

## DATA PROCESSING ADDENDUM

**THIS ADDENDUM** is made between:

TIC (The Independent Choice) Limited ( the **"Maintainer"**); and

The Customer (identified in the Service Agreement),

together the **"parties"**.

### **WHEREAS:**

- (A) the Customer and the Maintainer have entered or desire to enter into an agreement (or agreements) for the provision by the Maintainer to the Customer of services in accordance with the Service Agreement attached hereto (the **"Agreement"**); and
- (B) the Customer and the Maintainer have agreed to enter into this Addendum to the Agreement in relation to data processing.

### **IT IS NOW AGREED AS FOLLOWS:**

#### **1. DEFINITIONS AND INTERPRETATION**

- 1.1. The parties agree that this Addendum will be incorporated as an addendum to the Agreement. To the extent of any conflict between this Addendum and the remaining sections of the Agreement, this Addendum will prevail. The definitions used in the Agreement shall apply to this Addendum
- 1.2. In this Addendum, the following words and expressions will have the following meanings:

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| <b>"Addendum"</b>                    | shall mean this addendum, including its annexures;   |
| <b>"Agreement"</b>                   | shall have the meaning given in recital (A) above;   |
| <b>"Customer Personal Data"</b>      | shall mean all personal data controlled by the Customer which is processed by the Maintainer in connection with the Services;  |
| <b>"Data Protection Legislation"</b> | shall mean all applicable laws relating to data protection and privacy including (without limitation) the EU Data Protection Directive (95/46/EC) as implemented in each jurisdiction, the EU General Data Protection Regulation (2016/679) (" <b>GDPR</b> "), the EU Privacy and Electronic Communications Directive 2002/58/EC as implemented in each jurisdiction, and any amending or replacement legislation from time to time; and |
| <b>"Services"</b>                    | shall mean the services provided by the Maintainer to the Customer pursuant to the Agreement.  |

- 1.3. In this Addendum, the terms "personal data", "process", "data controller", "data processor" and "data subject" shall have the meanings set out in the Data Protection Legislation.

## 2. DATA PROTECTION

- 2.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This addendum is in addition to, and does not relieve or replace, a party's obligations under the Data Protection Legislation.
- 2.2. The Customer acknowledges that in providing the Services, the Maintainer may have access to and process Customer Personal Data. The parties acknowledge that for the purposes of the Data Protection Legislation the Customer is the data controller and the Maintainer is the data processor.
- 2.3. Annex 1 sets out the subject matter, nature, purpose and duration of processing, the types of personal data and categories of data subject.
- 2.4. The Customer will ensure it has all necessary and appropriate notices and (where relevant) consents in place to enable the lawful transfer of Customer Personal Data to the Maintainer for the duration of and purposes of the Agreement.
- 2.5. The Maintainer shall in relation to any Customer Personal Data processed in connection with the performance by the Maintainer of its obligations under the Agreement:
  - a) only process Customer Personal Data in accordance with the Customer's documented instructions (which for the avoidance of doubt includes this Addendum and the Agreement), unless required to do otherwise by applicable UK or EU law. If required to do otherwise by applicable UK or EU law, the Maintainer shall inform the Customer of the legal requirement before processing the Customer Personal Data, unless the Maintainer is legally prohibited from doing so;
  - b) ensure that its personnel are subject to appropriate obligations of confidentiality;
  - c) taking into account the nature of the Services, provide reasonable assistance to the Customer, insofar as this is possible and at the Customer's cost, for the fulfilment of the Customer's obligations under the Data Protection Legislation in respect of data security; data breach notification; data protection impact assessments; consultation with supervisory authorities; and the fulfilment of data subject's rights;
  - d) upon termination of the Agreement, upon the Customer's request, return or delete the Customer Personal Data, and delete any existing copies in its possession unless required to retain such Customer Personal Data under applicable UK or EU law or to the extent it is necessary for the Maintainer to retain such Customer Personal Data for its business records, including in case of any future legal claim or dispute (and in these cases, the Maintainer shall continue to process the Customer Personal Data in line with the terms of this addendum); and
  - e) immediately notify the Customer if it is asked to do something which infringes the Data Protection Legislation.
- 2.6. The Maintainer uses third parties or sub-processors ("**Sub-processors**") to provide certain services on the Maintainer's behalf, including but not limited to sub-contractors who may carry out services on the Maintainer's behalf from time to time and Sub-processors who provide the Maintainer with storage and other IT services, and who therefore may process Customer Personal Data. The Customer consents to the appointment of Sub-processors under this addendum and acknowledges and, for the purposes of clause 3 of this addendum, consents to the transfer of Customer Personal Data outside of the EEA to such Sub-

