



SCHEDULE 6: ENGAGE TERMS AND CONDITIONS

1 DEFINITIONS

The following shall apply in these Terms and Conditions:

'**Alternative Hosting Solution**' means a supplier of internet or hosting services selected by the Customer as an alternative supplier to the Preferred Hosting Option.

'**Alternative SMS Solution**' means a supplier of SMS services selected by the Customer as an alternative supplier to the Preferred SMS Option.

'**CEO**' means Chief Executive Officer.

'**Company**' or 'we' or 'our' or 'us' means Double First Ltd.

'**Company's Preferred Hosting Option**' means the company appointed by the Company from time to time for the provision of hosting and/or internet services for the Software such as Amazon Web Services.

'**Contract**' means any agreement entered into by the Company with the Customer which in each case shall be on the terms of the Order Form and these Terms and Conditions.

'**Contract Period**' means the agreed contracted Initial Period from the Date of Installation for which the Customer has entered into the Contract.

'**CTO**' means Chief technical Officer.

'**Customer**' or 'you' or 'your' or 'himself' means the person, firm, company or other trading organisation to which Goods are supplied.

'**Customer Network**' means the Customer's own hardware, network, infrastructure, or any third party software.

'**Date of Installation**' is the date the Company installs the Software for the Customer, or supplies other Goods to the Customer.

'**Delivery**' is the date the Company delivers the Goods to the Customer.

'**Goods**' means any goods, software, services or items listed or detailed in the Order Form or any other article supplied by the Company to the Customer and where applicable includes any work relating to the installation, commissioning, training and support thereof.

'**Hosted SLA**' shall mean the service level agreement issued by the Company's Preferred Hosting Option.

'**In Writing**' means sent in accordance with clause 10.

'**Initial Period**' means the period of time as agreed on the Order Form.

'**Intellectual Property Rights**' means copyright, database rights, trade marks, patents, service marks, design rights, know-how, trade or business names, domain names, goodwill associated with any of the foregoing and other similar rights or obligations whether registrable or not in any jurisdiction in the world.

'**Order Form**' means the Company's Customer Order Form.

'**Payment Profile**' is where payment of the Price has been agreed to be spread over a period of time as detailed on the Contract.

'**Preferred Hosting Option**' means Amazon Web Services or such other alternative or additional suppliers of internet and/or hosting services as Company shall nominate from time to time.

'**Preferred SMS Option**' means Twilio or such other alternative or additional suppliers of SMS services as Company shall nominate from time to time.

'**Price**' means the price for the Goods, exclusive of any VAT or other Government taxes or duties which shall be due at the rate ruling on the date of the Company's invoice.

'**SLA**' shall mean the Company's service level agreement for the provision of support services for the Software.

'**SMS SLA**' shall mean the service level agreement issued by the Company's Preferred SMS Option.

'**Software**' means the Company's program together with all Modifications and Bespoke Code as defined in the Company's Software Licence Terms and Conditions.

'**Third Party Products and Services**' means any software, products, services or content (including all intellectual property rights contained therein) that:

(a) are provided by third parties;

(b) interoperate with the Goods; or

(c) may be identified as third party products or services.

'**VAT**' shall mean any sales tax (otherwise sometimes known as GST) and other government taxes applicable at the time of sale.

'**Working Days**' are defined as the standard recognised working days (namely Monday-Friday or Sunday-Thursday inclusive) excluding local government holidays in the Customer's country, excluding UK Local Government holidays and the period between 25th December and 1st January inclusive.

2 QUOTATIONS

(a) No quotation or other offer from the Company shall be valid unless such quotation or other offer is in writing and signed on behalf of the Company by a duly authorised person.

(b) No clerical error or omission shall annul the Contract but may be corrected by the Company.

