Agile Collective Ltd. Services Agreement

This Agreement is made on [INSERT DATE]

BETWEEN

1.   AGILE COLLECTIVE LTD (a company registered in England and Wales under number 07889401) of 21b Park End Street, Oxford, OX1 1HU ("Agile Collective"); and

2.   [CLIENT NAME, ADDRESS, COMPANY NUMBER] ("the Client").

BACKGROUND

A.   Agile Collective is a website design and software development company, specialising in the design and development of websites based on the Drupal content management system, and the development of bespoke software.

B.   The Client wishes to engage Agile Collective to perform certain services on the terms of this Agreement.

AGREED TERMS

1.   DEFINITIONS AND INTERPRETATION

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

Agile Collective Code	means any source code in which the Intellectual Property Rights are owned by Agile Collective, whether created before or during this Agreement. To the extent that Agile Collective Code is identified as a "work based on the program" as such term is used in the GPL, or a derivative work of another work it is to be regarded as Third Party Code.
Agreement	means this agreement including all schedules and appendices to it.
Client Content	means all materials, information, photography, writings and other creative content provided by the Client for use as part of the Services and/or in the preparation of and/or incorporation into the Deliverables.
Confidential Information	all technical, business, financial or commercial know-how, specifications, inventions, processes or initiatives which are

	of a confidential nature in whatever form or format and whether or not marked as confidential.
Deliverables	means the work product specified in the Proposal to be delivered by Agile Collective to the Client on a Sprint by Sprint basis as set out in the Proposal or otherwise agreed.
Fees	means the sums payable by the Client to Agile Collective in consideration of the Services as set out in the Proposal or as agreed between the parties.
Final Deliverables	means the final versions of Deliverables provided by Agile Collective and accepted by the Client.
Final Designs	means all creative content developed or created by Agile Collective, or commissioned by Agile Collective, exclusively a part of the Services and incorporated into and delivered as part of the Deliverables, including and by way of example, not limitation, any and all visual designs, visual elements, graphic design, illustration, photography, animation, sounds, typographic treatments and text and any modifications to the Client Content.
GPL	means all versions of the GNU General Public Licence, including Affero and LGPL.
Intellectual Property Rights	means any and all patents, trademarks, rights in domain names, rights in designs, copyrights, rights in confidential information and all other intellectual property rights of a similar or corresponding character which may subsist now or in the future.
Project	means the services to be provided by Agile Collective under this Agreement as described in the Proposal and as determined more specifically during the initial scoping phase.
Project Code	means any custom source code developed by Agile Collective under this Agreement and delivered to the Client as part of the Deliverables.
Proposal	means Agile Collective's proposal for the Project as annexed to this Agreement as Schedule A.
Publicly Available Code	means software source code, database structures, xml schemas, html code or any other code which is generally available to the public on the internet.
Services	means all services and the work product to be provided to the Client by the Supplier as described and otherwise further defined in the Proposal.

Sign Off	means acceptance by the Client of the Deliverables or Final Deliverables following acceptance testing by the Client in accordance with the Proposal or as otherwise agreed.
Specification	means the outline specification for the Project, as set out in Schedule 2, which shall be developed by the parties during the Project.
Sprint	means a period of development time which shall usually be 2 weeks (starting on a Wednesday), as more particularly described in the Proposal.
Third Party Code	means all Publicly Available Code and any other source code in which the Intellectual Property Rights are owned by a third party.
Timetable	means the timetable for the Project, as set out in the Proposal as may be amended from time to time.

1.2. Any reference to a statutory provision shall include that provision as from time to time modified or re-enacted provided that in the case of modifications or re-enactments made after the date of this Agreement the same shall not have effected a substantive change to that provision.

1.3. The singular includes the plural and vice versa and any gender includes any other gender.

1.4. The Schedules form part of this Agreement as if set out in the main body of the agreement. In the event of any conflict between the terms contained in the body of this agreement and the Schedules, the former shall prevail.

2. COMMENCEMENT AND DURATION

2.1. This Agreement shall be deemed to have commenced on [INSERT DATE] and shall continue until the Sign Off of the Final Deliverables unless otherwise terminated in accordance with clause 10.

