

HUMPHREYS DATA MANAGEMENT TERMS AND CONDITIONS (these "Terms and Conditions")

1. DEFINITIONS

In this Agreement:

1.1 the following terms shall have the following meanings unless the context otherwise requires:

this "Agreement"	these Terms and Conditions together with the relevant Agreement Schedule and any document specifically referred to or incorporated into the Agreement Schedule as applying to this agreement;
"Agreement Schedule"	the document containing the specific information relating to the particular services supplied or to be supplied by Humphreys to the Client;
"Barcode"	the barcode identifier given by Humphreys to particular Client Files;
"Box"	a physical box containing Client Files;
"Business Day"	any day other than (i) a Saturday, (ii) a Sunday or (iii) a day when the clearing banks are not physically open for business in the City of London;
"Business Hours"	the hours between 9am to 5pm on Business Days;
"Carton"	a Box of such proportions as Humphreys identifies as being a "Carton", being one cubic foot;
"Client"	the client whose details may be more particularly set out in the Agreement Schedule;
"Client Data"	any data relating to the Client or the Client's employees, agents, representatives, contractors, suppliers or customers or clients, in each case as provided by or on behalf of the Client to Humphreys, and which may be included within the Client Files;
"Client File"	a file (in any format and on any medium) supplied by the Client to Humphreys in respect of which Humphreys provides any of the Services (and which may include business records or papers relating to the Client, x-rays, data, images, drawings, microfilms, paper, emails or deeds);
"Client Location"	the location at which the Client is based;
"Client Main Contact"	the Client main contact identified on the Agreement Schedule;
"Client Number"	a number given to a Client File or Box by the Client when the Client supplies the Client File to Humphreys;
"Commencement Date"	the date stipulated as such in the Agreement Schedule (or if none stipulated then the date on which the last of the Parties to sign the Agreement Schedule signs it);
"Confidential Information"	any information in any form or medium obtained by or on behalf of one Party from or on behalf of the other Party in relation to this Agreement (or which may be discovered by being on the other Party's premises) which is expressly marked as confidential or which a reasonable person would reasonably consider to be confidential (whether disclosed or obtained before, on or after the date of this Agreement) together with any reproductions of such information or any part of this information (and Humphreys' "Confidential Information" shall include information and materials relating to Humphreys' other customers or clients (including discovered in accordance with Clause 4.1.6), and the Client's "Confidential Information" shall include the Client Data and Client Files);
"Data Protection Legislation"	The European Union Data Protection Directive 95/64/EC, any national laws or regulations implementing that Directive; the General Data Protection Regulation EU 2016/679 (" GDPR ") (when applicable) and any national laws or regulations constituting a replacement or successor data protection regime to that covered by GDPR;
"Fee"	the fee payable by the Client to Humphreys for the supply by Humphreys of the Services as stipulated in the relevant Agreement Schedule (or if not stipulated there, it shall be at Humphreys' standard charges as may be set out in Humphreys' latest Rate Card from time to time);
"Humphreys"	Humphreys Data Management Limited, a company registered in England under number 02463456 with registered office at 1 Sydney Road, Watford, Hertfordshire, WD18 7XX;
"Humphreys Representative"	any officer, employee, consultant, contractor, agent or other representative of Humphreys;
"Insurer"	the insurer under the Policy;
"Intellectual Property Rights"	copyright and related rights, trade marks and service marks, trade names and domain names, rights under licences, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, patents, rights to inventions, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, 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;
"Liability"	has the meaning given to it in Clause 7.11.1;
"Negligence"	has the meaning given to it in Clause 7.11.2;
"Party"	either Humphreys or the Client;
"Policy"	Humphreys' policy of insurance under which the Client may purchase Reinstatement Cover;
"Rate Card"	Humphreys' standard rate card for services provided to its clients generally as updated by Humphreys from time to time;
"Rates"	Humphreys' time and materials rates for providing Services, being at the rates set out in the Agreement Schedule or (if not set out there) at Humphreys' standard time and materials rates from time to time set out in the Rate Card;

"Reinstatement Cover"	insurance taken out by the Client via Humphreys to insure against the risk of the loss of or damage to Client Files;
"Services"	any services (which may include document storage, indexing, electronic and hard-copy document management, scanning, re-boxing, shredding or final removal services) provided or to be provided by Humphreys to the Client pursuant to this Agreement, as may be more particularly described in or pursuant to the Agreement Schedule or as agreed between the Parties in writing from time to time;
"Supplied Material"	any material (in any form or in any medium) provided or to be provided by or on behalf of the Client to Humphreys for the Services, which may include any Client Files and Client Data, as may be set out in the Agreement Schedule;
"Term"	the term of this Agreement referred to in Clause 9.1;
"Warehouse"	the location at which Humphreys stores the Client File.

1.2 references to "Clauses" are to clauses of these Terms and Conditions;

1.3 the headings are inserted for convenience only and shall not affect the interpretation or construction of this Agreement;

1.4 words imparting the singular shall include the plural and vice versa. Words imparting a gender shall include the other gender and the neutral and references to persons shall include an individual, company, corporation, firm or partnership;

1.5 references to "written" or "writing" (except in respect of sending a notice in accordance with Clause 11) includes in electronic form;

1.6 references to "includes" or "including" or like words or expressions shall mean without limitation; and

1.7 references to any statute or statutory provision shall include any subordinate legislation made under it, any provision which it has modified or re-enacted (whether with or without modification) and any provision which subsequently supersedes it or re-enacts it (whether with or without modification).

2. AGREEMENT

2.1 The terms of this Agreement apply to the exclusion of any terms and conditions submitted, proposed or stipulated by the Client. These Terms and Conditions apply to the Services.

2.2 Save as expressly provided herein, this Agreement shall operate to the entire exclusion of any other agreement, understanding or arrangement of any kind between the Parties hereto preceding the date of this Agreement and in any way relating to the subject matter of this Agreement and to the exclusion of any representations not expressly stated herein except for any fraudulent misrepresentations or any misrepresentation as to a fundamental matter. Each of the Parties acknowledges that it has not entered into this Agreement based on any representation that is not expressly incorporated into this Agreement.

