



---

## TERMS & CONDITIONS

### DEFINITIONS

“Agreement” means these terms and conditions as amended from time to time.

“Company” means Fleet Planner Compliance Solutions Ltd (Company Number 09370655).

“Customer” means the person, company or other organisation purchasing the Product.

“Product” means the Products and/or services to be delivered under this Agreement to include the software, applications, documentation, technical support and consultancy.

“Charges” means the charges payable by the Customer to the Company for the supply of the Product.

“Start date” means the date when the Company starts providing the Product.

“Contract Period” means an initial 12-month period (unless an alternate term is agreed with the Company in writing) and each subsequent period of 12 months.

“Cooling off period” means within 10 days of the Agreement start date

“Authorised User” means employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Product.

“Website” means [fleetplanner.co.uk](http://fleetplanner.co.uk), [transportcm.co.uk](http://transportcm.co.uk) and the FPDailycheck mobile application.

“Reasonable Time” means within 10 days from the date the information was requested.

“User Content” means material (including without limitation text, images, audio material, video material and audio-visual material) that the Customer submits to the Website, for whatever purpose.

“Confidential Information” means all information confidential to the Customer whether relating to the Customer’s business, customer, client, suppliers or otherwise but excluding information now or at any time hereafter becoming generally known or accessible to the general public (unless due to the default of the Company hereunder) and information obtained by the Company from a third party free of restrictions on use or disclosure.

“Intellectual Property Rights” means patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

### OUR TERMS:

#### 1. THESE TERMS

1.1. These are the terms and conditions on which we supply the Product to you, whether these are goods, services or digital content.



- 1.2. Please read these terms carefully before you submit your order to us. These terms tell you who we are, how we will provide Products to you, how you and we may change or end the Agreement, what to do if there is a problem and other important information.
- 1.3. This Agreement is between you and us. No other person shall have any rights to enforce any of its terms.

## 2. INFORMATION ABOUT US AND HOW TO CONTACT US

- 2.1. We are Fleet Planner Compliance Solutions Ltd, a company registered in England and Wales. Our address is The Old Rectory, Main St, Glenfield, Leicester LE3 8DG United Kingdom. Our registered VAT number is 316470906
- 2.2. You can contact us by telephoning our customer service team at 01163 500335 or by writing to us at [info@fleetplanner.co.uk](mailto:info@fleetplanner.co.uk) or The Old Rectory, Main St, Glenfield, Leicester LE3 8DG United Kingdom.
- 2.3. If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us in your order.
- 2.4. When we use the words "writing" or "written" in these terms, this includes emails.

## 3. COMPANY'S OBLIGATIONS

- 3.1. The Company will provide the Product to the Customer in accordance with this Agreement.
- 3.2. Without prejudice to any other obligation of confidentiality from time to time subsisting between the Customer and the Company, the Company hereby undertakes (subject to the Customer's written consent) not at any time hereafter to disclose any Confidential Information to any third party nor to use any Confidential Information saved (in either case) as may be reasonably necessary for the purposes of providing the Products hereunder or as may be required under a court order or lawful order of a government authority.
- 3.3. The Company will use all reasonable endeavours to provide the Products to the Customer within the estimated timings provided but all timings agreed to by the Company are business estimates only and the Company will not be liable for any loss, injury, damage or expenses arising directly or indirectly from any delay and time will not and cannot ever be of the essence in respect of the Company's performance of its obligations hereunder.
- 3.4. During the order process we will let you know when we will provide the Product to you.
  - 3.4.1. If the Products are goods we will deliver them to you as soon as reasonably possible.
  - 3.4.2. We will begin the services on the date agreed with you during the order process.
  - 3.4.3. If the Products are ongoing services or a subscription to receive goods or digital content we will supply the services, goods or digital content to you until either the services are completed or the subscription expires (if applicable) or you end the Agreement as described in clause 7.
- 3.5. Our acceptance of your order will take place when we email you to accept it and/or a payment in full is received by the Company for the Product to be provided; at which point the Agreement will come into existence between you and us.
- 3.6. If we are unable to accept your order, we will inform you of this and will not charge you for the Product. This might be because the Product is out of stock, because of unexpected limits on our resources which we could not reasonably plan for, because we have identified an error in the price or description of the Product or because we are unable to meet a delivery deadline you have specified.