3. AGILE COLLECTIVE RIGHTS AND RESPONSIBILITIES

3.1. During the continuance of this Agreement Agile Collective shall provide the Services in accordance with the Timetable using reasonable care and skill and, unless otherwise agreed between the parties, in accordance with the Proposal and Specification (as amended). The parties agree that time shall not be of the essence for the provision of Services, Deliverables or any of them.

3.2. Agile Collective shall use its reasonable commercial endeavours to work with the Client to develop the Specification during the Project.

3.3. At the end of each Sprint Agile Collective shall deliver the Deliverables in respect of that Sprint to the Client and attend the meeting to review the Sprint and the

applicable Deliverables and to consider the Specification as appropriate. Agile Collective will exercise commercially reasonable efforts to test Deliverables requiring testing and to make all necessary corrections prior to providing Deliverables to the Client.

3.4. Following receipt of Client's Sign Off pursuant to clause 4.3.1 Agile Collective may commence the next Sprint.

3.5. Following receipt of any Client comments and/or corrections pursuant to clause 4.3.2 Agile Collective shall use reasonable commercial endeavours to make appropriate corrections, provided that such comments and/or corrections do not constitute a material change in the Services or Project, prior to the commencement of the next Sprint.

3.6. Agile Collective shall be permitted to subcontract all or any of its obligations under this Agreement at any time provided that Agile Collective shall remain liable for all acts and omissions of its subcontractors and only with written agreement of the Client.

4. CLIENT RIGHTS AND RESPONSIBILITIES

4.1. The Client shall deliver the Client Content to Agile Collective promptly as and when requested by Agile in a form suitable for reproduction or incorporation into the Deliverables without further preparation, unless otherwise expressly provided in the Proposal.

4.2. The Client shall attend regular meetings to discuss the Project and Deliverables, including, but not limited to, attending a review meeting at the end of each Sprint.

4.3. The Client shall review Deliverables within 5 working days of delivery and shall promptly either:

4.3.1. provide Agile Collective with a written notification of Sign Off; or

4.3.2. shall notify the Supplier, in writing, of any failure of such Deliverable to comply with the specifications set forth in the Proposal, or of any other objections, corrections, changes or amendments the Client wishes made to such Deliverable. Any such written notice shall be sufficient to identify with clarity any objection, correction or change or amendment. In the absence of such notice from the Client, the Deliverable shall be deemed accepted. Agile Collective shall be entitled to request written clarification of any concern, objection or correction.

4.4. The Client acknowledges and agrees that Agile Collective's ability to meet any and all timings is entirely dependent upon the Client's prompt performance of its obligations to provide Client Content, materials and written approvals and/or instructions pursuant to the Proposal and that any delays in the Client's performance or changes to the Services or Deliverables requested by the Client may delay delivery of the Deliverables. Any such delay caused by the Client shall

not constitute a breach of any term, condition or Agile Collective's obligations under this Agreement.

4.5. The Client acknowledges that it shall be responsible for performing the following in a reasonable and timely manner:

4.5.1. coordination of any decision making with any third parties; and

4.5.2. final proofreading and in the event that the Client has approved Deliverables but errors, such as, by way of example, not limitation, typographic errors or misspellings, remain in the finished product, the Client shall incur the cost of correcting such errors.

5. FEES AND PAYMENT

5.1. Agile Collective shall invoice the Client at the end of each Month in respect of the Fees applicable to that Month.

5.1.1. The Client shall pay Agile Collective's expenses incurred in connection with this Agreement as follows:

5.1.1.1. incidental and out of pocket expenses as set out in the Proposal, including, but not limited to, costs for telephone calls, postage, print materials; and

5.1.1.2. travel expenses including transportation, meals, and lodging, incurred by Agile Collective with the Client's prior approval.

5.1.2. The fees set out in the Proposal includes Agile Collective's fee only. Any and all outside costs including, but not limited to, fees for Content Providers, equipment rental, photographer's costs and fees, photography and/or artwork licenses, prototype production costs, talent fees, music licenses, will be billed to the Client unless specifically otherwise provided for in the Proposal.