2.3 This Agreement constitutes the whole agreement and understanding of the Parties as to the subject matter hereof and there are no provisions, terms, conditions or obligations, whether oral or written, express or implied, other than those contained or referred to herein.

2.4 Subject to Clause 2.1, all materials and other particulars furnished by Humphreys prior to the execution of the Agreement Schedule by Humphreys or in Humphreys' sales or marketing materials or other documents (including its catalogues, trade literature, brochures, quotations, price lists or website) or made orally by Humphreys or Humphreys Representatives are given for general information purposes only and the Client acknowledges that it is not entering into this Agreement in reliance upon any such materials or other particulars.

2.5 In the event of any conflict between the provisions of any of the documents within this Agreement, then the Agreement Schedule shall prevail over these Terms and Conditions.

2.6 Humphreys may amend these Terms and Conditions by notifying the Client no less than two months before the change takes effect. The Parties may agree a change to these Terms and Conditions sooner than that by following the process in Clause 13.

2.7 If the Client provides Humphreys with a purchase order for the Services, the purchase order shall be purely for the Client's administrative purposes only and shall not form part of this Agreement.

2.8 This Agreement shall be legally formed and the Parties shall be legally bound at the earlier of:

2.8.1 when both Parties have signed the Agreement Schedule and before the expiry of any period which the Agreement Schedule is expressed to be open to be signed by; and

2.8.2 when Humphreys commences performance of the Services even if the Agreement Schedule has not been signed by either or both Parties.

2.9 It is the Client's responsibility to ensure that the Agreement Schedule is complete and accurate and to point out to Humphreys in writing anything which is incomplete or inaccurate.

2.10 This Agreement may be executed in several counterparts, each of which shall be deemed an original, but each of which together shall constitute one and the same document.

2.11 Each Agreement Schedule constitutes a separate agreement. There may be more than one agreement between the Parties in force at the same time as this Agreement.

3. SERVICES

Generally

3.1 Humphreys warrants that:

3.1.1 it shall use its reasonable skill and care in providing any Services;

3.1.2 the Humphreys Representatives have the necessary skill to provide any Services;

3.1.3 any Services will be provided in a professional, competent and workmanlike manner;

3.1.4 it has all necessary rights, permissions and consents to enter into this Agreement;

3.1.5 it shall ensure that the Humphreys Representatives co-operate with the Client and the Client's employees, contractors and agents;

3.1.6 its advice and recommendations shall be independent and unbiased;

3.1.7 it shall use its reasonable endeavours to ensure that while it and the Humphreys Representatives are at the Client Location, they will conform to the Client's normal codes of staff and security practice as are advised to them in advance by the Client;

3.1.8 it shall take reasonable security measures to keep the Client Files secure (whilst they are in Humphreys' possession), although Humphreys' responsibility cannot be absolute (if there are security breaches by third parties); and

3.1.9 it shall comply with all applicable laws, statutes, regulations and bye-laws in relation to the exercise of its rights and performance of its obligations under this Agreement.

3.2 Humphreys is not responsible for doing, providing or advising on anything other than as expressly stipulated in this Agreement that Humphreys will do, provide or advise on. Except for any matter upon which Humphreys specifically agrees in writing with the Client to advise or do, Humphreys shall not be responsible or have any Liability for advising on, or failing to advise on, or doing, or failing to do, anything else.

3.3 Humphreys shall use its reasonable endeavours to ensure a secure environment at the Warehouse and no interference or mishandling of the Client Files while the Client Files are in Humphreys' possession, but Humphreys cannot guarantee that the Client Files will be totally free from interference or

mishandling.

- 3.4 Humphreys shall use any Supplied Material only in connection with the Services. Upon completion of Services, Humphreys shall (at its discretion, except to the extent agreed otherwise in writing with the Client) either deliver to the Client or destroy any Supplied Material. The Client shall pay for any Fees reasonably charged by Humphreys for the delivery or destruction.
- 3.5 Humphreys shall use its reasonable endeavours to perform its obligations within any timescales set out in this Agreement, but Humphreys shall not have any Liability for any delays or failure to accurately perform its obligations:
- 3.5.1 if it has used those endeavours; or
- 3.5.2 if caused by any failure or delay on the part of the Client or its employees, agents or contractors or by any breach by the Client of this Agreement or any other agreement between the Parties.
- 3.6 Any statements, comments, suggestions or recommendations that Humphreys makes in respect of any third party equipment, software or services shall be for convenience only and Humphreys makes no warranty or representation in respect of any such statement, comment, suggestion or recommendation. It shall be the Client's decision in taking or using any third party equipment, software or services (whether or not in relation to the Services).
- 3.7 Humphreys may, but shall not be obliged to, refuse or delay carrying out any instruction that it receives from the Client in respect of any of the Services (including, for the avoidance of doubt, an instruction to hand over any Supplied Material):
- 3.7.1 if Humphreys is uncertain as to the identity or authority of the person issuing the instruction; or
- 3.7.2 if Humphreys reasonably considers that the instruction would put the security of any Supplied Material at risk and Humphreys shall be entitled, but not obliged, to request written confirmation of the instruction from the Client Main Contact.
- 3.8 Humphreys may make any changes to the Services or refuse to provide the Services, as it reasonably deems necessary or desirable in order for it to comply with this Agreement (including as to laws, statutes, regulations and bye-laws).
- 3.9 Except where expressly provided for within this Agreement, Humphreys excludes all conditions, warranties, terms and obligations, whether express or implied by statute, common law or otherwise, to the fullest extent permitted by law in respect of the Services.