## 4. PRODUCT

- 4.1. Any descriptions on the Company's Website (or any other marketing literature) are published for the sole purpose of giving an approximate idea of the Product described in them. They will not form part of the Agreement or have any contractual force.
- 4.2. The Company reserves the right to amend the specification of the Product if required by any applicable statutory or regulatory bodies or if the amendment will not materially affect the nature or quality of the Product.



- 4.3. The Company will use all reasonable endeavours to meet any performance dates requested or specified to provide the Product, but any such dates are estimates and any failures to meet these dates will not give the Customer the right to terminate this Agreement.
- 4.4. The images of the Products on our website are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that a device's display of the colours accurately reflects the colour of the Products. Your Product may vary slightly from those images.
- 4.5. If you wish to make a change to the Product you have ordered please contact us. We will let you know if the change is possible. If it is possible we will let you know about any changes to the price of the Product, the timing of supply or anything else which would be necessary as a result of your requested change and ask you to confirm in writing whether you wish to go ahead with the change. If we cannot make the change or the consequences of making the change are unacceptable to you, you may want to end the Agreement (see clause 7).
- 4.6. The Product, when defined as goods, will only become your property once we have received payment in full.
- 4.7. We may have to suspend the supply of the Product to:
  - 4.7.1. Deal with technical problems or make minor technical changes;
  - 4.7.2. Update the Product to reflect changes in relevant laws and regulatory requirements;
  - 4.7.3. Make changes to the Product as requested by you or notified by us to you.We will contact you in advance to tell you we will be suspending supply of the Product, unless the problem is urgent or an emergency. If we have to suspend the Product for longer than 3 months you may contact us to end the Agreement and we will refund any sums you have paid in advance for the Product in respect of the period after you end the Agreement.

## 5. CUSTOMER'S OBLIGATION

- 5.1. The Customer shall provide the Company with:
  - 5.1.1. The necessary co-operation in all matters relating to this Agreement;
  - 5.1.2. Information and materials required to supply the Product;
    - 5.1.2.1. If you do not provide us this information within a reasonable time of us asking for it, or if you give us incomplete or incorrect information, we may either end the Agreement or make an additional charge of a reasonable sum to compensate us for any extra work that is required as a result. We will not be responsible for supplying the Products late or not supplying any part of them if this is caused by you not giving us the information we need within a reasonable time of us asking for it.
  - 5.1.3. Access to the Customer's premises when required;
    - 5.1.3.1. If you do not allow us access to your property to perform the services as arranged (and you do not have a good reason for this) we may charge you additional costs incurred by us as a result. If, despite our reasonable efforts, we are unable to contact you or re-arrange access to your property we may end the Agreement.
- 5.2. The Customer shall:
  - 5.2.1. Carry out all Customer responsibilities set out in this Agreement in a timely and efficient manner;
  - 5.2.2. Obtain and maintain all necessary licences, permissions and consents which may be required;
  - 5.2.3. Comply with all applicable laws and regulations;
  - 5.2.4. Ensure that the Authorised Users use the Product in accordance with this Agreement and shall be responsible for any Authorised User's breach of this Agreement;

## 6. PRICE AND PAYMENT TERMS

- 6.1. The price of the Product excludes VAT unless otherwise stated. We take all reasonable care to ensure that the price of the Product advised to you is correct. However please see clause 6.4 for what happens if we discover an error in the price of the Product you order.
- 6.2. The costs of delivery will be as displayed to you on our website or quotation.
- 6.3. If the rate of VAT changes between your order date and the date we supply the Product, we will adjust the rate of VAT that you pay, unless you have already paid for the Product in full before the change in the rate of VAT takes effect.



