Personal Data; |
| “Information Commissioner” | means the Information Commissioner in the UK; |
| “Joint Controllers” | means where two or more Controllers jointly determine the purposes and means of Processing; |
| “Personal Data Breach” | shall have the same meaning as set out in the UK GDPR; |
| “Processor” | shall have the same meaning as set out in the UK GDPR; |
| “Protocol” or “Data Protection Protocol” | means this Data Protection Protocol; |
| “Sensitive Data” | shall mean the types of data set out in Article 9(1) or 10 of the UK GDPR; |
| “Sub-processor” | means any third Party appointed to Process Personal Data on behalf of that Processor related to this Contract. |

1.5.2 1. Supplier as data processor

1.1 Purpose and scope

- 1.1.1 The purpose of this Clause 1 is to ensure compliance with Article 28(3) and (4) of the UK GDPR.
- 1.1.2 This Clause 1 applies to the Processing of Personal Data as specified in Table A.
- 1.1.3 Table A is an integral part of this Clause 1.
- 1.1.4 This Clause 1 is without prejudice to obligations to which the Controller is subject by virtue of the UK GDPR.
- 1.1.5 This Clause 1 does not by itself ensure compliance with obligations related to international transfers in accordance with Chapter V of the UK GDPR.

1.6 Invariability of Clause 1

- 1.6.1 The Parties undertake not to modify Clause 1, except for adding information to Table A or updating information in it.
- 1.6.2 This does not prevent the Parties from including the standard contractual clauses laid down in this Clause 1 in a broader contract, or from adding other clauses or additional safeguards provided that they do not directly or indirectly contradict Clause 1 or detract from the fundamental rights or freedoms of Data Subjects.

1.7 Interpretation

- 1.7.1 Where this Clause 1 uses the terms defined in the UK GDPR, those terms shall have the same meaning as in the UK GDPR.
- 1.7.2 This Clause 1 shall be read and interpreted in the light of the provisions of the UK GDPR.
- 1.7.3 This Clause 1 shall not be interpreted in a way that runs counter to the rights and obligations provided for in the UK GDPR or in a way that prejudices the fundamental rights or freedoms of the Data Subjects.

1.8 Hierarchy

- 1.8.1 In the event of a contradiction between this Clause 1 and the provisions of the Contract and/or related agreements between the Parties existing at the time when this Clause 1 is agreed or entered into thereafter, this Clause 1 shall prevail.

1.9 Description of the processing

1.9.1 The details of the Processing operations, in particular the categories of Personal Data and the purposes of Processing for which the Personal Data is Processed on behalf of the Controller, are specified in Table A.

1.10 Obligations of the Parties

1.10.1 Instructions

- (i) The Processor shall Process Personal Data only on documented instructions from the Controller, unless required to do so by Law to which the Processor is subject. In this case, the Processor shall inform the Controller of that legal requirement before Processing, unless the Law prohibits this on important grounds of public interest. Subsequent instructions may also be given by the Controller throughout the duration of the Processing of Personal Data. These instructions shall always be documented.
- (ii) The Processor shall immediately inform the Controller if, in the Processor's opinion, instructions given by the Controller infringe the UK GDPR.

1.10.2 Purpose Limitation

- (i) The Processor shall Process the Personal Data only for the specific purpose(s) of the Processing, as set out in Table A, unless it receives further instructions from the Controller.

1.10.3 Duration of the Processing of Personal Data

- (i) Processing by the Processor shall only take place for the duration specified in Table A.

1.10.4 Security of Processing

- (i) The Processor shall at least implement the technical and organisational measures specified in Table A to ensure the security of the Personal Data. This includes protecting the data against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to the data. In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purposes of Processing and the risks involved for the Data Subjects.
- (ii) The Processor shall grant access to the Personal Data undergoing Processing to members of its personnel only to the extent strictly necessary for implementing, managing and monitoring of the Contract. The Processor shall ensure that persons authorised to Process the Personal Data received have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

1.10.5 Sensitive Data

- (i) If the Processing involves Sensitive Data as set out in Table A, or data relating to criminal convictions and offences, the Processor shall apply specific restrictions and/or additional safeguards as agreed between the Parties in Table A.