5.1.3. All invoices are payable by the Client in full, without deduction or set off, to the bank account nominated by Agile Collective within 30 days of receipt.

5.1.4. Agile Collective reserves the right to charge interest at the rate of 1.5% per month above the current Bank of England base rate or the greatest amount allowed by applicable law on all overdue balances. Payments will be credited first to late payment charges and next to the unpaid balance. The Client shall be responsible for all collection or legal fee necessitated by lateness or default in payment.

5.1.5. Agile Collective reserves the right to withhold delivery and any transfer of ownership of any intellectual property rights in any Deliverables if invoices are not paid in full. All grants of any license to use or transfer of ownership of any intellectual property rights under this Agreement are conditioned upon receipt of payment in full which shall be inclusive of any

and all outstanding Additional Costs, Taxes, Expenses, and Fees, Charges, or the costs of Changes.

5.1.6. Agile Collective fees include charging for time needed for meetings, design, development, testing and any other billable tasks required to perform the services outlined in the Proposal and in line with the published billable tasks in the handbook, which can be viewed at https://handbook.docs.agile.coop/02-how-we-work/06-billing-guidelines.html#what-we-charge-for

6. CHANGES

6.1. The Services shall be provided using an agile methodology and are therefore subject to change as agreed between the parties. In the event that the scope of the changes required by the Client increases the time and commitment required by Agile Collective from that anticipated in the Proposal, the parties shall, in good faith, consider changes to the Timetable (including the addition of further Sprints) and other the terms of this Agreement and Agile Collective may charge additional fees in respect of changes requested by the Client which are outside the scope of the Services on a time and materials basis, at the Supplier's current standard hourly rate. Such charges shall be in addition to all other amounts payable under the Proposal, despite any maximum budget, contract price or final price identified therein.

6.2. If the Client requests or instructs changes to the Services that amount to a revision of at least 15% of the time required to produce the Deliverables, and or the value or scope of the Services, the Supplier shall be entitled to submit a new and separate Proposal to the Client for written approval. Work shall not begin on the revised services until a fully signed revised Proposal and, if required, any additional retainer fees are received by the Supplier

7. INTELLECTUAL PROPERTY RIGHTS

7.1. The Client Content shall remain the property of the Client or its licensors. The Client hereby grants to Agile Collective a non-exclusive, non-transferable licence to use, reproduce, modify, display and publish the Client Content solely in connection with Agile Collective's performance of the Services and limited promotional uses of the Deliverables as authorised in this Agreement.

7.2. All Third Party Code is the exclusive property of their respective owners. Agile Collective shall inform the Client of all Third Party Code integrated into the Final Designs and Final Deliverables and of any need for the Client to acquire a licence for such Third Party Code. Unless otherwise expressly agreed in writing, the Client shall obtain the license(s) necessary to permit its use of the Third Party Code. In the event the Client fails to properly secure or otherwise arrange for any necessary licences for the use of Third Party Code or breaches any such licences, the Client hereby indemnifies, saves and holds harmless Agile Collective

from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a third party as a result of such failure or breach.

7.3. All Agile Collective Code is and shall remain the exclusive property of Agile Collective. Agile Collective hereby grants to the Client a nonexclusive, non transferable, perpetual, worldwide licence to use the Agile Collective Code solely to the extent reasonably necessary for the Client to make use of the Deliverables and Final Deliverables in the manner anticipated by this Agreement. The Client may not directly or indirectly, in any form or manner, decompile, reverse engineer, create derivative works or otherwise disassemble or modify any the Agile Collective Code (save to the extent that such acts may not be prohibited by applicable law) without the prior written consent of Agile Collective.

7.4. Upon completion of the Services, and expressly subject to full payment of all fees, costs and expenses due, Agile Collective shall assigns to the Client all right, title and interest, including without limitation copyright and other intellectual property rights, in and to the Final Designs and Project Code provided that Agile shall retain the right to use any Project Code on a royalty free worldwide non exclusive basis provided that such use by Agile Collective does not compromise any of Client's Confidential Information. Each party agrees to reasonably cooperate with the other in the execution of any additional documents reasonably necessary to evidence such assignment and licence back.