- (c) It is the sole responsibility of the Customer to check all quantities with specification requirements.
- (d) When a Contract refers to financing of Goods the Company shall not be responsible for providing such finance and the Customer's failure to obtain the same from a third party will not be a breach of the Contract by the Company nor be the grounds for cancellation by the Customer.
- (f) Any quotation may be withdrawn, cancelled or varied by the Company at any time prior to the Company accepting the Order Form duly signed by the Customer and shall lapse if not accepted within 30 days of the date stated on the quotation.
- (g) (i) Without prejudice to condition 2(g) (ii), these Terms and Conditions constitute the entire agreement and supersede any previous agreement between the parties relating to the subject matter of this Contract to the exclusion of all other terms and conditions including any terms and conditions which the Customer may purport to apply under any purchase order confirmation of order or similar document.
- (ii) Any variation to these Terms and Conditions (including any special terms and conditions previously agreed In Writing between the parties) shall be inapplicable unless agreed In Writing by the Company's CEO or CTO and the Customer.
- (h) All Order Forms shall be deemed to be an offer by the Customer to purchase Goods pursuant to these Terms and Conditions.
- (i) The first to occur of the Customer signing of the Order Form or Delivery of the Goods shall be deemed conclusive evidence of the Customer's acceptance of these Terms and Conditions.
- (j) (i) Where the Goods to be supplied pursuant to the Contract include Software the Company's Software Licence Terms and Conditions, and where the Company has contracted to supply support services the SLA, shall respectively apply to the supply and support of the Software on the basis that if there is any conflict between the Software Licence Terms and Conditions and the SLA and these Terms and Conditions the relevant provision of the Software Licence Terms and Conditions and SLA shall apply in respect of the Software.
- (ii) The Company's Software Licence Terms and Conditions and SLA are both subject to change from time to time, the current versions of which are available from the Company's Support Centre website.
- (iii) Where any support services or any internet or hosting services are provided by another provider such as the Preferred Hosting Option, that company's terms and conditions (including any Hosted SLA or other associated service level agreement) takes precedence over (i) these Terms and Conditions (ii) the SLA and (iii) Company's Software Licence Terms and shall apply in respect of that part of the support services and any internet or hosting services. At the date of the Contract Company's hosted option for its Software is outsourced to Amazon Web Services whose terms and conditions can be viewed here: <https://aws.amazon.com/service-terms/> and whose Hosted SLA applies to their service uptime and can be viewed here: <http://aws.amazon.com/ec2/sla/>. Company may from time to time and appoint another hosting provider to replace or supplement the services of Amazon Web Services. The Customer is free to choose whether or not to use an alternative supplier to the Preferred Hosting Option in which case the provisions of Clause 6(h) shall apply.
- (k) Where any support services or any SMS services are provided by another provider such as the Preferred SMS Option, that company's terms and conditions (including any SMS SLA or other associated service level agreement) takes precedence over (i) these Terms and Conditions (ii) the SLA and (iii) Company's Software Licence Terms and shall apply in respect of that part of the support services and any SMS services. At the date of the Contract Company's SMS option for its Software is outsourced to Twilio whose terms and conditions can be viewed here: <https://www.twilio.com/legal/tos> and whose SMS SLA applies to their service uptime and can be viewed here: <https://www.twilio.com/legal/service-level-agreement>. Company may from time to time appoint another SMS provider to replace or supplement the services of Twilio. The Customer is free to choose whether or not to use an alternative supplier to the Preferred SMS Option in which case the provisions of Clause 6(h) shall apply.
- (l) Where during or after the supply of the Goods the Company creates for the Customer any goods in which Intellectual Property Rights exist the ownership and title to such Intellectual Property Rights shall remain with the Company which shall be entitled to use the same for itself and its customers.

3 THIRD PARTY GOODS AND PROVIDERS

- (a) Unless the Contract provides to the contrary Contracts for the supply of third party Goods shall be accepted by the Company only if confirmed in writing from the Customer and must be accompanied by payment in full for such Goods, including any VAT or other Government taxes or duties where applicable. The Company will not arrange to purchase third party Goods until a Contract for such Goods together with payment is received in such manner.
- (b) Any Third Party warranties passed on with the Goods are understood as expressed in those suppliers' and manufacturers' terms of warranty. The Company issues no warranties in its own name in respect of any third party Goods supplied.
- (c) The Customer acknowledges that the Goods may require the Customer to use or access Third Party Products and Services and that the Customer does so solely at its own risk.
- (d) The Company makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of any such Third Party Products and Services, or any transactions completed, and any contract entered into by the Customer, with the owner, licensor or operator of such Third Party Products and Services.
- (e) The Company recommends that the Customer refer to the third party's terms and conditions and privacy policy prior to using the relevant Third Party Products and Services.
- (f) The Company does not endorse, sponsor or approve any Third Party Products and Services used in conjunction with the Goods. It is the Customer's sole responsibility to determine that

specific products or services, meet the needs of the Customer's business and are suitable for the purposes for which they are used.

- (g) Any rights the Customer may have to access Third Party Products and Services shall be limited to: (a) the extent of the Company's ability to pass on such rights to Customer; or (b) the relevant third party licensor terms.

4 REPRESENTATIONS

- (a) Any representation made by or on behalf of the Company shall not be binding or have any force or effect whatsoever unless the Company has expressly agreed thereto in writing.
- (b) The Customer warrants to the Company that the Customer has not been induced to enter this Contract by any prior representation whether oral or in writing, except as specifically contained in this Contract, and that the Customer waives any claim for breach of prior representations.
- (c) If the Software does not substantially perform the functions or generally conform to the Software specifications published by DF Ltd from time to time and the Customer within 90 days after delivery reports such non-performance In Writing to the CEO or CTO of DF Ltd then DF Ltd will endeavour to correct the defect within 90 days of receipt of such report. If DF Ltd fails so to do the Customer may terminate its Licence in accordance with these Terms and Conditions.

5 PRICE AND PAYMENT

- (a) The Price shall be quoted in GBP Pound Sterling (unless otherwise agreed on the Contract) on the basis of costs prevailing at the time. If after the Contract has been signed but before the Date of Installation of the Goods the Company shall sustain any direct or indirect increase in cost then the Company may, by notice in writing to the Customer, increase the Price of the Goods to reflect any increase in the cost to the Company which is due to factors occurring after making the Contract which are beyond the reasonable control of the Company.
- (b) The Price is exclusive of:
- (i) VAT which shall be due at the rate ruling on the date of the Company's invoice, if applicable.
- (ii) Charges for packing, shipping, insurance, postage, carriage, duties etc. which shall be for the account of the Customer and shall be charged to the Customer.
- (c) (i) Time for payment shall be of the essence.
- (ii) Unless the Contract provides to the contrary, payment of the Price and any and all additional charges (other than for third party Goods referred to in 3 above and travel and subsistence in Condition 7(j)) must have been received by the Company on or before Delivery of the Goods or the Date of Installation whichever is the earlier.
- (iii) Where a Payment Profile is detailed on the Contract defining payments due from the Customer, the first payment is due immediately on signing the Contract. Subsequent payments must have been received by the Company within five Working Days of a due date. Costs to provide the Goods will be reviewed on an annual basis and any inflationary costs will be added to the Payment Profile automatically.