Physical Document Storage Service

- 3.10 In respect of the physical document storage Service, Humphreys shall collect the Client File from the Client Location, deliver the Client File to the Warehouse, give the Client File (or the Box in which it is contained) a Barcode, store the Client File at the Warehouse, and retrieve the Client File from storage for the Client (usually the next Business Day after the Business Day in which Humphreys receives a written instruction from the Client to retrieve it, provided that the written instruction is received before noon on the Business Day preceding retrieval) and subject to clause 3.7.
- 3.11 If the Client requests delivery or collection more urgently or outside of usual Business Hours, Humphreys shall use its reasonable endeavours to accommodate the Client's requests (subject to availability), but Humphreys cannot guarantee that it will be able to deliver or collect at those times. In any event, the Client shall pay supplementary Fees as agreed between the Parties (or at the Rates) for any such additional or emergency Service.
- 3.12 Humphreys shall continue to charge for providing the storage Service in respect of any Client File originally supplied to it and Barcoded (regardless of whether it is still at the Warehouse or elsewhere, including the Client Location) until such time as either the Client or Humphreys informs the other Party in writing that the storage Service is no longer being provided in respect of the Client File.
- 3.13 Humphreys does not designate any particular area of the Warehouse as being for the storage of the Supplied Material and no form of tenancy or licence or property rights are created by this Agreement. Humphreys retains the right to move any Supplied Material to any location at any time.

Indexing Service

- 3.14 In providing the physical document storage Service, Humphreys may also (if agreed in writing with the Client) provide an indexing Service. The indexing Service involves indexing each Client File within a Box, and recording that indexed information on the Box itself and on Humphreys' electronic systems.

Scanning Service

- 3.15 In respect of a scanning Service, Humphreys shall prepare the relevant Client File for scanning (including removal of any binding material that is necessary for the scanning process), then scan the material, save it electronically and provide the electronic formatted Client File to the Client in such format as the Client reasonably requires (the Client paying any reasonable costs for use of that format, in addition to any applicable Fees).
- 3.16 Humphreys shall provide the electronic formatted Client File to the individual nominated by the Client. If the Client requires the electronic formatted Client File to be copied or sent to more than one individual, Humphreys reserves the right to charge additional Fees at the Rates for this Service.
- 3.17 Upon the earlier of:
- 3.17.1 Humphreys' receipt of the Client's written confirmation that the electronic scanned documents are satisfactory and the physical format of the Client File can be destroyed; or
- 3.17.2 the expiry of one month following delivery of the electronic scanned documents without any confirmation or comment from the Client as to the suitability of the electronic scanned documents;
- Humphreys may destroy or (if required by the Client) return to the Client the physical format of the Client File.

Shredding Service

- 3.18 In respect of any Service involving destruction or shredding, Humphreys shall send the relevant Client File for destruction or shredding at such times as the Client had instructed Humphreys in writing (whether with the original delivery of the Client File or otherwise) or such other time as Humphreys (acting reasonably) considers reasonable.
- 3.19 Humphreys shall use its reasonable endeavours to ensure that any shredding or destruction is carried out to accepted industry standards.
- 3.20 Humphreys shall give to the Client a registration certificate to confirm that the shredding or destruction has taken place (or to a standard stated in the registration certificate).
- 3.21 Where Humphreys is unsure whether the Client would want the Client File to be destroyed or as to timing, Humphreys shall check with the Client first. However, this is subject always to Humphreys having the right to destroy any Supplied Material in accordance with Humphreys' other rights under this Agreement (including as set out in Clause 8.12).

Final Removal Service

- 3.22 In respect of any final removal Service, which is where the Client instructs Humphreys to deliver up the Supplied Material to the Client or a replacement service provider, Humphreys shall remove the Client File from Humphreys' database and records, place the Client File on a pallet and wrap and package the Client File in accordance with Humphreys' standard processes for this Service (or such other processes as the Parties agree in writing), ready for collection by (or, if agreed between the Parties, delivery to) the Client or the Client's replacement service provider.

Re-Boxing Service

- 3.23 Humphreys may provide a re-boxing Service where the Box in which any Client File has been supplied to it is unsafe or unsuitable for carriage or storage.

Electronic and/or Hard-Copy Document Management Service

- 3.24 Where Humphreys agrees to conduct the electronic and/or hard-copy document management Service, Humphreys shall conduct electronic and/or

hard-copy searches for the documents, data, information and material as agreed in writing with the Client, provided always that:

- 3.24.1 Humphreys shall be entitled to charge the Client its Fees at the Rates for the time spent by Humphreys' Representatives in carrying out the electronic and/or hard-copy search request; and
 - 3.24.2 the Client acknowledges that Humphreys makes no guarantee that it will find any particular document, data, information or material during the course of any search, and that for the avoidance of doubt, in such cases where Humphreys is unable to find the requested documents, data, information or material, clause 3.24.1 shall still apply and the Client shall still pay Humphreys the Fees at the Rates for the Service.
- 3.25 Humphreys is not responsible for any third party equipment or third party software used by Humphreys or recommended by Humphreys for use by the Client in the searching process. If the Client has any issue with any third party equipment or third party software, the Client shall raise those issues directly with the third party supplier and not with Humphreys.

