**DATA PROTECTION AGREEMENT**

INTRODUCTION AND HAYNES MEAR COMMUNICATIONS LIMITED

1. With effect from 14 April 2020 (“the Effective Date”) save where expressly  
   stated in this Data Processing Agreement, the terms of this Data   
   Processing Agreement shall delete and replace all previous data protection, privacy and security provisions contained within any previous Agreement and any associated schedule, addendum, special conditions, variations or special terms if applicable.
2. Notwithstanding the terms of the Agreement, except where indicated otherwise, from the Effective Date, the terms of this Data Processing Agreement shall apply to the relationship between the parties and these terms shall take precedence.
3. Except as set out in this Data Processing Agreement, any previous Agreement shall remain unchanged and in full force and effect.
4. Definitions set out in the Agreement shall also apply in this Data Processing Agreement unless the context otherwise expressly requires.
5. All references in this Data Processing Agreement to clauses are to the clauses in this Data Processing Agreement unless otherwise stated.

All reference to HMC in this Data Processing Agreement shall mean Haynes Mear Communications Ltd, trading from 49 Fir Tree Close, Flitwick, Bedfordshire MK45 1NY, with registered offices at 7 White Hill Road, Barton-Le-Clay, Bedfordshire MK45 4PF registered in England No 11650498.

1. **Definitions and Interpretations**

1.1 In this Data Processing Agreement the following definitions shall apply:

“Additional Terms” means the special terms and conditions relating to the use of Supplier Data as updated from time to time and as set out in the appendices to the Agreement which will apply if the Client has selected to use the relevant element of the Service incorporating the Supplier Data.

“Client Data” any Personal Data provided to HMC by the Client for processing in accordance with the terms of the Agreement.

"Controller" means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data; where the purposes and means of processing are determined by EU or Member State laws, the Controller (or the criteria for nominating the controller) may be designated by those laws.

“Data Subject” means an identifiable natural person about whom a Controller   
holds Personal Data. For the purposes of the Agreement and this Data   
Processing Agreement, this may include an individual whose details are   
provided to HMC by the Client as part of the Client Data or whose details  
are contained within the Supplier Data.  
  
“Data Supplier” means HMC’s third party data suppliers that provide   
Supplier Data for use in HMC’s products and services.

“GDPR” means General Data Protection Regulation (EU) 2016/679 as in force from time to time as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including by the GDPR and laws implementing or supplementing GDPR.

“Personal Data” shall have the meaning set out in the GDPR specifically this means any information relating to a Data Subject; who can be identified directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

“Privacy and Data Protection Requirements” all applicable laws and regulations relating to the processing of personal data and privacy in any relevant jurisdiction, including, if relevant, the GDPR, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699) and the Privacy and Electronic Communication Regulations 2003, any amendment, consolidation or re-enactment thereof, any legislation of equivalent purpose or effect enacted in the United Kingdom, and any orders, guidelines and instructions issued under any of the above by relevant national authorities, a judicial authority in England and Wales or a European Union judicial authority.

"Processor" means a natural or legal person, public authority, agency or any other body which processes Personal Data on behalf of the Controller.

"Sub-processor" means a natural or legal person, public authority, agency or any other body contracted by the Processor to process Personal Data for the purpose of carrying out a specific processing activity on behalf of the Controller.

“Supplier Data” means any Personal Data provided to HMC and/or the Client by the Data Supplier or used within HMC’s products and services in accordance with the

terms of the Agreement.

“Supervisory Authority” means an independent public authority which is   
established by a Member State pursuant to Article 51 of GDPR.

1. **General**
   1. Both Parties warrant that they will comply with their respective obligations   
      under the Privacy and Data Protection Requirements and the terms of this Data Processing Agreement.
   2. For the purpose of this Data Processing Agreement, the Client is the Controller and HMC is the Processor.
   3. The Client undertakes to not make direct contact with HMC’s  
      sub-contractors or sub-processors, without express agreement in writing.
   4. Termination or expiration of this Data Processing Agreement shall not discharge the Data Processor from its confidentiality obligations pursuant to Article 3.
   5. The Data Processor will notify all third parties supporting its own processing of the Personal Data of the termination of the Data Processing Agreement and shall ensure that all such third parties shall either destroy the Personal Data or return the Personal Data to the Data Controller, at the discretion of the Data Controller.
2. **Controller Obligations in Relation to Processing of Client Data**
   1. The Client warrants and represents that all instructions provided to HMC in relation to the processing of Client Data are lawful and shall as a minimum include:

a) The nature and purpose of the processing of the Client Data;

