



Variation agreement for Terms of Supply for Managed Backup
and Disaster Recovery Services to:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

THIS CONTRACT is made on [REDACTED]

BETWEEN:

- (1) **Nimble Group IT Ltd** (registered in England and Wales under number 08213861) 4 Oxford Court, Manchester M2 3WQ ("**NG-IT**"); and
- (2) **Assured Data Protection Limited** (registered in England & Wales under number 10161043) 11A Harewood Yard, Harewood Estate, Harewood, West Yorkshire, LS17 9LF ("**ADP**"); and
- (3) **xxxxxxxxxxxxxxxxxxxxxx** whose registered office is at xxx (the "**Subscriber**").

1. Interpretation and Application

1.1. In these Terms:

"**ADP**" means Assured Data Protection Limited (registered in England & Wales under number 10161043);

"**ADP Business Hours**" means 8am to 6pm GMT

"**ADP'S Charges**" means the charges or service fees shown in the Order Sheet or other charges notified in accordance with these Terms and relating to the Service from time to time;

"**Backup Service**" means the automatic and remote encrypted data backup service to be provided by ADP to the Subscriber and referred to in the Order Sheet that provides the Subscriber with the right to electronically transmit and store computer data using either a private data communications network (or the internet) into a data storage location maintained by ADP;

"**Billing Agent**" means the Company, Organisation or entity responsible for the collection of monies from The Subscriber. For the avoidance of doubt, the billing agent is NG-IT

"**Charges**" means the charges set out in an Order Sheet.

"**Commencement Date**" means [REDACTED].

"**Contract**" means the Order Sheet and ADP's acceptance of it on these Terms;

"**Disaster Recovery Service**" means the managed virtual disaster recovery service to be provided by ADP to the Subscriber and referred to in the Order Sheet and further described in the Service Description Document;

"**Document**" includes, in addition to a document in writing, a map, plan, design, drawing, picture or other image, or any other record of any information in any form;

"**Equipment**" means the equipment provided by ADP as further detailed in the Equipment Document;

"Equipment Document" means the document detailing the Equipment provided by ADP to operate the Services to the Subscriber as set out in Appendix 2;

"Input Material" means any Document or other materials, and any data or other information provided by the Subscriber relating to the Services;

"Intellectual Property Rights" means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

"NG-IT" means Nimble Group IT Ltd registered in England and Wales under number 08213861

"Order Sheet" means the order sheet to which these Terms apply and set out at the end of these Terms;

"Premises" means the premises detailed in the Equipment Document;

"Rubrik" means Rubrik Inc. whose registered office is 299 California Avenue, Palo Alto, CA 94396, USA;

"Service Description Document" means the document set out in Appendix 1;

"Service Levels" means the standard of service as fully detailed in the Service Description Document;

"Services" means the Backup Service and the Disaster Recovery Service;

"Software" means the Rubrik software to be supplied ADP to the Subscriber to enable ADP to provide the Services.

"Software License Agreement" means Rubrik's standard click through software license agreement to be accepted by the Subscriber on installation of the Software.

"Subscriber" means xxxxxxxxxxxxxxxxxxxx whos corporate body set out on the Order Sheet and for whom ADP has agreed to provide the Service in accordance with these Terms; and

"Terms" means these Terms of Supply including any Appendices.

1.2. The headings in these Terms are for convenience only and shall not affect their interpretation.

1.3. A reference to "writing" or "written" includes faxes but not email.

1.4. These Terms shall apply to and be incorporated in the Contract and shall prevail over any inconsistent terms or conditions contained in, or referred to in the Supplier's purchase order, confirmation of order, specification, invoice, or implied by law, trade custom, practice or course of dealing.

1.5. The executed Order Sheet constitutes an offer by the Subscriber to purchase the Services; accordingly, the execution and return of the acknowledgement copy of the Order Sheet by

ADP, or ADP's commencement or execution of work pursuant to the Order Sheet, shall establish a contract for the supply and purchase of the Services on these Terms. The Subscriber's standard terms and conditions (if any) attached to, enclosed with the Order Sheet shall not govern the Contract.