4. CLIENT'S OBLIGATIONS

- 4.1 The Client shall (and shall procure that its agents, employees and contractors shall):
- 4.1.1 provide access at all reasonable times during the Term to the Client Location and adequate parking, loading and off-loading space to enable Humphreys to perform its obligations at the times reasonably required by Humphreys;
 - 4.1.2 inform Humphreys in writing within a reasonable time before provision of any Services of any regulations relevant to Humphreys Representatives when attending the Client Location including site regulations;
 - 4.1.3 be present and available at the Client Location at the required times to enable Humphreys to perform its obligations at the times reasonably required by Humphreys. Unless the Client specifically makes known to the contrary, Humphreys shall assume that anyone purporting to represent the Client at the Client Location is authorised to represent the Client and is authorised to receive from Humphreys or to hand over to Humphreys any Supplied Material. Any deliveries to or collections from the Client Location shall take place in one single delivery or collection at the reception or main delivery point at the Client Location, unless otherwise agreed in writing between the Parties (and Humphreys may charge the Client additional Fees at the Rates if Humphreys agrees to carry out multiple deliveries or collections or if Humphreys agrees to deliver or collect from places other than the reception or main delivery point at the Client Location);
 - 4.1.4 co-operate with Humphreys' Representatives to enable Humphreys to promptly perform its obligations under this Agreement;
 - 4.1.5 (if reasonably required by Humphreys) sign a confirmatory note upon any of the Services (in whole or in part) having taken place (including collection or delivery of any Client Files). The Client shall ensure that any person signing such a note assumes responsibility before signing to verify the apparent accuracy and lack of damage of any Client Files;
 - 4.1.6 inform Humphreys immediately upon discovery that any material provided to the Client was not material intended for the Client and to keep such material strictly confidential without looking at it any further than needed in order to report the issue to Humphreys;
 - 4.1.7 provide to Humphreys accurate data, information, assistance and instructions and in such form at such times and with such packaging as is appropriate, to enable Humphreys to carry out fully, accurately and promptly its obligations under this Agreement to the best of its ability;
 - 4.1.8 provide a Client Number with each Client File or Box (and act consistently in the use of that Client Number with that Client File or Box) and not apply the same Client Number to a different Client File or Box;
 - 4.1.9 take great care with any dates for destruction and any instructions for destruction or response to requests for instructions for destruction provided (or requested to be provided) to Humphreys;
 - 4.1.10 provide such information to Humphreys in accordance with Humphreys' processes to ensure that Fees are just for the Services that the Client uses (including making clear that any Client Files delivered back to the Client are no longer to be kept recorded on Humphreys' systems);
 - 4.1.11 ensure that all Supplied Material is safe and not hazardous and packaged as appropriately as is reasonable to avoid contamination or damage to the Supplied Material or anything in which the Supplied Material is likely to come into contact;
 - 4.1.12 ensure that the Supplied Material does not contain any viruses, trojan horses, trap doors, back doors, easter eggs, worms, time bombs, cancelbots or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information;
 - 4.1.13 take all care and assume all responsibility with using, sending and receiving any Client Files. The risk of and responsibility for using, securing, copying, preserving and taking back-ups or duplicates of Client Files is with the Client before the Client uses any of the Services. The Client shall ensure that all Client Files are copied to secure media and in secure locations (including, where appropriate, scanning any hard copies to electronic format first) for back-up purposes in such a manner to ensure full protection against loss or damage from any cause, and the Client shall ensure that copies of them are available for purposes of restoration;
 - 4.1.14 agree with Humphreys in advance any particular requirements regarding the sensitive nature of any Client File handling (including applying passwords to or encrypting documents electronically), failing which Humphreys shall use its standard practices;
 - 4.1.15 ensure that it has all necessary rights, permissions and consents to enter into, and perform its obligations under, this Agreement (including any Intellectual Property Rights and consents in respect of the Client Data and ownership or rights to hold or supply the Supplied Material);
 - 4.1.16 be responsible for ensuring that all Supplied Material and the anticipated use of it by Humphreys in the provision of the Services:
 - (a) conforms in all respects with all applicable laws, rules, regulations, bye-laws, codes of practice, licences and regulatory requirements (including Data Protection Legislation);
 - (b) is accurate; and
 - (c) does not infringe any rights (including Intellectual Property Rights) of any third party; and
 - 4.1.17 comply with any other Client obligations set out in the Agreement Schedule.
- 4.2 The Client confirms that the Client Main Contact shall act as Humphreys' main point of contact for the Services. The Client shall ensure that the Client Main Contact (or their nominated deputy) is available at all reasonable times for Humphreys to discuss any matters related to the Services.
- 4.3 Notwithstanding the appointment of the Client Main Contact, Humphreys may accept instructions from any person who Humphreys believes has authority to instruct Humphreys on behalf of the Client.
- 4.4 The Client acknowledges that the Client is solely responsible for:
- 4.4.1 knowing what Client Data, Client Files, Boxes and Supplied Material are held by Humphreys for the Client;
 - 4.4.2 knowing the contents of the Client Data, Client Files, Boxes and Supplied Material held by Humphreys for the Client; and
 - 4.4.3 informing Humphreys of that information to enable Humphreys to be able to provide the Services
- and Humphreys shall not be responsible for knowing the same or for searching the Client Data, Client Files, Boxes or Supplied Material for the Client (unless the Humphreys has agreed in writing to provide the electronic and/or hard-copy document management Service to the Client in which case clause 3.24 applies).
- 4.5 The Client is responsible to ensure that the Services are sufficient and suitable for its purposes and meet its individual requirements.
- 4.6 If the Client is in breach of its obligations under this Agreement, Humphreys may suspend its provision of Services until such time as the breach is remedied, provided that Humphreys provides five Business Days' notice before it suspends provision of Services, except where the circumstances justify an immediate suspension (for example for breach of Clause 4.1.11 for the Supplied Material being unsafe or hazardous or Clause 4.1.16).

5. CONFIDENTIALITY

- 5.1 Each Party shall keep and procure to be kept secret and confidential the Confidential Information of the other Party and shall not use nor disclose the same save:
- 5.1.1 for the purposes of the proper performance of this Agreement; or
 - 5.1.2 as otherwise permitted by this Agreement; or

- 5.1.3 with the prior written consent of the other Party.
- 5.2 Where one Party discloses Confidential Information of the other Party to its employee, consultant, subcontractor, supplier, customer, agent, professional adviser or insurer, it shall do so subject to obligations equivalent to those set out in this Clause 5. Each Party shall use all reasonable endeavours to ensure that any such employee, consultant, subcontractor, supplier, customer, agent, professional adviser or insurer complies with such obligations.
- 5.3 The obligations of confidentiality in this Clause 5 shall not extend to any matter which either Party can show:
- 5.3.1 is in, or has become part of, the public domain other than as a result of a breach of the confidentiality obligations of this Agreement; or
 - 5.3.2 was in its written records prior to receipt; or
 - 5.3.3 was independently developed by it; or
 - 5.3.4 was independently disclosed to it by a third party entitled to disclose the same.
- 5.4 If either Party is required to disclose the Confidential Information of the other Party under any applicable law, or by order of a court or governmental body or authority of competent jurisdiction or a successor owner of the other Party's business, then the Party so required may disclose the Confidential Information to the extent required but shall, prior to any disclosure where practicable, give the other Party as much warning thereof as practicable and inform in writing and consult with the other Party and, at the other Party's request and cost, fully co-operate with and assist that other Party in opposing any such disclosure.
- 5.5 Humphreys may identify the Client as its client and the type of Services provided by Humphreys to the Client, provided that in doing so Humphreys shall not (without the Client's prior written consent) reveal any Confidential Information of the Client.
- 5.6 The obligations of this Clause 5 shall continue after termination of this Agreement for whatever reason.