1. The types of Personal Data to be processed; and
2. The categories of Data Subjects to whom the Personal Data relates
   1. The Client shall only provide instructions to HMC that are in accordance with the terms of the Agreement and this Data Processing Agreement. Such instructions shall be limited to the subject matter of the relevant Services under the Agreement.
   2. The Client acknowledges that as Controller it is solely responsible for determining the lawful processing condition upon which it shall rely in providing   
      instructions to HMC to process Client Data for the purposes of carrying   
        
        
      out the Services as set out in the Agreement.
   3. The Parties acknowledge and accept that processing of EEA resident   
      Personal Data shall be lawful only if and to the extent that either an   
      exemption or at least one of the following conditions (as specified on   
      this Data Processing Agreement or Order Form as may be applicable)   
      applies:
3. the Data Subject has given consent to the processing of his or her Personal Data for one or more specific purposes;
4. processing is necessary for the performance of a contract to which the Data   
   Subject is party or in order to take steps at the request of the Data   
   Subject prior to entering into a contract;
5. processing is necessary for compliance with a legal obligation to   
   which the

Controller is subject;

1. processing is necessary in order to protect the vital interests of the   
   Data Subject or of another natural person;
2. processing is necessary for the performance of a task carried out in   
   the public interest or in the exercise of official authority vested in the   
   Controller; or
3. processing is necessary for the purposes of the legitimate interests pursued by the Controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the Data Subject which require protection of Personal Data, in particular where the Data Subject is a child.
4. **Processor Obligations in Relation to the Processing of Client Data**
   1. To the extent that the performance of HMC’s obligations, and any supporting and/or ancillary activities, involves processing Client Data, HMC acting as Processor shall:
5. only carry out processing of Client Data in accordance with the Client’s documented instructions , including where relevant for transfers of EEA resident Client Data outside the European Economic Area (“EEA”) or to an international organisation (unless HMC is otherwise required to process Client Data by European Union, Member State and/or UK law to which HMC is subject, in which case HMC shall inform the Client of that legal requirement   
   unless prohibited by that law on important grounds of public interest),   
   and shall immediately inform the Client if, in HMC’s opinion, any   
     
   instruction given by the Client to HMC infringes Privacy and Data   
   Protection Requirements;
6. notify the Client without undue delay of any requests received from a   
   Data Subject exercising their rights under Privacy and Data Protection Requirements and, taking into account the nature of the processing,   
   assist the Client by taking appropriate technical and organisational   
   measures, insofar as this is possible, with fulfilling its obligations in   
   respect of Data Subject rights under Privacy and Data Protection Requirements, including responding to any subject access requests or requests from Data Subjects for access to, rectification, erasure or portability of Personal Data, or for restriction of processing or objections to processing of Personal Data;
7. take all security measures required in accordance with Privacy and   
   Data Protection Requirements (including where relevant, Article 32   
   GDPR), and at the request of the Client provide a written description   
   of, and rationale for, the technical and organisational measures   
   implemented, or to be implemented, to protect the Personal Data   
   against unauthorised or unlawful processing and
8. accidental loss; and detect and report Personal Data breaches without  
   undue delay;
9. where relevant for the processing of EEA resident Client Data and   
   taking into account the nature of the processing and the information   
   available to HMC, use all measures to assist the Client in ensuring   
   compliance with the Client’s obligations to;
   * 1. keep Personal Data secure (Article 32 GDPR);
     2. notify Personal Data breaches to the Supervisory Authority (Article 33 GDPR);
     3. advise Data Subjects when there has been a Personal Data breach (Article 34 GDPR);
     4. carry out data protection impact assessments (Article 35 GDPR); and
     5. consult with the Supervisory Authority where a data protection impact assessment indicates that there is an unmitigated high risk to the processing (Article 36 GDPR).
10. without undue delay, inform the Client of becoming aware of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, the Client Data transmitted, stored or   
      
      
    otherwise processed.