8. WARRANTIES AND INDEMNITIES

8.1. The Client warrants to Agile Collective that:

8.1.1. the Client owns all right, title, and interest in, or otherwise has full right and authority to permit the use of the Client Content

8.1.2. the use of the Client Content in connection with the Services does not and will not violate the rights of any third parties,

8.1.3. the Client shall comply with the terms and conditions of any licensing agreements which govern the use of Third Party Code, and

8.1.4. the Client shall comply with all applicable laws and regulations as they relate to the Services and Deliverables.

8.2. Agile Collective warrants that it has title to all Agile Collective Code and that its delivery to the Client and use by the Client in accordance with this Agreement and for the Purpose will not infringe the copyright of any third party.

8.3. Agile Collective warrants that to the best of its knowledge the Final Designs provided by Agile Collective and the use of them in accordance with the Project do not infringe the rights of any party.

8.4. Agile Collective agrees that each component of Third Party Code incorporated in the Final Deliverables has been selected with reasonable skill and care, but

without undertaking any specific enquiry as to provenance or non-infringement of or in relation to that code.

8.5. Except as expressly set out in this Agreement, Agile Collective makes no representations or warranties in respect of or in connection with the Deliverables or their use. All other representations, warranties, conditions or other terms which might have effect between the parties or be implied or incorporated into this Agreement or any collateral contract, whether by virtue of statute, common law or otherwise, are hereby excluded to the maximum extent permitted by law, including, without limitation, implied conditions, warranties or other terms as to satisfactory quality, merchantability, fitness for purpose or the use of reasonable skill and care.

8.6. Subject to clauses 8.7 and 8.8 below, Agile Collective will indemnify and hold the Client harmless on demand against any claim or direct loss arising as a consequence of a breach of the warranties in clauses 8.2 and 8.3.

8.7. The indemnity in clause 8.6 shall only apply if:

8.7.1. the Client notifies Agile Collective promptly upon becoming aware of any claim that any portion of the Deliverables or its distribution or use under or in connection with this Agreement infringes the Intellectual Property Rights of any third party;

8.7.2. the Client makes no admission as to liability, nor does it compromise or agree to any settlement of any such claim without the prior written consent of Agile Collective;

8.7.3. at Agile Collective's written request and at its own expense, the Client gives Agile Collective the conduct of and the right to settle all negotiations and litigation arising from such claim;

8.7.4. at Agile Collective's request and expense, the Client gives Agile Collective all reasonable assistance in connection with such negotiations and litigation; and

8.7.5. such claim does not arise as a result of any modification of the Deliverables, Final Deliverables or any part of them by the Client or any third party or any use of them outside of the scope or for any purpose not identified in the Proposal or this Agreement or contrary to the terms of this Agreement.

8.8. Agile Collective may at any time replace any part of the Deliverables ("the Original Portion") where it reasonably believes that such part infringes the rights of any third party or where a claim of such infringement has been made, provided that such replacement code does not materially reduce the functionality of the Deliverables. Agile Collective shall cease to be liable to the Client for any claim relating to the Original Portion to the extent that it arises after delivery of the replacement code.

9. LIABILITY

9.1. Subject to clause 9.3, in all circumstances, the maximum liability of Agile Collective, its directors, officers, employees, design agents and affiliates to the Client under or in connection with this Agreement, whether in contract, tort (including negligence) or otherwise, shall be limited to the 105% of the sums actually paid by the Client to Agile Collective under this Agreement.

9.2. Subject to clause 9.3, in no event shall Agile Collective be liable for any damage or loss or corruption of data or content, loss of profits or anticipated savings, business interruption, lost staff or management time or remedial costs (in each case whether direct or indirect) nor for any indirect or consequential losses whether in contract, tort (including negligence) or otherwise and whether or not Agile Collective has been advised of the possibility of such losses.

9.3. Nothing in this Agreement limits or excludes a party's liability for death or personal injury caused by its negligence or that of its employees or agents and for which it is responsible, or for fraud or wilful deceit or any other liability which may not be properly limited or excluded by applicable law.