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- (iv) Any and all payments must include any VAT or other Government taxes or duties which shall be due at the rate ruling on the date of the Company's invoice, if applicable.
- (d) Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment equal to 3% above the prevailing base rate of interest offered by Lloyds Bank plc from time to time in force and shall accrue at such rate after as well as before any judgement.
- (e) No work or support shall be undertaken by the Company if at the time such work is requested the Customer has failed to pay any outstanding monies due to the Company.

6 LIABILITIES

- (a) The risk in the Goods for insurance purposes shall pass to the Customer:
- (i) From the Date of Installation of the Goods in accordance with the Terms and Conditions of the Contract to the Customer or its agents or other person to whom the Company has been authorised by the Customer to deliver the Goods; or
- (ii) If the Goods are appropriated to the Customer but kept at the Company's premises at the Customer's request provided that the Company shall have no responsibility in respect of the insurance or safety of the Goods after such appropriation. The Customer should accordingly insure the Goods after such appropriation against such risks (if any) as the Customer thinks appropriate.
- (b) In spite of Goods having been delivered property in the Goods shall not pass from the Company until:
- (i) The Customer shall have paid the Price and any and all additional charges including any VAT or other Government taxes or duties in full; and
- (ii) No other sums whatever shall be due from the Customer to the Company.
- (c) Until property in the Goods passes to the Customer:
- (i) The Company reserves the right to dispose of the Goods until payment in full for the Goods has been received by the Company in accordance with the Terms and Conditions of the Contract.
- (ii) The relationship of the Customer to the Company shall be fiduciary in respect of the Goods or other Goods in which they are incorporated or used and if the same are sold by the Customer the Company shall have the right to trace the Goods. A like right for the Company shall apply where the Customer uses the Goods in any way so as to be entitled to payment from a third party. It is understood by the Customer that the Software licence is non-transferrable and therefore cannot be re-sold or transferred to another party by the Customer.
- (d) If payment in accordance with the Terms and Conditions of the Contract is overdue in whole or in part the Company may (without prejudice to any of its other rights) recover or

resell the Goods or any of them and may by its servants or agents enter upon the Customer's premises for that purpose. Such payment shall become due immediately upon the commencement of any act or proceeding in which the Customer's solvency is involved.

- (e) If any of the Goods are incorporated in or used as material for other Goods before the Company has received payment in full the property in the whole of such Goods shall be and remain with the Company until such payment has been made or the other Goods have been sold as aforesaid and all the Company's rights hereunder in the Goods shall extend to those other Goods.
- (f) The Company shall not be liable for any loss damage or expense howsoever arising from any loss of use failure or deterioration of the Goods or any loss (whether direct or indirect) of profits business contracts or anticipated saving or for any indirect or consequential loss whatsoever.
- (g) The Company is not responsible for and shall not be liable for any loss or failure to comply with its obligations where the failure is due to acts of God, war, hostilities, civil disturbances, governmental restrictions, strikes or industrial disputes, fire, flood, inclement weather, acts or omissions of Government or any department thereof, or of third parties (including, without limitation, the Company's Preferred Hosting Option or the Customer's internet service provider or hosting company) or any other cause whatsoever beyond the Company's reasonable control.
- (h) The Customer is responsible for:
- (i) maintaining the security of its data;
- (ii) ensuring that its data is adequately backed-up including, in particular, but without limitation, in the event that it chooses to use an Alternative Hosting Solution;
- (iii) keeping full security copies of the Customer's programs, databases and computer records in accordance with best computer practice; and
- (iv) as a consequence Company shall not be liable for any loss of the Customer's or any third party's data or any failure by the Customer, any Alternative Hosting Solution, any Alternative SMS Solution, or any users of the Software to comply with Clause 11.
- (i) The Company cannot be held responsible for any bugs in any third party software or other software, viruses, corrupt data and back-up failures.
- (j) The Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the price of the Goods as listed in the Order Form.
- (k) The Company shall be under no liability whatsoever to the Customer for any direct, incidental or consequential damages.