1.1.6 Documentation and compliance

- (i) The Parties shall be able to demonstrate compliance with this Clause 1.
- (ii) The Processor shall deal promptly and adequately with inquiries from the Controller about the Processing of data in accordance with this Clause 1.
- (iii) The Processor shall make available to the Controller all information necessary to demonstrate compliance with the obligations that are set out in this Clause 1 and stem directly from the UK GDPR. At the Controller's request, the Processor shall also permit and contribute to audits of the Processing activities covered by this Clause 1, at reasonable intervals or if there are indications of non-compliance. In deciding on a review or an audit, the Controller may take into account relevant certifications held by the Processor.
- (iv) The Controller may choose to conduct the audit by itself or mandate an independent auditor. Audits may also include inspections at the premises or physical facilities of the Processor and shall, where appropriate, be carried out with reasonable notice.
- (v) The Parties shall make the information referred to in this Clause 1, including the results of any audits, available to the Information Commissioner on request.

1.1.7 Use of Sub-processors

- (i) The Processor shall not subcontract any of its Processing operations performed on behalf of the Controller in accordance with this Clause 1 to a Sub-processor, without the Controller's prior specific written authorisation. The Processor shall submit the request for specific authorisation at least fourteen (14) days prior to the engagement of the Sub-processor in question, together with the information necessary to enable the Controller to decide on the authorisation.
- (ii) Where the Processor engages a Sub-processor for carrying out specific Processing activities (on behalf of the Controller), it shall do so by way of a contract which imposes on the Sub-processor, in substance, the same data protection obligations as the ones imposed on the Processor in accordance with this Clause 1. The Processor shall ensure that the Sub-processor complies with the obligations to which the Processor is subject pursuant to this Clause 1 and to the UK GDPR.
- (iii) At the Controller's request, the Processor shall provide a copy of such a Sub-processor agreement and any subsequent amendments to the Controller. To the extent necessary to protect business secret or other confidential information, including Personal Data, the Processor may redact the text of the agreement prior to sharing the copy.
- (iv) The Processor shall remain fully responsible to the Controller for the performance of the Sub-processor's obligations in accordance with its contract with the Processor. The Processor shall notify the Controller of any failure by the Sub-processor to fulfil its contractual obligations.

- (v) The Processor shall agree a third party beneficiary clause with the Sub-processor whereby - in the event the Processor has factually disappeared, ceased to exist in law or has become insolvent - the Controller shall have the right to terminate the Sub-processor contract and to instruct the Sub-processor to erase or return the Personal Data.

1.1.8 International Transfers

- (i) Any transfer of data to a third country or an international organisation by the Processor shall be done only on the basis of documented instructions from the Controller or in order to fulfil a specific requirement under Law to which the Processor is subject and shall take place on the basis of an adequacy regulation (in accordance with Article 45 of the UK GDPR) or standard data protection clauses (in accordance with Article 46 of the UK GDPR). All transfers shall comply with Chapter V of the UK GDPR and any other applicable Data Protection Legislation.
- (ii) The Controller agrees that where the Processor engages a Sub-processor in accordance with Clause 1.6.7. for carrying out specific Processing activities (on behalf of the Controller) and those Processing activities involve a transfer of Personal Data within the meaning of Chapter V of GDPR, the Processor and the Sub-processor can ensure compliance with Chapter V of the UK GDPR by using standard contractual clauses adopted by the Information Commissioner in accordance with Article 46(2) of the UK GDPR, provided the conditions for the use of those standard contractual clauses are met.

1.2 Assistance to the Controller

- 1.2.1 The Processor shall promptly notify the Controller if it receives a Data Subject Request. It shall not respond to the request itself, unless authorised to do so by the Controller.
- 1.2.2 The Processor shall assist the Controller in fulfilling its obligations to respond to Data Subject Requests to exercise their rights, taking into account the nature of the Processing. In fulfilling its obligations in accordance with Clauses 1.7.1 and 1.7.2, the Processor shall comply with the Controller's instructions.
- 1.2.3 In addition to the Processor's obligation to assist the Controller pursuant to Clause 1.7.2, the Processor shall furthermore assist the Controller in ensuring compliance with the following obligations, taking into account the nature of the data Processing and the information available to the Processor:
 - (i) the obligation to carry out a Data Protection Impact Assessment where a type of Processing is likely to result in a high risk to the rights and freedoms of natural persons;
 - (ii) the obligation to consult the Information Commissioner prior to Processing where a Data Protection Impact Assessment indicates that the Processing would result in a high risk in the absence of measures taken by the Controller to mitigate the risk;
 - (iii) the obligation to ensure that Personal Data is accurate and up to date, by informing the Controller without delay if the Processor becomes aware that the Personal Data it is Processing is inaccurate or has become outdated; and
 - (iv) the obligations in Article 32 of the UK GDPR.