HMC accepts and acknowledges that the Client shall direct in its sole   
discretion, any and all steps and measures taken to remedy a breach   
by HMC under Privacy and Data Protection Requirements, including   
but not limited to any communications with a Supervisory Authority.   
HMC agrees not to act in any way upon such disclosure without the   
prior written consent of the Client;

1. make available to the Client all information necessary to demonstrate compliance with the obligations laid down in this Data Processing Agreement and allow for and contribute to audits, including inspections, conducted by the Client or another auditor mandated by the Client as set out in clause 6; and
2. In addition to the confidentiality obligations contained within the   
   Agreement, ensure that persons authorised to process the Client   
   Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
3. The Data Processor shall notify all third parties supporting its own   
   processing of the Personal Data of the termination of the Data   
   Processing Agreement and shall ensure that all such third parties   
   shall either destroy the Personal Data or return the Personal Data   
   to the Data Controller, at the discretion of the Data Controller.
   1. On expiry or termination of the Agreement, HMC shall immediately   
      cease to use Client Data and shall arrange for its safe return or   
      destruction as shall be required by the Client (unless European Union,  
      Member States and/or UK Law requires, storage of any Personal Data   
      contained within the Client Data or an exemption under GDPR applies).
4. **Use of Supplier Data**
   1. Where the Client uses or receives Supplier Data as part of the Services,

the Client acknowledges that:

1. the Supplier Data may be subject to Additional Terms;
2. where relevant for the provision of Services under the Agreement, the   
   Client shall comply with the Additional Terms; and
3. where the Additional Terms specify that Personal Data belonging to EEA resident Data Subjects cannot be processed by a particular Data Supplier, the Client warrants that it will not use that element of the Service for the processing of EEA resident Personal Data.
   1. HMC shall promptly notify the Client in the event of a change to the   
      Additional Terms.
4. **Audit Rights**
   1. Upon the Client’s reasonable request, HMC agrees to provide the Client   
      with any documentation or records (which may be redacted to remove   
      confidential commercial information not relevant to the requirements of   
      this Data Processing Agreement) which will enable it to verify and monitor   
      HMC’s compliance with its data protection and security obligations under   
      the terms of this Data Processing Agreement, within 14 days of receipt of such request, and to notify the Client of the person within HMC’s organisation who will act as the point of contact for provision of the information required by the Client.
   2. Where, in the reasonable opinion of the Client, such documentation is not sufficient in order to meet the obligations of Article 28 of the GDPR, the   
      Client will be entitled, upon reasonable prior written notice to HMC and   
      upon reasonable grounds, to conduct an on-site audit of HMC’s premises   
      used in connection with the Service, solely to confirm compliance with its   
      data protection and security obligations under this Data Processing   
      Agreement.
   3. Any audit carried out by the Client will be conducted in a manner that does not disrupt, delay or interfere with HMC’s performance of its business. The Client shall ensure that the individuals carrying out the audit are under the same   
      confidentiality obligations as set out in the Agreement.

Any audit right granted to HMC under the Agreement shall remain in full   
force and effect. In the event that there is no audit right in favour of HMC   
or the audit right contained in the Agreement in favour of HMC is not   
sufficient to enable it to verify and monitor the Client’s compliance with   
its data protection and security obligations under the terms of this Data   
Processing Agreement, then, HMC shall be entitled to carry out an audit   
of the Client on reciprocal terms as those set out in clauses 6.1, 6.2   
and 6.3.