- 6.4. It is always possible that, despite our best efforts, some of the Products we sell may be incorrectly priced. We will normally check prices before accepting your order so that, where the Product's correct price at your order date is less than our stated price at your order date, we will charge the lower amount. If the Product's correct price at your order date is higher than the price stated to you, we will contact you for your instructions before we accept your order. If we accept and process your order where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may end the Agreement, refund you any sums you have paid and require the return of any goods provided to you.
- 6.5. The Customer shall pay the Charges (unless otherwise agreed with the Company) by a direct debit mandate or bank transfer. When you are required to pay depends on what Product you are buying:
  - 6.5.1. For goods, you must pay for the Products before we dispatch them.
  - 6.5.2. For services, you must make a full payment for the Products, before we start providing them. We will invoice the full price of the services required. You must pay the invoice within 7 calendar days after the date of the invoice unless otherwise agreed in writing.
- 6.6. Subject to 6.10, all Charges for the Product shall be notified to the Customer prior to the commencement of the initial Contract Period and any subsequent Contract Periods.
- 6.7. If you do not pay us for the Products when you are supposed to (see clause 6.5) and you still do not make payment within 7 days of us reminding you that payment is due, we may suspend supply of the Products until you have paid us the outstanding amounts. As well as suspending the Products we can also charge you interest on your overdue payments (see clause 6.9).
- 6.8. All sums due to the Company under the terms of this Agreement shall be paid in full by the Customer without any set-off whatsoever and all time periods quoted under this clause 6 shall be of the essence.
- 6.9. If you do not make any payment to us by the due date we may charge interest to you on the overdue amount at the rate of 4% a year above the base lending rate of Barclays Bank Plc from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us interest together with any overdue amount.
- 6.10. The Company reserves the right to:
  - 6.10.1. Increase the Charges on an annual basis with effect from each anniversary of the Contract Period.
  - 6.10.2. Increase the Charges, by giving notice to the Customer at any time to reflect any increase in the cost of the Product that is due to an increase in the Customer's fleet size, changes to the Product as requested by the Customer or changes to the law.

## 7. TERM AND TERMINATION

- 7.1. This Agreement shall continue for the Contract Period, thereafter automatically extending for another Contract Period, unless:
  - 4.1.1 either party notifies the other party of termination, in writing, at least 30 days before the end of the Contract Period, in which case this Agreement shall terminate upon the expiry of the applicable Contract Period.
- 7.2. Without affecting any other right or remedy available to it, the Company may terminate this Agreement at any time by giving notice in writing to the Customer if:
  - 7.2.1. the Customer or any Authorised User commits a material breach of this Agreement and such breach is not remediable;
  - 7.2.2. the Customer or any Authorised User commits a material breach of this Agreement which is not remedied within 30 days of receiving written notice of such breach;
  - 7.2.3. the Customer has failed to pay any amount due under this Agreement on the due date and such amount remains unpaid within 7 days after the Customer has received notification that the payment is overdue; or
  - 7.2.4. any consent, licence or authorisation held by the Customer is revoked or modified such that it is no longer able to comply with its obligations under this Agreement or access and use the Product.
- 7.3. Either party may terminate this Agreement at any time by giving notice in writing to the other party if that other party:
  - 7.3.1. Stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
  - 7.3.2. Is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1947 or if the non-defaulting party reasonably believes that to be the case;
  - 7.3.3. Becomes the subject of a company voluntary arrangement under the Insolvency Act 1947;
  - 7.3.4. Has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;