6. DATA PROTECTION

- 6.1 In performing this Agreement, each Party shall comply with all Data Protection Legislation.
- 6.2 The Parties agree that, to the extent possible, the Client shall ensure that any Client Data provided by the Client is anonymised and does not contain any Personal Data, before the Client Data is provided to Humphreys. The Parties agree and acknowledge that to the extent that the Client Data contains Personal Data and in respect of Humphreys' obligations under this Agreement as to any "Personal Data" within the Client Data, Humphreys is merely a "Data Processor" and the Client is the "Data Controller" (as those terms, together with the terms "processing" and "process" and "Data Subject" are defined in the Data Protection Act 1998), and the following provisions in this Clause 6 apply in respect of such Personal Data.
- 6.3 The Appendix to the Agreement Schedule sets out the scope, nature and purpose of the processing by Humphreys, the duration of the processing and the types of processing and categories of Data Subject.
- 6.4 Humphreys shall process the Personal Data only to the extent, and in such a manner, as is necessary for the purposes of providing the Services under this Agreement and in accordance with the Client's documented instructions from time to time and shall not process the Personal Data for any other purpose.
- 6.5 In accordance with the Client's reasonable request, Humphreys shall provide sufficient guarantees to the Client as to Humphreys' processing of the Personal Data and in accordance with Data Protection Legislation. As Data Controller, the Client shall take overall responsibility for ensuring that Humphreys' processing of the Personal Data complies with Data Protection Legislation (which shall include the Client providing the Data Subjects with fair processing notices and establishing the fair and lawful basis for the processing of the Personal Data as required by Data Protection Legislation) and the Client shall provide confirmation to Humphreys that Humphreys' measures are sufficient to comply with Data Protection Legislation. Where necessary, the Client shall engage its own experts to verify this.
- 6.6 Humphreys shall promptly comply with any reasonable request from the Client requiring Humphreys to provide details of the Personal Data or amend, transfer or delete the Personal Data (whether or not at the Client's request, or in response to a Data Subject's rights under Data Protection Legislation), provided that the Client shall reimburse Humphreys for any reasonable costs and expenses incurred in complying.
- 6.7 Humphreys warrants that, where it processes Personal Data, it shall take appropriate security measures to conform to Data Protection Legislation, including appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure a level of security appropriate to the risk in accordance with Data Protection Legislation.
- 6.8 Humphreys shall inform the Client immediately in writing if it becomes aware of any unauthorised or unlawful processing, loss of, damage to or destruction of the Personal Data.
- 6.9 The Client shall take overall responsibility for any Personal Data breach obligations under Data Protection Legislation. Humphreys shall conform to the reasonable requirements of the Client in respect of Personal Data breach notification requirements under Data Protection Legislation, provided that the Client shall reimburse Humphreys for any reasonable costs and expenses incurred in doing so.
- 6.10 Humphreys shall not transfer the Personal Data outside the United Kingdom or European Economic Area without the express prior written consent of the Client.
- 6.11 If, at the Client's written request, Humphreys does transfer Personal Data outside the United Kingdom or European Economic Area, the Client shall take full responsibility for ensuring that the transfer complies with all Data Protection Legislation.
- 6.12 The Client shall ensure that its instructions and requirements under this Agreement conform with all Data Protection Legislation.
- 6.13 The Client agrees that Humphreys may authorise a third party ("**Subcontractor**") to process the Personal Data, provided that:
- 6.13.1 the Subcontractor's contract is on terms which fully reflect and do not contradict or override those set out in this Clause 6; and
 - 6.13.2 the Subcontractor's rights and obligations in relation to the processing of the Client's Personal Data terminate automatically on termination of this Agreement for any reason; and
 - 6.13.3 Humphreys informs the Client in writing of any intended changes concerning the addition or replacement of the Subcontractor, thereby giving the Client a reasonable opportunity to make known to Humphreys any concerns that the Client may have.
- 6.14 Humphreys confirms that its data processing activities are externally audited for compliance with Data Protection Legislation and that Humphreys shall, upon written request from the Client, provide the Client with the certificate or other documentation to evidence the audit.
- 6.15 The Client may, provided that the Client gives Humphreys at least 5 Business Days' written notice, audit Humphreys' processing of the Personal Data to check it is being carried out in accordance with Data Protection Legislation provided that such audit is carried out during Business Hours and does not cause disruption to Humphreys' business and provided that the auditor(s) enter into confidentiality undertakings as requested by Humphreys. The Client shall pay for the costs and expenses reasonably incurred by Humphreys in complying with this Clause 6.15.
- 6.16 The terms defined in this Clause 6 shall be construed in accordance with any change in definitions in Data Protection Legislation from time to time. For example, a reference to "Data Controller" shall, once the GDPR applies, be construed as a reference to "controller" as that term is defined in the GDPR.

7. LIMITATION OF LIABILITY

- 7.1 This Clause 7 prevails over all other Clauses and sets forth the entire Liability of each Party, and the sole and exclusive remedies of the other, in respect of:
- 7.1.1 performance, non-performance, purported performance, delay in performance or mis-performance of this Agreement or of any goods, services or materials in connection with this Agreement; or
 - 7.1.2 otherwise in relation to this Agreement or entering into this Agreement.