1. **Use of Sub-Processors**
   1. The Client provides their consent for HMC to use Sub-processors in the   
      delivery of the Service. Where HMC uses third party Data Suppliers or   
      any other third party and where they are acting as a Sub-processor in relation to the Client Data HMC shall:
2. in relation to EEA resident Personal Data, enter into a legally binding   
   written agreement that places the equivalent data protection obligations   
   as those set out in this Data Processing Agreement to the extent   
   applicable to the nature of the services provided by such Sub-processor,   
   in particular providing sufficient guarantees to implement appropriate   
   technical and organisational measures in such a manner that the   
   processing will meet the requirements of the GDPR;
3. shall remain liable for any act or omission of a Sub processor that does not comply with the data protection obligations as set out in this Data Processing Agreement; and
4. where required by law, HMC shall inform the Client of any intended changes concerning the addition or replacement of a Sub-processor with   
   access to Client Data and give the Client the opportunity to object to such changes.
5. **Transfers of EEA Resident Personal Data to Third Countries or   
   International Organisations**
   1. HMC shall not cause or permit any Client Data belonging to an EEA   
      resident to be transferred outside of the EEA unless such transfer is   
      necessary for the purposes of HMC carrying out its obligations under   
      the Agreement in which case, the provisions of this clause 8 shall apply.
   2. Transfer subject to adequate safeguards: Subject to clauses 8.3 and 8.4, if an EEA resident’s Personal Data is to be processed outside of the EEA, HMC agrees to provide and maintain appropriate safeguards as set out in   
      Article 46 GDPR to lawfully transfer the Personal Data to a third country.
   3. Transfers based on adequacy decisions: Clause 8.2 shall not apply if the processing of the Personal Data is carried out in a country that the   
      European Commission has considered as offering an adequate level of protection.
   4. Derogations for specific situations: The Client has consented to such   
      transfer and acknowledges and accepts that certain Data Suppliers   
      engaged by HMC in the provision of the products and services are located  
      in a country that the European Commission has not formally declared to   
      have an adequate level of protection (Clause 8.3/ Article 45(3) GDPR) and are not able to demonstrate appropriate safeguards (Clause 8.2/ Article 46 GDPR).   
      In such circumstances this will be stated in the Additional Terms and   
      the Client as Controller acknowledges that prior to submitting Client Data   
      to HMC for processing it shall determine, and is solely liable for ensuring,  
      that one of following exceptions set out in Article 49 GDPR applies:
6. the Data Subject has explicitly consented to the proposed transfer,   
   after having been informed of the possible risks of such transfers   
   for the Data Subject due to the absence of an adequacy decision and appropriate safeguards;
7. the transfer is necessary for the performance of a contract between   
   the Data Subject and the Client or the implementation of pre-contractual measures taken at the Data Subject's request;
8. the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the Data Subject between the Client and another natural or legal person; the transfer is necessary for important reasons of public interest;
9. the transfer is necessary for the establishment, exercise or defence   
   of legal claims;
10. the transfer is necessary in order to protect the vital interests of the   
    Data Subject or of other persons, where the Data Subject is physically   
    or legally incapable of giving consent; or
11. the transfer is made from a register which according to European   
    Union or Member State law is intended to provide information to the   
    public and which is open to consultation either by the public in general or by any person who can demonstrate a legitimate interest, but only to the extent that the conditions laid down by European Union or Member State law for consultation are fulfilled in the particular case.
12. **Security**
    1. For the avoidance of doubt, both Parties acknowledge that any provisions   
       in relation to User IDs and passwords used in connection with the   
       Service under the Agreement shall remain unchanged and in full force   
       and effect.
13. **Liability**  
    1. Neither Party excludes or limits its liability in respect of the terms of

this Data Processing Agreement.

1. **Miscellaneous**
   1. This Data Processing Agreement and any dispute or claim arising   
      out of or in connection with it or its subject matter or formation (including   
      non-contractual disputes or claims) shall be governed and construed in   
        
      accordance with the laws of England and subject to any dispute resolution   
      procedure as set out in the Agreement, both Parties submit to the   
      exclusive jurisdiction of the English Courts, save that HMC may elect   
      to bring proceedings against the Client in the courts of any jurisdiction   
      where the Client or any of the Client’s property or assets may be found   
      or located.
   2. A person who is not a Party to this Data Processing Agreement   
      has no rights under the Agreements (Rights of Third Parties) Act 1999 or otherwise) to enforce the provisions of this Data Processing Agreement.

Where applicable, the Parties agree that if, upon review following GDPR coming into force, the provisions of this Data Processing Agreement do not comply with GDPR then both Parties agree to cooperate in good faith to renegotiate the terms of this Data Processing Agreement to ensure compliance with GDPR.

**Client Details**

Client Name:

Contact Name(s):

Data Processing Agreement Confirmation

By signing this Data Processing Agreement both Parties agree to be bound by and to comply with all terms contained within the original Agreement and this Data Processing Agreement (together the “Terms and Conditions”). Any terms inconsistent with or in addition to the Terms and Conditions shall not be binding unless agreed formally in writing and signed by authorised signatories of the Client and HMC by issue of an electronic or other written confirmation by HMC.

To be signed by an authorised representative of **<Insert Organisation Name Here>** :

Authorised Signature: Date:

Name (Please print):

Position:

To be signed by an authorised representative of **Haynes Mear Communications Ltd**:

Authorised Signature: Date:

Name (Please print): Clive Mear

Position: Managing Director