7 MISCELLANEOUS

- (a) Clause headings in these Terms and Conditions are for ease of reference only and shall not affect the interpretation or construction of these Terms and Conditions.
- (b) No term in this Contract shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 or as later amended, by a third party.
- (c) If any provision of this Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable that provision shall be deemed severable and the remaining provisions of this Contract shall continue in full force and effect.
- (d) No waiver or forbearance by the Company (whether expressed or implied) in enforcing any of its rights under any Contract shall prejudice its right to do so in the future.
- (e) The Company may at any time assign, transfer, mortgage, charge, sub-contract or deal in any other manner with any or all of its rights and obligations under this Contract, provided we give you prior notice In Writing. You will where requested by the Company enter into a novation of this Contract in favour of any purchaser of our business and/or assets of the Company.
- (f) The Customer may not at any time assign, transfer, mortgage, charge, sub-contract or deal in any other manner with any or all of its rights and obligations under this Contract.
- (g) Except where the Company and the Customer have expressly agreed In Writing the Customer is deemed to have satisfied himself as to the suitability of the Goods for the purpose for which the Customer requires them and the Customer so warrants to the Company.
- (h) To enable the Company to investigate the compatibility and/or any issues regarding the operability of the Software with the Customer Network, the Customer may have to give access to its Customer Network to the Company. Accordingly, the Customer warrants and undertakes to the Company that it:
- (i) has obtained all the necessary and required consents from any third party to allow the Company to have access to its Customer Network; and
- (ii) it is not in and will not be in breach of any policies, standard terms or agreements in relation to its Customer Network (or any element of it) as a result of giving the Company access to its Customer Network in accordance with the provisions of this clause.
- The Customer indemnifies and agrees to keep the Company indemnified against all liabilities, costs, expenses, damages and losses (including legal fees) that the Company may suffer as a result of a breach of the warranties given by the Customer in this clause.
- (i) (i) Travel and subsistence for each site visit is charged to the Customer and invoiced separately. Full details of the Company's relevant policies are available on request.
- (ii) Any implementation or training days unused after two years from their date of purchase for whatever reason shall expire without compensation to the customer.
- (k) Delays caused by the Customer and/or third parties during an installation may incur additional charges. For the avoidance of doubt, additional charges shall also apply in the event that the Date of Installation is delayed by the Customer.
- (l) This Contract contains provisions which relate to a wide range of Goods and/or Software provided by the Company. Where any particular provision in these Terms and Conditions is

not relevant to the Goods and/or Software the Company has agreed to supply to you that particular provision shall be deemed to be deleted from these Terms and Conditions, which shall be construed accordingly.

8 DELIVERING THE GOODS

- (a) Unless the Contract provides to the contrary the Company may deliver by instalments.
- (b) Where Delivery is to be made by instalments each instalment shall be treated as a separate Contract and delay, default or non-delivery in respect of any instalment by the Company shall not entitle the Customer to cancel the remainder of the Contract.
- (c) Failure by the Customer to pay for any instalment or Delivery when payment is due shall entitle the Company to withhold further deliveries.
- (d) If the Customer fails to accept Delivery of any Goods when delivered or in the event of any Goods being delayed at the Customer's request or in the event of the Customer failing to make any payment for Goods when payment is due the Customer shall be liable to the Company for all additional costs incurred by the Company in relation to such Goods or to any other Goods which the Company is then entitled to withhold.
- (e) Unless expressly agreed in writing no times quoted, specified or agreed for Delivery of the Goods by the Company shall be of the essence of the Contract.
- (f) If the Company is prevented or delayed from making Delivery of any Goods by reason of acts of God, war, hostilities, civil disturbances, governmental restrictions, strikes or industrial disputes, fire, flood, inclement weather, acts or omissions of Government or any department thereof, or of third parties or any other cause whatsoever beyond the Company's reasonable control, the Company may give notice in writing to the Customer either cancelling the Company's outstanding obligations to deliver those Goods which the Company is prevented from delivering or extending the time for Delivery by a period equivalent to that during which delivery has been prevented and the Company shall not be bound to the Contract or be liable to pay damages for non-performance in this event.

9 CANCELLATION

- (a) Any notice by the Customer of its wish to Cancel the Contract must be made In Writing to the Company by the Customer. The Contract cannot be cancelled by the Customer without the prior written consent of the Company signed on behalf of the Company by the CEO or CTO. In the event of cancellation by the Customer the Customer shall remain liable for payment for all sums due under the Contract (including any deposit paid which shall be forfeit to the Company) and shall indemnify the Company against any and all loss and expenses occasioned by such cancellation including loss of profit. The Company may cancel the Contract at any time before the Goods are delivered by giving written notice. On giving such notice the Company shall promptly repay to the Customer any sums paid in respect of the Goods by the Customer after deduction of any sums due to the Company under this clause or in any other manner whatsoever. The Company shall not be liable for any loss or damage whatsoever arising from such cancellation. Where the Contract contains software, any terms and conditions of that software licence are also applicable.
- (b) The Software shall be supplied and supported from the Date of Installation and shall continue thereafter as follows:
 - (i) for the Contract Period and shall then automatically continue on an annual basis, unless and until it is terminated by the Customer giving the Company at least 90 days' notice In Writing, such notice to be served so as to expire at the end of the Contract Period or following this any subsequent anniversary of the Date of Installation.
 - (ii) save that the Customer may not terminate the Contract if the Goods are subject to any form of hire or hire purchase agreement, leasing agreement, loan, payment by instalment, or Contract for payment on deferred terms or any other agreement where the Company or any third party retains title to the Goods.