- 7.3.5. Has a resolution passed for its winding up;
  - 7.3.6. Has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
  - 7.3.7. Is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within 7 days of that procedure being commenced;
  - 7.3.8. Has a freezing order made against it;
  - 7.3.9. Is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title to those items;
  - 7.3.10. Is subject to any events or circumstances analogous to those in clauses 7.3.1 to 7.3.9 in any jurisdiction;
  - 7.3.11. Takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clauses 7.3.1 to 7.3.10 including for the avoidance of doubt, but not limited to, giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.
- 7.4. The right of a party to terminate the Agreement pursuant to clause 7.3 shall not apply to the extent that the relevant procedure is entered into for the purpose of amalgamation, reconstruction or merger (where applicable) where the amalgamated, reconstructed or merged party agrees to adhere to this Agreement.
  - 7.5. If a party becomes aware that any event has occurred, or circumstances exist, which may entitle the other party to terminate this Agreement under this clause 7, it shall immediately notify the other party in writing.
  - 7.6. Termination of this Agreement shall not affect any accrued rights and liabilities of either party at any time up to the date of termination.
  - 7.7. To end the Agreement with us, please let us know by doing one of the following:
    - 7.7.1. Email us at [info@fleetplanner.co.uk](mailto:info@fleetplanner.co.uk). Please provide your name, address, details of the order and, where available, your phone number and email address.
    - 7.7.2. Write to us at the address, The Old Rectory, Main St, Glenfield, Leicester LE3 8DG United Kingdom including details of what you bought, when you ordered or received it and your name and address.
  - 7.8. If you end the Agreement for any reason within your Cooling off Period, after Products have been dispatched to you or you have received them, you must return them to us. You must either return the goods in person or post them back to us at The Old Rectory, Main St, Glenfield, Leicester LE3 8DG United Kingdom. Please call customer services on 01163 500335 or email us at [info@fleetplanner.co.uk](mailto:info@fleetplanner.co.uk) for further information. If you are exercising your right to change your mind you must send off the goods within 7 days of telling us you wish to end the Agreement.
    - 7.8.1. We will pay the costs of return:
      - 7.8.1.1. If the Products are faulty or misdescribed;
      - 7.8.1.2. If you are ending the Agreement because we have told you of an upcoming change to the Product or these terms, an error in pricing or description, a delay in delivery due to events outside our control or because you have a legal right to do so as a result of something we have done wrong; or
    - 7.8.2. If you are exercising your right to change your mind within the Cooling off Period or in all other circumstances, you must pay the costs of return.
    - 7.8.3. If you are responsible for the costs of return and we are collecting the Product from you, we will charge you the direct cost to us of collection.
    - 7.8.4. We will refund you the Charges for the Products including delivery costs, by the method you used for payment. However, we may make deductions from the Charges, as described below.
    - 7.8.5. If you are exercising your right to change your mind:
      - 7.8.5.1. We may reduce your refund of the Charges (excluding delivery costs) to reflect any reduction in the value of the goods, if this has been caused by your handling them in a way which would not be permitted. If we refund you the Charges paid before we are able to inspect the goods and later discover you have handled them in an unacceptable way, you must pay us an appropriate amount.
      - 7.8.5.2. Where the Product is a service, we may deduct from any refund an amount for the supply of the service for the period for which it was supplied, ending with the time when you told us you had changed your mind. The amount will be in proportion to what has been supplied, in comparison with the full coverage of the Agreement.
    - 7.8.6. We will make any refunds due to you as soon as possible. If you are exercising your right to change your mind then:



- 7.8.6.1. If the Products are goods and we have not offered to collect them, your refund will be made within 14 days from the day on which we receive the Product back from you. For information about how to return a Product to us, see clause 7.8.
- 7.8.6.2. In all other cases, your refund will be made within 14 days of your telling us you have changed your mind
- 7.9. If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this Agreement, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.
- 7.10. If we end the Agreement in the situations set out in clause 5.1.1. we will refund any money you have paid in advance for Products we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of your breaking the Agreement.
- 7.11. We may write to you to let you know that we are going to stop providing the Product. We will let you know at least 2 weeks in advance of our stopping the supply of the Product and will refund any sums you have paid in advance for Products which will not be provided.
- 7.12. You do not have a right to change your mind in respect of:
  - 7.12.1. Items made or prepared to your specifications or which are clearly personalised;
  - 7.12.2. Services, once these have been completed, even if the cancellation period is still running. If you cancel after we have started the services, you must pay us for the services provided up until the time you tell us that you have changed your mind.
  - 7.12.3. Products sealed for health protection or hygiene purposes, once these have been unsealed after you receive them;
  - 7.12.4. Sealed audio or sealed video recordings or sealed computer software, once these Products are unsealed after you receive them; and
- 7.13. Where the Product is a service the Agreement is completed when we have finished providing the service and you have paid for it in full. If you want to end the Agreement before it is completed where we are not at fault and you have changed your mind, you will be required to pay the remaining contractual payments.

## 8. INTELLECTUAL PROPERTY RIGHTS

- 8.1. Each party acknowledges the existence of the other's intellectual property at the commencement of this Contract Period and neither party obtains any right to the other's intellectual property by entering into this Agreement.
- 8.2. The Company as the owner of the Product shall retain ownership of and all intellectual property rights in the Core Code and any additions or improvements to it.
- 8.3. Subject to the Customer first paying all Charges to the Company hereunder, the Customer shall obtain a licence for use of the Product.