- 1.6. The Subscriber warrants to ADP that, the signatory to the Order Sheet has all requisite power, authority and capacity to bind the Subscriber to the Contract and, the Subscriber has taken all necessary corporate action to enable it to enter into and perform the Contract.
- 1.7. The Subscriber acknowledges and agrees that the Software shall be operated by the Subscriber pursuant to the terms of the Software License Agreement.
- 1.8. In the circumstance of any conflict between these Terms and/or the Order Sheet and the Software License Agreement in respect of the Software, the Software License Agreement shall prevail.

2. Terms of Supply of the Service

- 2.1. ADP shall provide the Services to the Subscriber subject to these Terms and in accordance with the Order Sheet.
- 2.2. The Subscriber shall at its own expense supply ADP with all necessary Documents or other materials, and all necessary data or other information relating to the Services and any access to the Subscribers software and systems needed by ADP in order to deliver the Services. Such supply/access shall be provided, within sufficient time to enable ADP to provide the Services in accordance with the Contract. The Subscriber shall ensure the accuracy of all Input Material. The Subscriber has all licenses and consents necessary in order for ADP to provide the Services.
- 2.3. ADP shall retrieve the Subscriber's data pursuant to the Backup Service upon reasonable notice.
- 2.4. ADP may correct any typographical or other errors or omissions in any brochure, promotional literature, quotation or other document relating to the provision of the Services without any liability to the Subscriber.
- 2.5. ADP may at any time without notifying the Subscriber make any changes to the Services which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature or quality of the Services or conflict with Appendix 3.
- 2.6. The Subscriber shall be solely responsible for:
 - 2.6.1. retaining and maintaining the security of any password supplied by ADP for the use of the Services; and
 - 2.6.2. all access and use of the Services made via the Subscribers account.

3. Charges

- 3.1. The Subscriber shall pay ADP's Charges as set out in the Order Sheet to the Billing Agent.

- 3.2. In light of the extreme variance of energy costs and other external pressures outside of our control ADP and NG-IT shall be entitled to make fair and reasonable changes to any pricing by giving not less than 90 days written notice to the Subscriber provided that the Subscriber shall have, notwithstanding clauses 7.1 and 7.2, a right to terminate the Contract on 90 days notice within 14 days from receipt of such a notice of increased Charges from ADP and NG-IT.
- 3.3. All charges (including, without limitation, ADP's Charges) for the provision of the Services are exclusive of any Value Added Tax, for which the Subscriber shall be additionally liable at the applicable rate from time to time.
- 3.4. The Billing Agent shall be entitled to invoice the Subscriber for the Services monthly in arrears in which the Services are provided, or at other times agreed between NG-IT, ADP and the Subscriber in writing.
- 3.5. ADP's Charges and any additional sums payable shall be paid by the Subscriber (as applicable according to the Order Sheet) (together with any applicable Value Added Tax) to the Billing Agent in accordance with the payment terms set out in the Order Sheet unless the Billing Agent and the Subscriber otherwise agreed in writing.
- 3.6. The Subscriber shall indemnify and keep indemnified and hold harmless, ADP against any loss, liability, damages, costs, expenses or other claims (including legal and other professional costs and expenses), awarded against, or sustained, incurred, suffered or paid directly or indirectly arising from or in connection with:
- 3.6.1. the Subscriber's failure to perform its obligations under these Terms; or
 - 3.6.2. ADP carrying out the Subscriber's reasonable instructions;
 - 3.6.3. the Subscriber's instructions being incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or due to the late arrival or non-arrival of such instructions; or
 - 3.6.4. inaccuracies in any Input Material.
- 3.7. If payment is not made on the due date, NG-IT and ADP shall be entitled, without limiting any other rights it may have:
- 3.7.1. to charge interest on the outstanding amount (both before and after any judgement) at the rate of 4% above the base rate from time to time of Barclays Bank plc from the due date until the outstanding amount is paid in full; and
 - 3.7.2. to suspend its performance of the Services under the Contract or terminate the Contract at its discretion.

4. Equipment

- 4.1. ADP will provide the Equipment. The Equipment will at all times be owned by ADP and the Subscriber will not offer security or any other encumbrance or allow security or any encumbrance of any nature to be granted over the Equipment.
- 4.2. The Subscriber will at all times keep the Equipment (unless agreed otherwise) at the Premises detailed in the Equipment Document.