10 NOTICES AND COMMUNICATIONS

- (a) All notices and other communications between the parties shall be in writing and given by:
 - (i) delivery in person;
 - (ii) a nationally recognised next day courier service; or
 - (iii) electronic mail.For the avoidance of doubt, postal services are not to be used.
- (b) Any notice or communication required to be given In Writing to the Company by the Customer shall be deemed to have been received:
 - (i) if delivery is made by 10(a) (i) or (ii), on signature of a delivery receipt at the Company's registered address;
 - (ii) if sent by 10(a) (iii) to a valid and current business email address, on acknowledgement by DF Ltd's CEO or CTO.
- (c) Any notice or communication required to be given In Writing to the Customer by the Company shall be:
 - (i) delivered or sent to the registered office of the Customer (in the case of a company) or to the installation address specified (in the case of an individual firm or partnership); or
 - (ii) by electronic mail to the latest email address of the Customer communicated in writing to the Company or listed on the Customer's website.
- (d) This clause 10 shall not apply to the service of any proceedings or other documents in any legal action, or where applicable, any arbitration other method of dispute resolution.

11 DATA PROTECTION

- (a) Both parties will comply with the Data Protection Laws in relation to Protected Data, as defined in Appendix 1 of these Terms and Conditions.
- (b) The obligations and commitments between the parties in relation to Protected Data are set out in Appendix 1 of these Terms and Conditions.
- (a) Without limitation to the Customer's obligations under these Terms and Conditions, it is incumbent upon the Customer to ensure that all users of the Software obey the Data Protection Laws appropriate to the country in which:

- (i) the Software is being used;
- (ii) in the country in which a hosted environment is provided by a third party if applicable; and
- (iii) in the country in which SMS is provided by a third party if applicable.

12 LAW

- (a) It is accepted by both parties that all reasonable attempts including arbitration shall be made to resolve any dispute or claim before taking legal action.
- (b) These Terms and Conditions and any dispute or claim arising out of or in connection with them or their 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
- (c) Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim that arises out of or in connection with these Terms and Conditions or their subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Company to take proceedings against the Customer in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdiction preclude the taking of proceedings in any other jurisdiction, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

APPENDIX 1 – DATA PROCESSING PROVISIONS

1 Processing of personal data

DEFINITIONS

1.1 In this clause:

1.1.1 Applicable Law means as applicable and binding on the Customer, the Company and/or the Goods:

- (a) any law, statute, regulation, byelaw or subordinate legislation in force from time to time to which a party is subject and/or in any jurisdiction that the Services are provided to or in respect of;
- (b) the common law and laws of equity as applicable to the parties from time to time;
- (c) any binding court order, judgement or decree; or
- (d) any applicable direction, policy rule or order that is binding on a party and that is made or given by any regulatory body having jurisdiction over a party or any of that party's assets, resources or business;

1.1.2 Controller, Data Subject, Personal Data, Processor and processing shall have the respective meanings given to them in applicable Data Protection Laws from time to time (and related expressions, including **process**, **processed**, **processing**, and **processes** shall be construed accordingly) and international organisation and Personal Data Breach shall have the respective meanings given to them in the GDPR;

1.1.3 Data Protection Laws means, as applicable and binding on either party or the Goods:

- (a) the Directive 95/46/EC (Data Protection Directive) and/or Data Protection Act 1998 or the GDPR;
- (b) any laws which implement any such laws;
- (c) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing from time to time; and
- (d) any Applicable Law which may be in force from time to time relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by any supervisory authority, and the equivalent of any of the foregoing in any relevant jurisdiction.

1.1.4 GDPR means the General Data Protection Regulation (EU) 2016/679;

1.1.5 Protected Data means Personal Data received from or on behalf of the Customer in connection with the performance of the Company's obligations under the Contract; and

1.1.6 Sub-Processor means any agent, subcontractor or other third party (excluding its employees) engaged by the Company for carrying out any processing activities on behalf of the Customer in respect of the Protected Data.

COMPLIANCE WITH DATA PROTECTION LAWS

1.2 The parties agree that the Customer is a Controller and that the Company is a Processor for the purposes of processing Protected Data pursuant to the Contract, provided that:

- (a) where the Customer has chosen to use an Alternative Hosting Solution, the Customer is the Controller and the Alternative Hosting Solution provider is the Processor for the purposes of processing Personal Data in connection with that part of the support services and any internet or hosting services; and in such cases it is the responsibility of the Customer and the Alternative Hosting Solution provider to comply with their respective Controller and Processor obligations under the Data Protection Laws; and
- (b) where the Customer has chosen to use an Alternative SMS Solution, the Customer is the Controller and the Alternative SMS Solution provider is the Processor for the purposes of processing Personal Data in connection with that part of the support services and any SMS services; and in such cases it is the responsibility of the Customer and the Alternative SMS Solution provider to comply with their respective Controller and Processor obligations under the Data Protection Laws.

1.3 The Customer shall at all times comply with all Data Protection Laws in connection with the processing of Personal Data and Protected Data. The Customer shall ensure all instructions given by it to the Company in respect of Protected Data (including the terms of the Contract) shall at all

times be in accordance with Data Protection Laws. The Customer shall immediately inform the Company if the Customer believes that any instruction given by it to the Company is likely to infringe the Data Protection Laws.