## 9. LIMITATION OF LIABILITY

- 9.1. The extent of the parties' liability under or in connection with this Agreement (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 9.
- 9.2. Except as expressly and specifically provided in this Agreement:
  - 9.2.1. The Customer assumes sole responsibility for results obtained from the use of the Product by the Customer and Authorised Users, and for conclusions drawn from such use;
  - 9.2.2. The Company shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Company by the Customer in connection with the Product, or any actions taken by the Company at the Customer's direction;
  - 9.2.3. All warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and
  - 9.2.4. The Product is provided to the Customer on an "as is" basis.
- 9.3. Notwithstanding any other provision of this Agreement, the liability of the Company shall not be limited in any way in respect of the following:
  - 9.3.1. Death or personal injury caused by negligence;



- 9.3.2. Fraud or fraudulent misrepresentation;
- 9.3.3. Any other losses which cannot be excluded or limited by applicable law.
- 9.4. Subject to clause 9.2 and 9.3:
  - 9.4.1. The Company shall not be liable for consequential, indirect or special losses; and
  - 9.4.2. The Company shall not be liable for any of the following (whether direct or indirect):
    - 9.4.2.1. Loss of profit;
    - 9.4.2.2. Loss of data;
    - 9.4.2.3. Loss of use;
    - 9.4.2.4. Loss of Production;
    - 9.4.2.5. Loss of contract;
    - 9.4.2.6. Loss of opportunity;
    - 9.4.2.7. Loss of savings, discount or rebate (whether actual or anticipated);
    - 9.4.2.8. Harm to reputation or loss of goodwill.
  - 9.4.3. The Company shall not be liable for property damage;
  - 9.4.4. The Company total liability shall not exceed:
    - 9.4.4.1. An amount equal to the Charges paid to the Company in the 3-month period immediately preceding the first incident giving rise to the loss, or
    - 9.4.4.2. for incidents occurring in the first 3 months of the Contract Period, an amount equal to the paid Charges for the period in which the Product has been provided.

## 10. WEBSITE USE

- 10.1. Unless otherwise stated, the Website and/or its licensors own the Intellectual Property Rights in the Website and its content. Subject to this Agreement, all these Intellectual Property Rights are reserved.
- 10.2. The Customer must not:
  - 10.2.1. Republish material from the Website (including republication on other websites);
  - 10.2.2. Sell, rent or sub-license material from the Website;
  - 10.2.3. Show any material from the Website in public;
  - 10.2.4. Reproduce, duplicate, copy or otherwise exploit material on the Website for a commercial purpose;
  - 10.2.5. Edit or otherwise modify any material on the Website;
  - 10.2.6. Or redistribute material from the Website.
  - 10.2.7. Use the Website in any way that causes, or may cause, damage to the Website or impairment of the availability or accessibility of the Website; or in any way which is unlawful, illegal, fraudulent or harmful, or in connection with any unlawful, illegal, fraudulent or harmful purpose or activity;
  - 10.2.8. Use the Website to copy, store, host, transmit, send, use, publish or distribute any material which consists of (or is linked to) any spyware, computer virus, Trojan horse, worm, keystroke logger, rootkit or other malicious computer software;
- 10.3. Restricted access:
  - 10.3.1. Access to certain areas of the Website is restricted;
  - 10.3.2. The Company reserves the right to restrict access to other areas of the Website, or indeed this entire Website, at the Company's discretion.
  - 10.3.3. If the Company provides the Customer with a user ID and password to enable the Customer to access restricted areas of the Website or other content or services, the Customer must ensure that the user ID and password are kept confidential.
  - 10.3.4. The Company may disable the Customer's user ID and password at the Company's sole discretion without notice or explanation.
- 10.4. User Content
  - 10.4.1. The Customer must ensure the User Content:
    - 10.4.1.1. Must not be illegal or unlawful;
    - 10.4.1.2. Must not infringe any third party's legal rights;
    - 10.4.1.3. Must not be capable of giving rise to legal action whether against the Customer or the Company or a third party (in each case under any applicable law)
  - 10.4.2. The Customer must not submit any User Content to the Website that is or has ever been the subject of any threatened or actual legal proceedings or other similar complaints.
  - 10.4.3. The Company reserves the right to edit or remove any material submitted to this website, or stored on the Company's servers, or hosted or published upon the Website.