- 7.2 Neither Party excludes or limits its Liability for:
- 7.2.1 its fraud; or
 - 7.2.2 death or personal injury caused by its Negligence; or
 - 7.2.3 any breach of the non-excludable obligations implied by law as to having title to supply goods; or
 - 7.2.4 any other Liability which cannot be excluded or limited by applicable law.
- 7.3 Subject to Clause 7.2, neither Party accepts, and each Party hereby excludes, any Liability for Negligence other than any Liability arising pursuant to the terms of this Agreement.
- 7.4 Subject to Clause 7.2, neither Party shall have Liability in respect of any:
- 7.4.1 indirect or consequential losses, damages, costs or expenses;
 - 7.4.2 loss of actual or anticipated profits;
 - 7.4.3 loss of contracts;
 - 7.4.4 loss of use of money;
 - 7.4.5 loss of anticipated savings;
 - 7.4.6 loss of revenue;
 - 7.4.7 loss of goodwill;
 - 7.4.8 loss of reputation;
 - 7.4.9 ex gratia payments;
 - 7.4.10 loss of business;
 - 7.4.11 loss of operation time; or
 - 7.4.12 loss of opportunity;
- whether or not such losses were reasonably foreseeable or the Party in default or its agents had been advised of the possibility of the other incurring such losses. For the avoidance of doubt, Clauses 7.4.2 to 7.4.12 apply whether such losses are direct, indirect, consequential or otherwise.
- 7.5 Subject to Clause 7.2, and subject to any specific right or remedy expressly set out in this Agreement that explicitly provides that the following cap may be exceeded, the total aggregate Liability of each Party shall be limited to the greatest of: (a) £1 per Carton affected; or (b) £5,000; or (c) 110% of the total sums paid and total other sums payable, in aggregate, by the Client to Humphreys under this Agreement for the affected Services, within the three months preceding the date on which the loss first arose. Humphreys may agree to accept liability for a higher amount, in which case they may make an additional charge.
- 7.6 The limitation of Liability under Clause 7.5 has effect in relation both to any Liability expressly provided for under this Agreement and to any Liability arising by reason of the invalidity or unenforceability of any term of this Agreement.
- 7.7 Humphreys' Liability in relation to loss of or damage to the Client Files shall be limited to the costs and expenses incurred in reproducing or recompiling the Client Files (always subject to Clause 7.5), but shall not include the value of the information that is contained within the Client Files. The Parties agree that this is reasonable in view of the Client's obligations to secure, copy, preserve and take back-ups or duplicates of the Client Files under Clause 4.1.13.
- 7.8 The Client shall not limit its Liability for failure to pay the Fees.
- 7.9 The Client acknowledges that the exclusions and limitations on Liability in this Agreement are fair and reasonable, having regard to the availability of insurance cover, standard practice for the industry, the ability of the Client to take other steps to avoid the suffering of loss and the level of charges (in a similar way to the liability assumed by carriers when providing delivery services). If the Client would like to obtain additional protection against loss of or damage to Supplied Material, it shall be the Client's responsibility to take all reasonable steps to mitigate against such loss or damage (including scanning or copying material first or keeping it at different sites), and consider taking out applicable insurance cover.
- 7.10 The Client acknowledges and accepts that Humphreys only provides Services to it on the express condition that Humphreys will not be responsible for nor shall it have any Liability directly or indirectly for:
- 7.10.1 inaccuracies or errors in or omissions from any Supplied Material provided by or on behalf of the Client; or
 - 7.10.2 any act or omission of the Client or the Client's breach of this Agreement.
- 7.11 In this Agreement:
- 7.11.1 "Liability" means liability in or for breach of contract, tort, Negligence, misrepresentation, breach of statutory duty, restitution or any other cause of action whatsoever relating to or arising under or in connection with this Agreement, including, without limitation, liability expressly provided for under this Agreement or arising by reason of the invalidity or unenforceability of any term of this Agreement (and for the purposes of this definition, all references to "this Agreement" shall be deemed to include any collateral contract, but each Agreement Schedule shall constitute a separate "Agreement"); and
 - 7.11.2 "Negligence" means the breach of any (i) obligation arising from the express or implied terms of a contract to take reasonable care or exercise reasonable skill in the performance of the contract or (ii) common law duty to take reasonable care or exercise reasonable skill (but not any stricter duty).

8. FEES

- 8.1 In consideration for obtaining the Services provided by Humphreys pursuant to this Agreement, the Client shall pay to Humphreys the Fees.
- 8.2 The Fees shall be as initially set out in the Agreement Schedule (or for any Services not set out there, it shall be at the Rate Card or as otherwise expressly agreed in writing between the Parties from time to time); but in any event Humphreys may change the Fees or the Rates that had been specifically agreed in writing between the Parties by informing the Client in writing no less than two months in advance of the change to the Fees or Rates; provided that Humphreys may change the Fees or Rates at any time by informing the Client in writing if the Client changes the Client Location.
- 8.3 For the avoidance of doubt, where Humphreys is appointed to provide one Service (for example, the physical document storage service) and is then asked by the Client to provide another Service (for example, the electronic and hard-copy document management service), then Humphreys shall charge the Client the Fees for that additional Service in line with the Rate Card or as otherwise expressly agreed in writing between the Parties.
- 8.4 Unless set out otherwise in this Agreement, Humphreys may issue invoices to the Client for its Services at its discretion in advance or upon provision of the Services at such frequency as Humphreys reasonably considers desirable (for example, on a monthly basis).
- 8.5 Unless otherwise provided in the Agreement Schedule, the Client shall pay Humphreys for all Fees and other sums due under this Agreement within 30 days after receipt of Humphreys' proper invoice.
- 8.6 Except for any Fees which the Parties agree in writing to be on a per item (such as per Client File, per scanned page, or per delivery or collection) basis, any Fees for the Services shall be chargeable on a time basis at the Rates for the time actually spent by Humphreys (and not for the time estimated to be provided). Humphreys shall maintain records of time spent in providing the Services.
- 8.7 Humphreys shall provide such information as the Client may reasonably require in order to ascertain the Fees due in accordance with this Agreement. Where Services are charged for on a time basis, Humphreys shall provide details with its invoice to detail when, where and how much time was spent.
- 8.8 All sums due to Humphreys are exclusive of VAT and other sales or duties or taxes (if applicable) which the Client shall pay to Humphreys in addition at the same time as payment of the Fees and other sums due.