- 4.3. The Subscriber will allow ADP (or such alternative third party as it nominates) access to the Premises to deliver, install and where requested (on reasonable notice at reasonable times except in an emergency situation where no notice will be required) to maintain the Equipment. The Subscriber will not try to maintain the Equipment and/or allow any third party other than ADP to do so.
- 4.4. [In the event that the Equipment is damaged in any way (except for fair wear and tear) or stolen the Subscriber will pay ADP the full cost of repair and/or replacement as appropriate.]
- 4.5. The Subscriber grants a license to the Premises (or any alternative premises where the Equipment is held) to allow ADP (or its agent) to enter such Premises at any time in the event that this Contract is terminated, and/or the Subscriber goes into liquidation, makes a voluntary arrangement with its creditors, has a receiver or administrator appointed, cannot pay its debts when they fall due or ADP reasonably believes that any of the above may occur.

5. Rights in Input Material and Non-solicitation

- 5.1. The property and any Intellectual Property Rights in any Input Material shall belong to the Subscriber.
- 5.2. The Subscriber warrants that the Input Material and its use by ADP for the purpose of providing the Services will not infringe the Intellectual Property Rights of any third party, nor will any Input Material contain any illegal, offensive, or obscene information or data (in any form) and the Subscriber shall indemnify and keep indemnified and held harmless, ADP against any loss, liability, damages, costs, expenses or other claims (including legal and other professional costs and expenses), awarded against, or sustained, incurred, suffered or paid directly or indirectly arising in or in connection with any alleged or actual infringement of any third party's Intellectual Property Rights, and/or the Input Material containing illegal, offensive or obscene information.
- 5.3. The Subscriber shall not, without the prior written consent of ADP, at any time from the date of the Contract to the expiry of twelve months after the completion or termination of the Services, solicit or entice away from ADP or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of ADP.

6. Warranties and Liability

- 6.1. ADP warrants to the Subscriber that it shall use reasonable endeavours to provide the Services, as far as reasonably possible, in accordance with the Contract.
- 6.2. Where ADP supplies in connection with the provision of the Services any goods or services supplied by a third party, ADP does not give any warranty, guarantee or other terms as to their quality, fitness for purpose or otherwise, but shall, where possible, assign to the Subscriber the benefit of any warranty, guarantee or indemnity given by that third party supplying the goods or services to ADP.
- 6.3. ADP shall have no liability to the Subscriber for any loss, damage, costs, expenses or other claims for compensation arising from any Input Material or instructions supplied by the

Subscriber which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Subscriber.

- 6.4. Except as set out in the Service Levels ADP does not warrant that the provision of the Services will be uninterrupted or error free. The Services are made available on an “as is” basis and all warranties, conditions and other terms implied by statute or by common law are excluded to the full extent permitted by law.
- 6.5. Except in respect of death, personal injury caused by ADP's negligence, fraud or fraudulent misrepresentation, or as expressly provided in these Terms the following provisions set out the entire liability of ADP (including any liability for acts or omissions of its employees, agents or subcontractors) to the Subscriber in respect of a breach of the Contract; any use made by the Subscriber of the Services (or any part thereof) and any representation, statement or tortuous act or omission (including negligence) arising under or in connection with the Contract:
- 6.5.1. ADP shall not be liable to the Subscriber by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of these Terms, for any loss of profit; any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of ADP, its servants or agents or otherwise) which arise out of or in connection with the provision of the Services by the Subscriber; and
- 6.5.2. the entire liability of ADP under or in connection with the Services or any obligations under the Contract shall not exceed the price paid for the provision of the Services.
- 6.6. ADP shall have no liability to the Subscriber if it is prevented from, or delayed in performing the Services, or any of its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of ADP or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

7. Term and Termination

- 7.1. The Contract shall commence on the 1st May 2022 and shall be for the minimum term of 36 months and, subject to termination in accordance with these Terms, shall continue under these Terms for further terms of one year each one starting from the relevant anniversary of the commencement date of the Contract (each a “Renewal Term”).
- 7.2. The Subscriber shall be entitled to terminate the Contract at any time by giving not less than three months' written notice to ADP such notice only to expire at 12 midnight on the last day of the Minimum Term or relevant Renewal Term as applicable.
- 7.3. Notwithstanding clauses 7.1 and 7.2, either party may (without limiting any other remedy) at any time terminate the Contract by giving written notice to the other, if the other commits any

material breach of the Contract and (if capable of remedy) fails to remedy the breach within 30 days after being required by written notice to do so, or if the other goes into liquidation, makes a voluntary arrangement with its creditors or has a receiver or administrator appointed.