10.4.4. Notwithstanding the Company's rights under this Agreement in relation to User Content, the Company does not undertake to monitor the submission of such content to, or the publication of such content on, the Website.

## 11. ASSIGNMENT

- 11.1. The Company may transfer, sub-contract or otherwise deal with the Company's rights and/or obligations under this Agreement without notifying the Customer or obtaining the Customer's consent.
- 11.2. The Customer may not transfer, sub-contract or otherwise deal with the Customer's rights and/or obligations under this Agreement.

## 12. FORCE MAJEURE

- 12.1. Neither party shall be liable to the other under this Agreement, nor deemed in breach of this Agreement, for failure to carry out its provisions to the extent that such failure is caused by any cause beyond the parties' respective reasonable control, including without limitation fire, war, riot, sabotage, sickness, pandemic or industrial action.

## 13. WAIVER

- 13.1. No failure, delay or omission by either party in exercising any right, power or remedy provided by law or under this Agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right or remedy.

## 14. SEVERANCE

- 14.1. Each paragraph of this Agreement operates separately. If any court or relevant authority decides that any of them is unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

## 15. ENTIRE AGREEMENT

- 15.1. This Agreement constitutes the entire Agreement between the Customer and the Company supersedes all previous Agreements.

## 16. THIRD PARTY RIGHTS

- 16.1. Except as noted in this Agreement, a person who is not a party to this Agreement shall not have any rights under the Agreement (Rights of Third Parties) Act 1999 to enforce any of the provisions of this Agreement.

## 17. COMPLAINTS





- 17.1. If the Customer has a complaint about the Product or service received, then the Customer shall contact the Company immediately.
- 17.2. All complaints will be dealt with in a fair and confidential manner.

## 18. HOW WE MAY USE YOUR PERSONAL INFORMATION

- 18.1. We will only use your personal information as set out in our privacy policy: <https://fleetplanner.co.uk/web/terms-and-conditions>
- 18.2. We will only give your personal information to third parties where:
  - 18.2.1. the law either requires or allows us to do so;
  - 18.2.2. you give us a permission to do so.

## 19. DATA PROTECTION AND DATA PROCESSING

- 19.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause 19 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 19.2. In this Clause 19 Applicable Laws means (for so long as and to the extent that they apply to the Contractor) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and Domestic UK Law means the UK Data Protection Legislation and any other law that applies in the UK.
- 19.3. The parties acknowledge that for the purposes of the Data Protection Legislation, the Company is the data controller, and the Contractor is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).
- 19.4. Without prejudice to the generality of Clause 19.1, the Company will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to the Contractor for the duration and purposes of the Contract.
- 19.5. Without prejudice to the generality of Clause 19.1, the Contractor shall, in relation to any Personal Data processed in connection with the performance by the Contractor of its obligations under the Contract:
  - 19.5.1. Process that Personal Data only on the written instructions of the Company unless the Contractor is required by Applicable Laws to otherwise process that Personal Data. Where the Contractor is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Contractor shall promptly notify the Company of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Contractor from so notifying the Company;
  - 19.5.2. Ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Company, 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);
  - 19.5.3. Ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
  - 19.5.4. Not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Company has been obtained and the following conditions are fulfilled:
  - 19.5.5. The Company or the Contractor has provided appropriate safeguards in relation to the transfer;
    - 19.5.5.1. The Data Subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;
    - 19.5.5.2. The Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and



- 
- 19.5.5.3. The Contractor complies with reasonable instructions notified to it in advance by the Company with respect to the processing of the Personal Data;
  - 19.5.6. Assist the Company, at the Company's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - 19.5.7. Notify the Company without undue delay on becoming aware of a Personal Data breach;
  - 19.5.8. At the written direction of the Company, delete or return Personal Data and copies thereof to the Company on termination of the Agreement unless required by Applicable Law to store the Personal Data; and
  - 19.5.9. Maintain complete and accurate records and information to demonstrate its compliance with this Clause 19.

## 20. GOVERNING LAW

- 20.1. This Agreement and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.