1.4 The Customer warrants, represents and undertakes, that:

1.4.1 it shall at all times comply with its Controller obligations under the Data Protection Laws, including in relation to any Personal Data the Customer collects or processes or has within its control whilst using the Goods;

1.4.2 all data sourced by the Customer for use in connection with the Goods shall comply in all respects, including in terms of its collection, storage and processing (which shall include the Customer providing all of the required fair processing information to, and obtaining all necessary consents from, Data Subjects and/or in the cases of children's Personal Data consent from whoever holds parental responsibility for the child), with Data Protection Laws;

1.4.3 all instructions given by the Customer to the Company in respect of Personal Data shall at all times be in accordance with Data Protection Laws; and

1.4.4 the Customer is satisfied that:

(a) the Company's processing operations are suitable for the purposes for which the Customer propose to use the Goods and engage the Company to process the Protected Data; and

(b) the Company has sufficient expertise, reliability and resources to implement technical and organisational measures that meet the requirements of Data Protection Laws.

1.5 You shall not unreasonably withhold, delay or condition your agreement to any change requested by us in order to ensure the Goods and we (and each Sub-Processor) can comply with Data Protection Laws.

1.6 The Company shall process Protected Data in compliance with (i) the obligations of Data Processors placed on it under Data Protection Laws in respect of the performance of its obligations under the Contract and (ii) the terms of the Contract.

1.7 The Customer shall indemnify and keep indemnified the Company against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, demands and legal and other professional costs (calculated on a full indemnity basis and in each case whether or not arising from any investigation by, or imposed by, a supervisory authority) arising out of or in connection with any breach by the Customer (and by any Processors engaged by the Customer, including but not limited to any Alternative SMS Solution providers and Alternative Hosting Solution providers) of its obligations under this Appendix 1.

INSTRUCTIONS

1.8 The Company shall:

1.8.1 only process (and shall ensure Company Personnel only process) the Protected Data in accordance with the Customer's documented instructions as set out in this Appendix 1 and these Terms and Conditions (and not otherwise unless alternative processing instructions are agreed between the parties in writing) except where otherwise required by Applicable Law (and shall inform the Customer of that legal requirement before processing, unless Applicable Law prevents it doing so on important grounds of public interest);

1.8.2 without prejudice to clause 1.2, if the Company believes that any instruction received by it from the Customer is likely to infringe the Data Protection Laws it shall promptly inform the Customer and be entitled to cease to provide the relevant Goods until the parties have agreed appropriate amended instructions which are not infringing.

SECURITY

1.9 Taking into account the state of technical development and the nature of processing, the Company shall implement and maintain the technical and organisational measures set out in Part B of this Appendix 1 to protect the Protected Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.

SUB-PROCESSING AND PERSONNEL

1.10 The Company shall ensure that all persons authorised by the Company (or by any Sub-Processor) to process Protected Data are subject to a binding written contractual obligation to keep the Protected Data confidential (except where disclosure is required in accordance with Applicable Law, in which case we shall, where practicable and not prohibited by Applicable Law, notify you of any such requirement before such disclosure).

1.11 The Company shall not permit any processing of Protected Data by any agent, sub-contractor or other third party (except our or our Sub-Processors' own employees in the course of their employment that are subject to an enforceable obligation of confidence with regards to the Protected Data) without the Customer's prior written authorisation (such authorisation not to be unreasonably withheld, conditioned or delayed) and ensure in each case that processing is strictly limited to individuals who need to know/access the Protected Data as strictly necessary for the purpose of providing the Services.

1.12 The Company shall not engage any Sub-Processor for carrying out any processing activities in respect of the Protected Data without the Customer's written authorisation of that specific Sub-Processor (such authorisation not to be unreasonably withheld, conditioned or delayed) provided that the Customer authorises the Company to use the Sub-Processors already engaged by the Company as at the date of the Contract, including but not limited to the current providers for the Preferred Hosting Option and Preferred SMS Option. The Company shall make available to the Customer a list of all Sub-Processors authorised to process the Protected Data (Sub-Processor List). At least ten (10) business days prior to authorising any new Sub-Processor to process

Protected Data, the Company shall provide notice to the Customer of the update to the Sub-Processor List.

1.13 If the Customer notifies the Company in writing of any objections (on reasonable grounds) to a Sub-Processor being added to the Sub-Processor List within ten (10) business days after the date of the applicable Sub-Processor notice to the Customer:

1.13.1 the Company shall work with the Customer in good faith to make available a commercially reasonable change in the provision of the Goods which avoids the use of that proposed Sub-Processor; and

1.13.2 where such a change cannot be made and the Company chooses to retain the Sub-Processor, the Company shall notify the Customer at least ten (10) business days prior to the authorisation of the Sub-Processor to process Personal Data and the Customer may discontinue using the relevant Goods and terminate the relevant portion of the Goods which require the use of the proposed Sub-Processor immediately upon written notice to us, such notice to be given by the Customer within thirty (30) business days of having been so notified by the Company.