8. Effect of Termination

Upon termination of the Contract:

- 8.1. the Subscriber's access to store additional data under the Services shall cease immediately and its access to any data already stored as part of the Services shall be permanently terminated upon 7 days' notice from ADP;
- 8.2. if termination is other than in accordance with clause 7.2 or as a result of a breach by ADP under clause 7.3, then the Subscriber will be liable for ADP's Standard Charges for the remainder of the term of the Contract; and the Subscriber shall pay to ADP all sums due under and related to the Contract.

9. Confidentiality

- 9.1. ADP and the Subscriber undertake that they shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other, except as permitted by this clause 9.
- 9.2. ADP and the Subscriber may disclose the other's confidential information:
 - 9.2.1. to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out their obligations under these Terms. ADP and the Subscriber shall ensure that its respective employees, officers, representatives or advisers to whom it discloses confidential information comply with this clause 9; and
 - 9.2.2. as may be required by law, court order or any governmental or regulatory authority.
- 9.3. Neither ADP nor the Subscriber shall use the other's confidential information for any purpose other than to perform its obligations under these Terms.
- 9.4. This clause 9 shall survive termination of the Contract howsoever arising.

10. General

- 10.1. Subject to the provisions of clauses 2.5 and 3.2, ADP may from time to time vary these Terms (including the Software License Agreement) and the Services, provided that, where practicable, it shall give the Subscriber one month's written notice. Notice of any variation under this clause shall be given in writing.
- 10.2. The Subscriber shall not, without the prior written consent of ADP, assign, transfer, charge, mortgage, subcontract or deal in any manner with all or any of its rights or obligations under the Contract. ADP may at any time assign, transfer, charge, mortgage, subcontract, or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent. ADP and the Subscriber are acting on their own behalf and not for the benefit of another person.
- 10.3. All amounts due under the Contract shall be paid in full without any deduction or withholding other than as required by law. The Subscriber shall not be entitled to assert any credit, set-off or counterclaim against ADP in order to justify withholding payment of any such amount in whole or in part.

- 10.4. A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 10.5. The Contract (together with these Terms, the Appendices, the Software License Agreement, and if any, the terms set out in the Order Sheet or agreed by the parties in writing) constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in accordance with the relevant provisions of these Terms. All other terms, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.
- 10.6. A notice required or permitted to be given by either party to the other in accordance with the Contract shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 10.7. No failure or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.8. If any provision of the Contract is held by any court or other competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.
- 10.9. English law shall apply to the Contract, and the parties agree to submit to the exclusive jurisdiction of the English courts.
- 10.10. If any court or competent authority finds that any provision of this Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Contract shall not be affected.

Appendix 1

Service Description Document

Part 1: Backup Service

Part 1	Backup as a Service.
Service Description	The ADP managed Rubrik solution provides a secure data backup and recovery of all data and applications protected.
Point of service delivery	Any servers, physical, virtual & in Azure requiring a backup service to secure all data on and offsite. Onsite resides on the local hardware appliance, offsite resides within ADP's UK data centre. All data is encrypted in-flight and at-rest.
Service element deliverable	The service will include: • A fully managed backup and recovery solution to protect all required servers, data and applications as identified by the Subscriber in writing. • SLAs are applied as identified by the Subscriber in writing. • A dedicated Rubrik appliance will be provided by ADP to process all backups and restores. • After the initial backup all data will be fully incremental forever. • All backups will be proactively monitored to ensure successful backups and restores

Part 2: Replication as a Service

Part 2	Replication as a Service.
Service Description	The ADP managed Rubrik solution provides secure replication from the on-premises Rubrik cluster to a secure Rubrik cluster hosted inside ADP's UK data centre.
Point of service delivery	Any servers, physical, virtual & in Azure, requiring replication.
Service element deliverable	The service will include: • A fully managed Rubrik replication solution to securely replicate backup data from the Subscriber's local Rubrik appliance to ADP's UK data centre.