10. TERMINATION

10.1. This Agreement may be terminated at any time by either party effective immediately upon notice in the event that:

10.1.1. the other party becomes insolvent, files a petition in bankruptcy, makes an assignment for the benefit of its creditors; or

10.1.2. breaches any of its material responsibilities or obligations under this Agreement and, where such breach is remediable, fails to remedy such breach within 10 days from receipt of written notice of such breach.

10.2. Either party may terminate this Agreement on not less than [30 days] prior written notice to the other.

11. CONSEQUENCES OF TERMINATION

11.1. In the event of termination of this Agreement howsoever caused:

11.1.1. Agile Collective shall cease the provision of all Services;

11.1.2. all outstanding invoices become due and payable and Agile Collective shall be entitled to invoice the Client in respect of expenses and Fees for Services performed but not yet invoiced up to the effective date of termination;

11.1.3. subject to the payment of all applicable fees, Agile Collective shall deliver to the Client all Deliverables and Final Deliverables.

11.1.4. each party shall return or, at the disclosing party's request, irretrievably delete or destroy the Confidential Information (and all copies and extracts) of the other party

11.1.5. the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry; and

11.1.6. clauses 5, 7, 8, 9, 10, 11, 12 and 13 shall continue in full force and effect.

12. CONFIDENTIAL INFORMATION AND DATA PROTECTION

12.1. Each party acknowledges that in connection with this Agreement it may receive certain Confidential Information of the other party. Each party shall hold and maintain in strict confidence all of the other party's Confidential Information and shall only disclose such confidential information:

12.1.1. to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under this Agreement provided always that such persons are under obligations of confidentiality and non-use equivalent to those contained in this Agreement and provided a party shall remain liable for all acts and omissions of such persons

12.1.2. as may be required by a court or governmental authority.

12.2. Clause 12.1 shall not apply to any Confidential Information that is in the public domain or becomes publicly known through no fault of the receiving party, or is otherwise properly received from a third party without an obligation of confidentiality.

12.3. If Agile Collective processes any personal data on the Client's behalf when performing its obligations under this Agreement, such processing will be carried out in accordance with the provisions of the Data Processing Addendum which is attached to, incorporated into, and forms part of this Agreement.

13. GENERAL

13.1. Either party, subject to the other's reasonable approval, may describe its role in relation to the Project and, if applicable, the services provided to the other party on its website and in other promotional materials, and, if not expressly objected to, include a link to the other party's website.

13.2. Agile Collective is an independent contractor, not an employee of the Client or any company affiliated with the Client. This Agreement does not create a partnership or joint venture and neither party is authorised to act as agent or bind the other party except as expressly stated in this Agreement.

13.3.	Either party may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under this Agreement on written notice to the other party.

13.4.	The Client shall not, without the prior written consent of Agile Collective, at any time from the date of this Agreement to the expiry of six months after the expiry or termination of this Agreement (howsoever caused), solicit or entice away from Agile Collective or employ or attempt to employ any person who is, or has been, engaged as an employee or subcontractor of Agile Collective the provision of the Services, provided that the Client will not be precluded from hiring an employee of Agile Collective following a bona fide general public recruitment campaign.

13.5.	Any consent given by Agile Collective in accordance with clause 13.4 shall be subject to the Client paying to Agile Collective a sum equivalent to 25% of the then current annual remuneration of the said person or 25% of the fees paid to the said person if engaged by the Client as an independent contractor. The parties agree that such payment shall be by way of liquidated damages and is a genuine pre-estimate of the loss Agile Collective is likely to suffer in the event of the engagement by the Client of any of its employees or subcontractors.

13.6.	The parties expressly acknowledge that this Agreement does not create an exclusive relationship between the parties. The Client is free to engage others to perform services of the same or similar nature to the Services, and Agile Collective shall be entitled to offer and provide services similar to the Services to third parties.

13.7.	No variation of this Agreement shall be valid unless made in writing and signed by both parties.

13.8.	A waiver of any right under this Agreement or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

13.9.	All notices to be given under this Agreement shall be transmitted in writing either by email, courier, hand delivery or prepaid first class post to the addresses first stated above or otherwise notified in writing from time to time. Notices by email shall be deemed delivered when sent provided that no error message is received by the sender, when delivered by courier or by hand when delivered or if sent by prepaid first class post within 3 working days of posting.