processors, The Maintainer shall enter into a written agreement with such Sub-processors and such agreement shall be on that third party's standard terms or shall incorporate terms which are required in contracts with processors under Article 28 GDPR (but which for the avoidance of doubt may not be back to back agreements).

- 2.7. The Maintainer shall remain fully liable for all acts or omissions of a Sub-processor appointed by it pursuant to clauses 2.6.
- 2.8. The Maintainer shall use appropriate technical and organisational measures to protect Customer Personal Data against unauthorised and unlawful processing and against accidental loss, destruction, disclosure, damage or alteration, taking into account the nature, scope, context and purposes of the processing and having regard to the state of technological development and the cost of implementing any measures (including those measures set out in Article 32 GDPR).
- 2.9. Upon written reasonable request, the Maintainer shall make available to the Customer such information as is reasonably necessary to demonstrate the Maintainer's compliance with its obligations under this clause 2. In addition, the Maintainer agrees to permit an audit to be conducted of its facilities, by the Customer or the Customer's representatives (bound by appropriate obligations of confidentiality), provided such an audit is carried out: (i) on at least 10 business days' written notice; (ii) during the Maintainer's normal business hours; and (iii) in a manner that causes minimal disruption to the Maintainer's business and excludes from its scope any internal pricing information, information relating to other customers of the Maintainer or other the Maintainer's own internal reports.
- 2.10. The Maintainer shall notify Customer without undue delay of becoming aware of any accidental, unauthorised, or unlawful destruction, loss, alteration, or disclosure of, or access to, Customer Personal Data ("**Security Breach**"). The Maintainer shall provide the Customer with reasonable assistance in relation to the Security Breach, including the provision of such information as is known to the Maintainer regarding the nature of the breach, the categories and approximate number of data subjects and records concerned.

### **3. DATA TRANSFERS**

- 3.1. The Maintainer shall not transfer (including by way of remote access) Customer Personal Data collected within the European Economic Area ("**EEA**") outside of the EEA, unless the Customer has given its prior written consent and the following conditions will be fulfilled:
  - 3.1.1. the Maintainer or the Customer have provided appropriate safeguards in relation to such transfers;
  - 3.1.2. the data subject has enforceable rights and effective legal remedies;
  - 3.1.3. the Maintainer complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
  - 3.1.4. the Maintainer complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of personal data.

- 3.2. For the purposes of clause 3.1, the Customer provides its consent to the transfer of Customer Personal Data outside of the EEA in respect of the Sub-processors (as specified in clause 2.6 of this addendum).

### **Annex 1: Description of Services and Personal Data Processing**

The data processing activities carried out by the Maintainer under this Addendum are as follows:

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| <b>Description of Services:</b>          | Access made by the Maintainer in the United Kingdom to perform maintenance and support services in relation to the Customer's telephone system and associated software covered under the Agreement.   |
| <b>Subject-matter of Processing:</b>     | The Customer Personal Data is to be processed by the Maintainer to perform the Services under the Agreement.  |
| <b>Duration of Processing</b>            | Until the later of: (i) the termination or expiration of the Agreement; or (ii) the termination of the last of the Services to be performed pursuant to the Agreement, unless required to be kept longer in line with clause 2.5 d) of this addendum by applicable UK or EU law or in case of the business records of the Maintainer. |
| <b>Nature and purpose of Processing:</b> | The Maintainer has access to the Customer's telephone system and associated software to maintain and repair the solution as necessary, including to carry out Wireshark traces where required.  |
| <b>Type of Personal Data:</b>            | Names, contact details (including direct dial(s), telephone number(s) and e-mail addresses), job title, employer details, call recordings (including Wireshark traces) and any Personal Data contained therein [including for the avoidance of doubt, details of the number to/from which the call is made].                          |
| <b>Categories of Data Subjects:</b>      | Customer's employees and Customer's client's.   |