Part 3: Disaster Recovery and Ransomware Remediation Service

Part 3	Disaster Recovery as a Service.
Service Description	The ADP managed Rubrik DR solution provides a secure hosted DR platform with quarterly DR testing and invocation.
Point of service delivery	Any servers, physical, virtual & in Azure, requiring full recovery into ADP's recovery platform.
Service element deliverable	The service will include: • A fully managed Rubrik replication solution to securely replicate backup data from the Subscriber's local Rubrik appliance to ADP's recovery platform. • A full quarterly DR test is conducted and documented. Once recovered the environment is then securely accessed and tested by the Subscriber and signed off on successful recovery. • DRaaS is available for all types of disasters including cyber-attacks. Unlimited invocations. • If DRaaS is invoked there is an operating fee for the period it is used after 1 (one) week to cover resource, licensing, and data protection. Fee will be £50 per TB per day +VAT

Part 4: Service Levels

Service Levels and Service Credits																														
Coverage	Incidents, change and problem reporting: 24 x 365																													
Availability and Service Credits	The Rubrik software will have a target uptime of 99.5% (10% Service Credit if SLA not achieved) Availability shall be measured as a percentage of the total time in a month, in accordance with the following formula: $\text{Availability \%} = \frac{(MP - SD) \times 100}{MP}$ Where: MP = Total number of minutes, excluding any permitted maintenance agreed in advance between the parties in writing, within the relevant month; and SD = Total number of minutes of any period of time during which a service is not available, excluding any permitted maintenance agreed in advance in writing between the parties, in the relevant month.																													
Priority	ADP will respond according to the following Service Levels in relation to the assigned priority for the service failure, that priority being assigned by ADP. <table><tr><th>Business Impact Level</th><th>Definition</th><th>Examples</th></tr><tr><td>High</td><td>High impact incident with far reaching consequences.</td><td>Rubrik cluster down or unavailable. Unable to backup and restore.</td></tr><tr><td>Medium</td><td>Individual service down, or degraded service across the platform.</td><td>Errors reported as 'Unhealthy' in ADP's Portal. Failed backups on specific backup jobs. Loss of single Rubrik node</td></tr><tr><td>Low</td><td>Degraded service for a single site.</td><td>Certain backup jobs are unavailable for backup. Request for Information or Request for Change.</td></tr></table>						Business Impact Level	Definition	Examples	High	High impact incident with far reaching consequences.	Rubrik cluster down or unavailable. Unable to backup and restore.	Medium	Individual service down, or degraded service across the platform.	Errors reported as 'Unhealthy' in ADP's Portal. Failed backups on specific backup jobs. Loss of single Rubrik node	Low	Degraded service for a single site.	Certain backup jobs are unavailable for backup. Request for Information or Request for Change.												
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Appendix 2

Equipment Document

To service the requirement, ADP shall supply an appropriate combination of Rubrik software and hardware to perform the service in accordance with the Terms of Supply

The Rubrik Equipment shall only consist of the following appliances:

1 x Rubrik Cluster

1 x ADP Management Appliance

Appendix 3

1. Definitions

"Data Controller", "Data Processor", "Data Subject", "Personal Data" and "Process", "Processing" and "Processed" all have the meanings set out in Data Protection Law;

"Data Protection Law" means all applicable data protection and privacy legislation, regulations and guidance including from the UK-GDPR Enforcement Date onwards. (the **"UK General Data Protection Regulation"** or the **"GDPR"**) and the Data Protection Act 2018; and any guidance or codes of practice issued from time to time by the Information Commissioner's Office (**"ICO"**) all as amended, updated, or re-enacted from time to time.

"Regulatory Body" means the ICO, and, from the UK-GDPR Enforcement Date, with any other national supervisory authority which has authority over a party, and in each case any successor body from time to time;

"UK-GDPR Enforcement Date" means 31 January 2020;

"Purposes" means in respect of each Party the provision of their respective Services recorded in this Agreement together with any ancillary purpose necessary to enable each Party to meet its obligations under the Agreement or legal/ regulatory requirement.