13.10.	Neither party will be liable for delay in performing obligations or for failure to perform obligations if the delay or failure resulted from circumstances beyond its reasonable control including but not limited to, act of God or governmental act, extreme adverse weather conditions, fire, explosion, accident, civil commotion, or transportation or communications problems, or impossibility of

obtaining materials ("Force Majeure"). If such a delay or failure continues for at least 30 days, either party will be entitled to terminate this Agreement by notice in writing. Each party agrees to give written notice as soon as reasonably possible to the other on becoming aware of an event of Force Majeure and such notice shall contain details of the circumstances giving rise to the event of Force Majeure.

13.11. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect and the invalid or unenforceable provision shall be replaced by a valid or enforceable provision.

13.12. This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this Agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.

13.13. This Agreement is governed by English Law and the parties submit to the non-exclusive jurisdiction of the English Courts.

This Agreement is made on the date first appearing above.

Signed: . . . . (Director)

[INSERT NAME]

On behalf of Agile Collective Ltd

Signed: . . . . (Director)

[INSERT NAME]

On behalf of [XXX]

ADDENDUM: DATA PROCESSING

1. DEFINITIONS

1.1 In this Addendum the following terms shall have the following meanings:

"Data Protection Legislation"	the Data Protection Act 1998 (whilst in force), the General Data Protection Regulation (Regulation (EU) 2016/679) (once applicable), the Data Protection Bill (once enacted into English law), the ePrivacy Regulation repealing Directive 2002/58EC (once applicable), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) (whilst in force) and all laws and regulations applicable to the relevant party relating to the Processing of Personal Data under or in relation to the Agreement, and the equivalent of any of the foregoing in any relevant jurisdiction.
"Personal Data", "Data Subject", "Controller", "Processor" and "Process"	shall be interpreted in accordance with applicable Data Protection Legislation.
"Personal Data Breach"	means a breach of security leading to the destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data.
"Supplier"	AGILE COLLECTIVE LTD (a company registered in England and Wales under number 07889401) of 21b Park End Street, Oxford, OX1 1HU, UK ("Agile Collective")

2. OBLIGATIONS

2.1 Each party shall comply with its obligations under applicable Data Protection Legislation.

2.2 In the event that the Supplier Processes Client Personal Data under the Agreement, the parties record their intention that the Supplier is the Processor and the Client is the Controller of such Personal Data. Annex 1 to this Addendum sets out the subject-matter and duration of the Processing of Client Personal Data, the nature and purpose of the Processing, the type of Personal Data and the categories of Data Subjects. In the event of any change during the term of the

Agreement, the parties shall work together in good faith to amend Annex 1 by written agreement.

2.3 The Supplier shall Process Client Personal Data only in accordance with the Client's documented instructions, unless the Supplier is required to Process Client Personal Data other than in accordance with Client documented instructions by applicable European Union law provided that (unless prohibited by applicable European Union law) the Supplier shall notify the Client of such legal requirement before such Processing.

2.4 The Supplier shall not transfer Client Personal Data outside of the European Economic Area without the Client's prior documented consent and in compliance with the following conditions:

2.4.1 the Supplier or the Client has provided appropriate safeguards in relation to the transfer;

2.4.2 the Data Subject has enforceable rights and effective legal remedies; and

2.4.3 the Supplier complies with its obligations under Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred.

2.5 The Supplier shall ensure that individuals engaged in the Processing of Client Personal Data under the Agreement are subject to appropriate obligations of confidentiality in respect of such Personal Data.

2.6 The Supplier shall implement appropriate technical and organisational measures as set out in Annex 2 of this Addendum so as to ensure a level of security appropriate to the risk involved in Processing Client Personal Data pursuant to the Agreement.

2.7 Unless otherwise required by applicable law, following termination or expiry of the Agreement the Supplier shall, at the Client's option, delete or return all Client Personal Data and all copies thereof to the Client.