1.14 The Company shall:

1.14.1 prior to the relevant Sub-Processor carrying out any processing activities in respect of the Protected Data, appoint each Sub-Processor under a written contract containing materially the same obligations as under clauses 1.2 to 1.20 (inclusive) that is enforceable by the Company;

1.14.2 ensure each such Sub-Processor complies with all such obligations; and

1.14.3 remain fully liable to the Customer under the Contract for all the acts and omissions of each Sub-Processor as if they were the Company's.

ASSISTANCE

1.15 The Company shall (at the Customer's cost):

1.15.1 assist the Customer in ensuring compliance with the Customer's obligations pursuant to Articles 32 to 36 of the GDPR (and any similar obligations under applicable Data Protection Laws) taking into account the nature of the processing and the information available to the Company; and

1.15.2 taking into account the nature of the processing, assist the Customer (by appropriate technical and organisational measures), insofar as this is possible, for the fulfilment of the Customer's obligations to respond to requests for exercising the Data Subjects' rights under Chapter III of the GDPR (and any similar obligations under applicable Data Protection Laws) in respect of any Protected Data.

INTERNATIONAL TRANSFERS

1.16 The Company will not transfer or otherwise process Protected Data outside the European Economic Area (EEA) without obtaining the Customer's prior written consent. The Customer agrees that the Company may transfer Protected Data that includes the types of Personal Data set out in Part A of this Appendix 1 for the purpose of providing the Goods to countries outside the European Economic Area (EEA) or to any International Organisation(s) (an International Recipient), provided all transfers by the Company of Protected Data to an International Recipient shall (to the extent required under Data Protection Laws) be effected by way of Appropriate Safeguards and in accordance with Data Protection Laws. The provisions of this Appendix 1 shall constitute the Customer's instructions with respect to transfers in accordance with clause 1.6 of this Appendix 1.

1.17 Sub-Processors will not transfer or otherwise process Protected Data outside the European Economic Area (EEA) without obtaining the Customer's prior written consent. The Customer agrees that the Sub-Processors on the Sub-Processors List may transfer Protected Data that includes the types of Personal Data set out in Part A of this Appendix 1 for the purpose of providing for the purpose of providing the Goods to countries outside the European Economic Area (EEA) or to any International Organisation(s) (an "International Recipient"), provided all transfers by the Sub-Processors of Protected Data to an International Recipient shall (to the extent required under Data Protection Laws) be effected by way of Appropriate Safeguards and in accordance with Data Protection Laws. The provisions of this Appendix 1 shall constitute the Customer's instructions with respect to transfers in accordance with clause 1.8 of this Appendix 1.

AUDITS AND PROCESSING

1.18 The Company shall, in accordance with Data Protection Laws, make available to the Customer such information that is in its possession or control as is necessary to demonstrate the Company's compliance with the obligations placed on it under this Appendix 1 and to demonstrate compliance with the obligations on each party imposed by Article 28 of the GDPR (and under any equivalent Data Protection Laws equivalent to that Article 28), and allow for and contribute to audits, including inspections, by the Customer (or another auditor mandated by the Customer) for this purpose (subject to a maximum of one audit request in any 12 month period under this clause 1.18).

BREACH

1.19 The Company shall notify the Customer without undue delay and in writing on becoming aware of any Personal Data Breach in respect of any Protected Data.

DELETION/RETURN

1.20 On the end of the provision of the Goods relating to the processing of Protected Data, at the Customer's cost and the Customer's option, the Company shall either return all of the Protected Data to the Customer or securely dispose of the Protected Data (and thereafter promptly delete all existing copies of it) except to the extent that any applicable law requires the Company to store such Protected Data. This clause 1.20 shall survive termination or expiry of this Agreement.

PART A DATA PROCESSING DETAILS

Processing of the Protected Data by the Company under the Contract shall be for the subject-matter, duration, nature and purposes and involve the types of personal data and categories of Data Subjects set out in this Part A.

1 SUBJECT MATTER, NATURE, PURPOSE AND DURATION OF PROCESSING:

The Company will process Protected Data to provide the Goods to you. The processing of Protected Data shall be for the term of the Contract or until the Company's legal obligations in relation to the processing of the Protected Data have ceased.

2 TYPE OF PERSONAL DATA:

2.1 The Software provided by the Company, or as may be further developed, upgraded or supplemented from time to time, generally includes (but not limited to) portals for teachers, pupils and students and parents and other types of users as determined by the Customer, computer programs or applications, information on fees, assessment reports, examinations, attendance, curriculum, timetable, special educational needs, performance tracking, extra-curricular and co-curricular activity and accounts and other types of information as determined by the Customer.

2.2 The types of Personal Data that the Company processes to provide the Goods depend on factors such as (but not limited to):

- (i) the features selected by the Customer as part of the software system,
- (ii) the data fields and types of detail added to the system and used by the Customer as part of the selected system features;
- (iii) the types of data input directly into the system by the Customer and teachers, pupils and students, parents of the school operated by the Customer or other users of the system as determined by the Customer; and
- (iv) the people added by the Customer as users of the software system.