"Standard Contractual Clauses" shall mean the standard contractual clauses annexed to the UK Addendum (ART.46 of UK GDPR);

2. General Obligations

- 2.1 ADP & The Subscriber will comply with all applicable requirements of the Data Protection Law. This paragraph is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Law.
- 2.2 The parties acknowledge that for the purposes of the Data Protection Law, the Subscriber is the Data Controller and the ADP is the Data Processor. NG-IT is not involved in the service provision and will be the processor of commercial payment data only.
- 2.3 The Data Controller will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Data Processor for the duration and purposes of this agreement.

3. Processing Obligations

- 3.1 The Data Processor shall, in relation to any Personal Data processed in connection with the performance by the Data Processor of its obligations under this agreement comply with their obligations as a Data Processor under Data Protection Law and further agrees:
 - 3.1.1 to process the Personal Data in accordance with instructions given by the Data Controller in writing from time to time;
 - 3.1.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by Data Controller, 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);

- 3.1.3 not transfer any Personal Data outside of the UK unless the prior written consent of the Data Controller has been obtained and the following conditions are fulfilled:
 - 3.1.3.1 the Data Controller or the Data Processor has provided appropriate safeguards in relation to the transfer including entering into the Standard Contractual Clauses;
 - 3.1.3.2 the data subject has enforceable rights and effective legal remedies;
 - 3.1.3.3 the Data Processor complies with its obligations under the Data Protection Law by providing an adequate level of protection to any Personal Data that is transferred; and
 - 3.1.3.4 the Data Processor complies with reasonable instructions notified to it in advance by the Data Controller with respect to the processing of the Personal Data;
- 3.1.4 assist the Data Controller in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Law with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 3.1.5 notify the Data Controller without undue delay (and in any event with 24 (twenty four) hours) on becoming aware of a Personal Data breach;
- 3.1.6 at the written direction of the Data Controller, delete or return Personal Data and copies thereof to the Data Controller on termination of the agreement unless required by a regulator to store the Personal Data; and
- 3.1.7 maintain complete and accurate records and information to demonstrate its compliance with this paragraph and allow for audits by the Data Controller or the Data Controller's designated auditor.
- 3.1.8 take reasonable steps to ensure the reliability of any of its employees, agents and sub-contractors who have access to the Personal Data;
- 3.1.9 ensure that only those of its employees, agents and sub-contractors who need to have access to the Personal Data are granted such access to the Personal Data and only for the purposes of performing its obligations/the Services under this Agreement; and
- 3.1.10 ensure that the employees, agents and sub-contractors who, in accordance with this clause, have access to the Personal Data:
 - 3.1.10.1 are informed of the confidential nature of the Personal Data and are subject to appropriate contractual obligations of confidentiality;
 - 3.1.10.2 undergo training in Data Protection Law and in the care and handling of Personal Data; and
 - 3.1.10.3 in the case of agents and sub-contractors, enter into contractual terms which enable the Party to meet its obligations under Data Protection Law and this Agreement.

4. Sub Processing

- 4.1 The Data Controller does not consent to the Data Processor appointing any third party as a third-party processor of Personal Data under this agreement. Where the Data Controller

subsequently agrees in writing to the appointment of a third party processor, the Data Processor confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this Schedule. As between the Data Controller and the Data Processor, the Data Processor shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to paragraph.

5. Indemnity

- 5.1 The Data Processor will indemnify the Data Controller against all fines, claims and proceedings and all liability, direct loss, together with associated costs and expenses incurred by the Data Controller as a result of any claim made or brought by any Data Subject, Regulatory Body or other legal person in respect of any loss, damage or distress caused to Data Subjects or any fines imposed by a Regulatory Body as a result of the Data Processor, its personnel or sub-contractors breach of this Agreement and /or Data Protection Law including any unauthorised processing, unlawful processing, destruction of and/or damage to any Personal Data in its performance or purported performance of this Agreement. The total liability will not exceed £2m

6. Material Breach

- 6.1 A breach of this Schedule shall be deemed a material breach of this Agreement.

For and on behalf of NG-IT (Billing agent)

Name: _____

Position: _____

Signed: _____

Date: _____

For and on behalf of ADP (Service provider)

Name: _____

Position: _____

Signed: _____

Date: _____

For and on behalf of xxxxxxxxxxxxxxxx (Subscriber)

Name: _____

Position: _____

Signed: _____

Date: _____