2.8 The Client warrants and undertakes that:

2.8.1 it shall not instruct the Supplier to Process Client Personal Data where such Processing would be unlawful;

2.8.2 it shall have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of this Agreement;

2.8.3 it has reviewed Annex 1 and that it contains full and accurate details of "type of Personal Data" and "categories of Data Subject" to which the Agreement relates; and

2.8.4 it has reviewed Annex 2 and considers such security measures appropriate in the context of the Processing of Client Personal Data as anticipated by the Agreement.

2.9 The Client shall indemnify and hold the Supplier harmless against any claims made against it as a result of the Supplier acting in accordance with the Client's instructions as set out in this Addendum, or as a result of the Client's breach of the provisions in paragraph 2.8.

3. SUB PROCESSORS

3.1 The Supplier may engage such other Processors ("Sub Processors") as the Supplier considers reasonably appropriate for the Processing of Client Personal Data in accordance with the terms of the Agreement (including in connection with support, maintenance, development and the use of third party data centres) provided that the Supplier shall notify Client of the addition or replacement of such Sub Processors and the Client may, on reasonable grounds, object to a Sub Processor by notifying the Supplier in writing within 5 days of receipt of the Supplier's notification, giving reasons for the Client's objection. The parties shall work together to reach agreement on the engagement of Sub Processors. The current list of Sub Processors is set out in Annex 1 to this Addendum.

3.2 The Supplier shall require all Sub Processors to enter into an agreement that is compatible with and of equivalent protective effect to this Addendum and the Supplier shall remain responsible and liable for Sub Processors' acts and omissions.

4. DATA SUBJECT REQUESTS

4.1 In the event that any Data Subject exercises its rights under applicable Data Protection Legislation against the Client, the Supplier shall use reasonable commercial efforts, to assist the Client in fulfilling the Client's obligations as Controller following written request from the Client, provided that the Supplier may charge the Client on a time and materials basis in the event that the Supplier considers, in the Supplier's reasonable discretion, that such assistance is onerous, complex, frequent or time consuming.

5. PERSONAL DATA BREACH

5.1 Upon discovering a Personal Data Breach, the Supplier shall notify the Client as soon as reasonably practicable and shall assist the Client to the extent reasonably necessary in connection with notification to any applicable supervisory authority and Data Subjects, taking into account the nature of Processing and the information available to the Supplier.

6. PRIVACY IMPACT ASSESSMENT

6.1   In the event that the Client considers that the Processing of Personal Data performed pursuant to the Agreement requires a privacy impact assessment to be undertaken, following written request from the Client, the Supplier shall use reasonable commercial endeavours to provide relevant information and assistance to the Client to facilitate such privacy impact assessment. The Supplier may charge the Client for such assistance on a time and materials basis.

7. AUDIT AND AMENDMENT

7.1   Where requested by the Client, the Supplier shall make available all information necessary to demonstrate the Supplier's compliance with this Addendum and shall contribute to audits of the Supplier premises and systems conducted by the Client or another auditor mandated by the Client.

7.2   The Supplier reserves the right to amend this Addendum on written notice to the Client if the Supplier considers it reasonably necessary as a result of any changes in law or practice relating to the protection or treatment of Personal Data.

Annex 1 – Record of Processing

For details of what data, how and why we process data on our client's behalf, see our [Record of Processing](#).

Subject-matter of the Processing of Client Personal Data:

1.   the Supplier Processes Client Personal Data for the purpose of providing the services specified in this Agreement.
2.   the Supplier Process Client Personal Data for the purpose of providing IT Support Services.

Duration of the Processing of Client Personal Data:

1.   During the Term of the Agreement. After termination of expiry of the Agreement the data may be returned to the Client or deleted at the Client's option.

SUB PROCESSORS

Bytemark

Used for virtual servers for internal systems. This is their [Privacy Policy](#).

Google

Used for internal and client communications. This is their [Privacy Policy](#).

Hetzner

Encrypted backups and internal systems. This is their [Privacy Policy](#).

Krystal

Used for virtual servers for client, development and internal systems. This is their [Privacy Policy](#).

Annex 2 – Security Standards

Please see our [Data Security Policy](#).