- 8.9 The Client shall pay Humphreys by any payment method reasonably agreed by Humphreys. No payment shall be considered paid until it is received by Humphreys in cleared funds in full.
- 8.10 Payment shall be in the currency in force in England from time to time.
- 8.11 Payment of all sums due to Humphreys under this Agreement shall be made by the Client in full without any set-off, deduction or withholding whatsoever.
- 8.12 If the Client is late in paying any part of any monies due to Humphreys under this Agreement or any other agreement between the Parties, Humphreys may (without prejudice to any other right or remedy available to it whether under this Agreement or by any statute, regulation or by-law) do any or all of the following:
- 8.12.1 charge interest and other charges on the amount due but unpaid in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 from time to time from the due date until payment (after as well as before judgment), such interest to run from day to day and to be compounded monthly;
- 8.12.2 provided that Humphreys gives the Client no less than five Business Days' notice, suspend the performance of this Agreement and any other agreement between the Parties until payment in full has been made;
- 8.12.3 be entitled to exercise a general right of lien over all of the Client's property (including Supplied Material) in Humphreys' possession in respect of all unpaid amounts due from the Client to Humphreys; and
- 8.12.4 provided that Humphreys gives the Client no less than five Business Days' notice first and then a second final written notice with five Business Days' further warning after expiry of the first notice, destroy any Supplied Material in Humphreys' possession (with the Client paying for Humphreys' Fees for such destruction);
- but in any event, until Humphreys has returned or destroyed any Client Files, the Client shall pay for Humphreys' continuing storage Fees in line with the Rate Card or as otherwise expressly agreed in writing between the Parties.

9. TERM AND TERMINATION

- 9.1 This Agreement shall commence on the Commencement Date and, subject to either Party continuing to have a right to earlier termination pursuant to its express termination rights under this Agreement, shall continue in force until the latest of:
- 9.1.1 the Client has paid for all the Fees in full; and
- 9.1.2 Humphreys has finished providing the Services as are required by this Agreement.
- 9.2 Humphreys may terminate this Agreement at any time by giving the Client no less than the amount of notice set out in the Agreement Schedule (or, if no notice period is set out there, no less than one month's notice).
- 9.3 If the Services are being provided on an ad hoc or on-going basis until terminated (rather than for a task with a specific completion), then the Client may terminate this Agreement at any time by giving Humphreys no less than the amount of notice set out in the Agreement Schedule (or, if no notice period is set out there, no less than three months' notice).
- 9.4 If the Services are being provided for a task with a specific completion (rather than on an ad hoc or on-going basis until terminated), then the Client may terminate this Agreement at any time by giving Humphreys no less than the amount of notice set out in the Agreement Schedule. However, if no notice period is set out there, or if the relevant part of the Agreement Schedule is marked "not applicable" or is similarly marked, the Client shall not have the right to terminate this Agreement under this Clause 9.4 or for its convenience at all.
- 9.5 If Humphreys notifies the Client of:
- 9.5.1 an amendment to these Terms and Conditions under Clause 2.6; or
- 9.5.2 an amendment to the Fees or Rates under Clause 8.2 (other than due to the Client's change of the Client Location)
- and the Client does not accept the proposed amendment, the Client may terminate this Agreement by giving Humphreys no less than one month's notice provided that the notice expires on or before the proposed amendment takes effect.
- 9.6 Either Party may terminate this Agreement immediately by notice to the other Party if:
- 9.6.1 the other Party is in material breach of any of its obligations under this Agreement or any other agreement between the Parties which is incapable of remedy; or
- 9.6.2 the other Party fails to remedy, where capable of remedy, any material breach of any of its obligations under this Agreement or any other agreement between the Parties after having been required in writing to remedy such breach within a period of no less than 30 days; or
- 9.6.3 the other Party is in persistent breach of any of its obligations under this Agreement or any other agreement between the Parties; or
- 9.6.4 the other Party gives notice to any of its creditors that it has suspended or is about to suspend payment or if it shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or an order is made or a resolution is passed for the winding-up of the other Party or an administration order is made or an administrator is appointed to manage the affairs, business and property of the other Party or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the other Party's assets or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver and/or manager or administrative receiver or administrator or which entitle the court to make a winding-up or bankruptcy order or the other Party takes or suffers any similar or analogous action in consequence of debt in any jurisdiction.
- 9.7 For the purposes of Clause 9.6, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects other than as to time to the reasonable satisfaction of the other Party.
- 9.8 Humphreys may terminate this Agreement immediately by notice to the Client if the Client is at least five Business Days' late in paying any undisputed sums due under this Agreement or any other agreement between the Parties and Humphreys has then given to the Client at least a further five Business Days' notice requiring the Client to pay in full within such five Business Day (or, if Humphreys desires, longer) period failing which Humphreys may exercise its right to terminate under this Clause 9.8.
- 9.9 Termination of this Agreement shall be without prejudice to any accrued rights or remedies of either Party.
- 9.10 Termination of this Agreement will not affect the coming into force or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.
- 9.11 Upon termination of this Agreement for any reason:
- 9.11.1 Humphreys shall cease to perform this Agreement;
- 9.11.2 all outstanding Fees for Services provided or in the process of being provided shall become immediately payable, whether invoiced or not;
- 9.11.3 subject to Humphreys receiving payment of all outstanding Fees in full including for that Service, Humphreys shall deliver the Supplied Material to the Client or (unless otherwise reasonably required by the Client) Humphreys may elect to destroy the Supplied Material; and
- 9.11.4 (subject to the Client paying for any Fees as referred to in Clause 9.11.3) the owner of Confidential Information may at its option require the other Party to delete promptly all Confidential Information belonging to the Party requiring the action from any computer disks, tapes or other material in its possession or under its control or promptly deliver up or destroy materials and tangible items in its possession or under its control which contain any such Confidential Information. The owner of Confidential Information may require the other Party to provide a written declaration, signed by an officer or other authorised individual stating that there has been full compliance with this Clause 9.11.4.