2.3 In accordance with the Contract to provide the Goods to the Customer the Company may process (but not limited to) the following types of Personal Data depending on the factors mentioned in clause 2.2 above:

2.3.1 In relation to pupils and students, and parents: name of child, date of birth, place of birth, private address, private telephone number, email address, parents name and contact details, date of birth, emergency contact, days of absence, bank account details of parents, information about ad-hoc payments and billing, references, performance and educational needs reports, recording of medical data and incidents, tuition and extra curricular accounts, attendance and non-attendance records, exam details and results, curricular activities; performance and educational needs reports, incident reports involving pupils or students, attendance and non-attendance records, exam details and results, curricular activities, special educational needs records, medical data and incidents records;

2.3.2 In relation to staff of the Customer's school: name, job title, date of birth, place of birth, private address, private telephone number, email address, contractual details and contract history, emergency contact, employee number, supervisor, name of supervisor, work location, days of absence and cause and holiday entitlement, National Insurance Number, bank account details, court orders, trade union membership, pension details, tax code, grade, Occupational Health Services, redundancy, TUPE documentation, disciplinary and grievance, accident reports, right to work checks (passport details), referees, CRB disclosures, insurance documents, references, exit interviews, accident reports, time sheets / reports, qualifications, beneficiaries and absence management;

2.3.3 For non-academic billing for rentals or the sale of goods and services: personal data regarding any supplier's staff and sub-contractors;

2.3.4 imported examination data containing Personal Data received by the Customer from other sources or schools;

2.3.4 any other types of Personal Data collected by the Customer which may be processed by the Company for the purposes of providing the Goods.

3. CATEGORIES OF DATA SUBJECTS:

3.1 As noted in clause 2.2 the types of Data Subjects for which Personal Data may be processed depend on the factors mentioned in clause 2.2 and the Company does not control the types of Data Subjects for which or from which the Customer may collect or process Personal Data. Subject to that it is confirmed that the Company may typically process (but not limited to) Protected Data in relation to the following Data Subjects:

- (i) the Customer's current and former employees;
- (ii) the Customer's contractors and sub-contractors;
- (iii) the Customer's job applicants;
- (iv) the Customer's employee's emergency contacts;
- (v) pupils, students and parents of the school operated by the Customer using the Goods under the Contract;
- (vi) relatives of the pupils of the school operated by the Customer using the Goods under the Contract, friends, tradesmen, visiting schools, examination bodies or agencies, other schools, non-teaching staff, friends who want to help pay tuition fees of pupils, visiting staff from other schools, exam invigilators, and
- (vii) any other categories of Data Subjects which may be added by the Customer for the use of the Goods and therefore in relation to who the Company may process Personal Data to provide the Goods to the Customer.

4 SPECIFIC PROCESSING INSTRUCTIONS:

The Company shall process Protected Data as reasonably necessary for the provision of the Goods arising from the Contract and in accordance with the Customer's written instructions. Please refer to clause 1.8 of this Appendix 1 for further details. If the Customer has any specific processing instructions, the Customer is required to notify the Company in writing so that the Company may process the Protected Data in accordance with those specific instructions.

PART B TECHNICAL AND ORGANISATIONAL SECURITY MEASURES

1 The Company shall implement and maintain the following technical and organisational security measures to protect the Protected Data:

1.1 In accordance with the Data Protection Laws, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing of the Protected Data to be carried out under or in connection with the Contract, as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons and the risks that are presented by the processing, especially from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Protected Data transmitted, stored or otherwise processed, the Company shall implement appropriate technical and organisational security measures appropriate to the risk, including as appropriate those matters mentioned in Articles 32(a) to 32(d) (inclusive) of the GDPR.

1.2 The Company is committed to protecting restricted, confidential or Sensitive Data from loss to avoid reputation damage and to avoid adversely impacting its customers.

1.3 The following principles are applied by the Company in relation to data security:

- 1.3.1 Users of the Company's systems, services and website are required to adhere to and comply with the principles and restrictions in the Company's Acceptable Use Policy which can be viewed here: <http://www.doublefirst.com/acceptable-use>
- 1.3.2 The Company issues to the Customer the Company's Product Systems Requirements with the Company's recommendations based upon testing and experience of the Company's software products running on different hardware platforms. Every effort is made to provide as much information as possible to guide the Customer and ensure the correct environment is deployed to get the safest and fastest possible experience from the Company's software products.
- 1.3.3 The Customer is, however, responsible for:
 - (i) maintaining the security of its data;
 - (ii) ensuring that its data is adequately backed-up including, in particular, but without limitation, in the event that it chooses to use an Alternative Hosting Solution;
 - (iii) keeping full security copies of the Customer's programs, databases and computer records in accordance with best computer practice;
 - (iv) ensuring the correct environment is deployed to get the safest and fastest possible experience from the Company's software products; and
 - (v) protecting its systems from any bugs in any third party software or other software, viruses, corrupt data and back-up failures.
- 1.3.4 Where the Goods to be supplied pursuant to the Contract include Software the Customer is required to adhere to and comply with Company's Software Licence Terms and Conditions, and where the Company has contracted to supply support services the SLA. The Company's Software Licence Terms and Conditions and SLA are both subject to change from time to time, the current versions of which are available from the Company's Support Centre website.
- 1.3.5 All directors and employees of the Company, together with anyone contracted to work on behalf of the Company and anyone who is offered work placement roles under the Company's work experience agreement are required to adhere to and comply with the Company's data security policy.