1.2.4 The Parties shall set out in Table A the appropriate technical and organisational measures by which the Processor is required to assist the Controller in the application of this Clause 1.7 as well as the scope and the extent of the assistance required.

1.3 Notification of Personal Data Breach

1.3.1 In the event of a Personal Data Breach, the Processor shall co-operate with and assist the Controller to comply with its obligations under Articles 33 and 34 of the UK GDPR, where applicable, taking into account the nature of Processing and the information available to the Processor.

1.3.2 Personal Data Breach concerning data Processed by the Controller

- (i) In the event of a Personal Data Breach concerning data Processed by the Controller, the Processor shall assist the Controller:
 - (A) in notifying the Personal Data Breach to the Information Commissioner, without undue delay after the Controller has become aware of it, where relevant (unless the Personal Data Breach is unlikely to result in a risk to the rights and freedoms of natural persons);
 - (B) in obtaining the following information which, pursuant to Article 33(3) of the UK GDPR, shall be stated in the Controller's notification, and must at least include:
 - 1) the nature of the Personal Data including where possible, the categories and approximate number of Data Subjects concerned and the categories and approximate number of Personal Data records concerned;
 - 2) the likely consequences of the Personal Data Breach; and
 - 3) the measures taken or proposed to be taken by the Controller to address the Personal Data Breach, including, where appropriate, measures to mitigate its possible adverse effects.

Where, and insofar as, it is not possible to provide all this information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

- (C) in complying, pursuant to Article 34 of the UK GDPR, with the obligation to communicate without undue delay the Personal Data Breach to the Data Subject, when the Personal Data Breach is likely to result in a high risk to the rights and freedoms of natural persons.

1.3.3 Personal Data Breach concerning data Processed by the Processor

- (i) In the event of a Personal Data Breach concerning data Processed by the Processor, the Processor shall notify the Controller without undue delay after the Processor having become aware of the breach. Such notification shall contain, at least:

- (A) a description of the nature of the breach (including, where possible, the categories and approximate number of Data Subjects and data records concerned);
- (B) the details of a contact point where more information concerning the Personal Data Breach can be obtained; and
- (C) its likely consequences and the measures taken or proposed to be taken to address the breach, including to mitigate its possible adverse effects.

Where, and insofar as, it is not possible to provide all this information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

- (ii) The Parties shall set out in Table A all other elements to be provided by the Processor when assisting the Controller in the compliance with the Controller's obligations under Articles 33 and 34 of the UK GDPR.

1.4 Non-compliance with Clause 1 and termination

1.4.1 Without prejudice to any provisions of the UK GDPR, in the event that the Processor is in breach of its obligations under this Clause 1, the Controller may instruct the Processor to suspend the Processing of Personal Data until the latter complies with this Clause 1 or the Contract is terminated. The Processor shall promptly inform the Controller in case it is unable to comply with this Clause 1 for whatever reason.

1.4.2 The Controller shall be entitled to terminate the Contract insofar as it concerns Processing of Personal Data in accordance with this Clause 1 if:

- (i) the Processing of Personal Data by the Processor has been suspended by the Controller pursuant to Clause 1.9.1 and if compliance with this Clause 1 is not restored within a reasonable time and in any event within one month following suspension;
- (ii) the Processor is in substantial or persistent breach of this Clause 1 or its obligations under the UK GDPR;
- (iii) the Processor fails to comply with a binding decision of a competent court or the Information Commissioner regarding its obligations pursuant to this Clause 1 or to the UK GDPR.

1.4.3 The Processor shall be entitled to terminate the Contract insofar as it concerns Processing of Personal Data under this Clause 1 where, after having informed the Controller that its instructions infringe applicable legal requirements in accordance with Clause 1.6.1(ii), the Controller insists on compliance with the instructions (provided that the Processor has clearly demonstrated the infringement by the provision of a legal opinion provided by a solicitor or barrister that both Parties can rely upon).

1.4.4 Following termination of the Contract, the Processor shall, at the choice of the Controller, delete all Personal Data Processed on behalf of the Controller and certify to

the Controller that it has done so, or, return all the Personal Data to the Controller and delete existing copies unless the Law requires storage of the Personal Data. Until the data is deleted or returned, the Processor shall continue to ensure compliance with this Clause 1.

2. Changes to this protocol

- 2.1 Any change or other variation to this Protocol shall only be binding once it has been agreed in writing and signed by an authorised representative of both Parties.