10. FORCE MAJEURE

- 10.1 Save for obligations in respect of payment of the Fees, neither Party shall have any Liability for any breach, hindrance or delay in performance of its obligations under this Agreement which is caused by circumstances beyond its reasonable control including any act of God, actions or omissions of third parties not in the same group as the party seeking to rely on this Clause (including hackers, suppliers, couriers, governments, quasi-

governmental, supra-national or local authorities), insurrection, riot, civil war, civil commotion, war, hostilities, threat of war, warlike operations, armed conflict, imposition of sanctions, embargo, seizure or forfeiture, breaking off of diplomatic relations or similar actions, national emergencies, terrorism, nuclear, chemical or biological contamination or sonic boom, piracy, arrests, restraints or detentions of any competent authority, blockade, strikes or combinations or lock-out of workmen, unusual traffic volumes, unusual travel restrictions, epidemic, fire, explosion, storm, flood, drought, adverse weather conditions (including cold, heat, wind, rain, snow, ice or fog), loss at sea, earthquake, volcano, natural disaster, accident, collapse of building structures, failure of machinery (other than used by the relevant Party) or third party computers or third party hardware or vehicles, failure or problems with public utility supplies (including general: electrical, telecoms, water, gas, postal, courier, communications or Internet disruption or failure), shortage of or delay in or inability to obtain supplies, stocks, storage, materials, equipment or transportation ("**Event of Force Majeure**"), regardless of whether the circumstances in question could have been foreseen.

10.2 Each of the Parties agrees to inform the other upon becoming aware of an Event of Force Majeure, such notice to contain details of the circumstances giving rise to the Event of Force Majeure.

10.3 The performance of each Party's obligations shall be suspended during the period that the circumstances persist and such Party shall be granted an extension of time for performance equal to the period of the delay.

10.4 Each Party shall bear its own costs incurred by the Event of Force Majeure.

10.5 If performance of any obligations are delayed under this Clause 10, each Party shall nevertheless accept performance as and when the other shall be able to perform.

10.6 If Humphreys has contracted to provide identical or similar services to more than one customer and is prevented from fully meeting its obligations to the Client by reason of an Event of Force Majeure, Humphreys may decide at its absolute discretion which contracts it will perform and to what extent.

11. NOTICES

11.1 Any notice required or authorised to be given under this Agreement shall be in writing and may be served by personal delivery, recorded delivery or by overnight courier or by facsimile addressed to the relevant Party at its address stated in this Agreement or at such other address or facsimile number as is notified by the relevant Party to the other for this purpose from time to time or at the address or facsimile number of the relevant Party last known to the other.

11.2 Any notice so given by post shall be deemed to have been served two Business Days after the same shall have been posted by recorded delivery or overnight courier and any notice so given by facsimile shall be deemed to have been served upon receipt of an answerback signal from the receiving machine, and in proving such service it shall be sufficient to prove that the letter or facsimile was properly addressed or numbered and, as the case may be, despatched or an answerback signal received.

12. ASSIGNMENT

12.1 Subject to any assignee (in the case of an assignment) confirming in writing to be bound by the provisions of this Agreement, Humphreys may assign, transfer, novate or subcontract its rights, liabilities or obligations under this Agreement either in whole or in part to any other person, firm or company. Humphreys shall promptly give notice to the Client of any such assignment.

12.2 The Client shall not (and shall not purport to) assign, sub-license, transfer, novate, charge or otherwise encumber, create any trust over or deal in any manner with this Agreement or any of its rights, liabilities or obligations under this Agreement without the prior written consent of Humphreys (such consent not to be unreasonably withheld or delayed).

12.3 Each Party shall bear all responsibility for the acts and omissions of its employees, agents, contractors, customers and third party service providers as if carried out by that Party; and each Party shall procure that all obligations on it which it subcontracts shall be properly undertaken by the subcontractor.

13. CHANGES

13.1 Except as expressly provided otherwise in this Agreement, no change to this Agreement shall be binding unless it is agreed in writing signed by each of the Parties and expressed to be for the purpose of such amendment and in the format of Humphreys' standard template Change Control Form (a copy of which is available from Humphreys on request).

13.2 If the Client would like to make any change to this Agreement, the Client may request that Humphreys makes a proposal for bringing about the change.

13.3 If Humphreys would like to make any change to this Agreement, Humphreys may recommend a proposal for the change.

13.4 To the extent the change is feasible, Humphreys shall state within a reasonable time what would be the effects of the change including on Fees and the rest of the Services and this Agreement.

13.5 Neither Party shall unreasonably withhold or delay agreement to a change reasonably requested by the other Party. Both Parties shall use their respective reasonable endeavours to agree to the change and in a timely manner.

13.6 The final agreed change shall be noted in an agreed Change Control Form (which shall be in the format of Humphreys' standard template Change Control Form (a copy of which is available from Humphreys on request)) and signed by both Parties. Change Control Forms will be numbered sequentially and a status log kept by both Parties. At the same time, the Parties shall also amend the Agreement Schedule if applicable and attach the amended Agreement Schedule to the Change Control Form.

13.7 Until a Change Control Form and, if applicable, the relevant amended Agreement Schedule is signed by both Parties, no change shall come into effect.

14. GENERAL

14.1 Unless a Party expressly states in writing that it is waiving a particular power, right or remedy in a particular stated instance, no failure or delay or omission by either Party in exercising any power, right or remedy under this Agreement or at law shall operate as a waiver of such power, right or remedy; and no waiver in any particular instance shall extend to or affect any other or subsequent event or impair any powers, rights or remedies in respect of it or in any way modify or diminish that Party's other powers, rights or remedies under this Agreement or at law.

14.2 If any Clause or other provision in this Agreement shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall in no way affect any other Clause or provision or part of any Clause or provision, all of which shall remain in full force and effect.

14.3 Nothing in this Agreement shall create or be deemed to create a partnership, an agency or a relationship of employer and employee between the Parties.

14.4 A person who is not a Party to this Agreement has no rights under any law to enforce any term of this Agreement.

14.5 This 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 by and construed in accordance with English law. Each Party irrevocably agrees that the English courts shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims). All dealings, correspondence and contacts between the Parties shall be made or conducted in the English language.

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