

## DATA PROCESSING AGREEMENT

### BETWEEN:

- (1) the client entity set out in the nTrust IT Support Service Agreement (the "**Controller**"); and
  - (2) **NTRUST SYSTEMS LIMITED** a company registered in England and Wales with company number 04397784 whose registered office is at 26 Holmethorpe Avenue, Holmethorpe Industrial Park, Redhill, Surrey, RH1 2N (the "**Processor**"),
- each a "**party**" and together "**the parties**".

### WHEREAS:

- (A) The parties have entered into an nTrust IT Support Service Agreement under which the Processor will perform certain IT support services for the Controller.
- (B) As part of the IT support services, the Processor shall perform the data processing activities set out in Schedule 1 and in accordance with the terms of this agreement.

### IT IS HEREBY AGREED as follows:

#### 1. **Definitions and Interpretation**

##### 1.1 **Definitions:**

<b>"Agreed Purposes"</b>	the purposes set out in Schedule 1 to this agreement.
<b>"Business Days"</b>	any day except Saturday, Sunday and bank and public holidays in England.
<b>"Commencement Date"</b>	the date of the nTrust IT Support Service Agreement agreed between the parties.
<b>"controller", "processor", "personal data", "data subject", "personal data breach", "processing"</b>	as defined in the Data Protection Legislation.
<b>"Data Protection Legislation"</b>	the Data Protection Act 2018; the UK General Data Protection Regulation; the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and any other applicable legislation related to the processing of the Personal Data from time to time.
<b>"EEA"</b>	the European Economic Area.

**“Personal Data”** has the meaning set out in the Data Protection Legislation and refers to the personal data set out in Schedule 1.

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 References to clauses are to the clauses of this agreement.

## **2. Appointment**

2.1 With effect from the Commencement Date, the Controller, as the controller, hereby appoints the Processor as its processor to process the Personal Data for the purposes and on the terms of this agreement.

## **3. Personal data types and processing purposes**

3.1 The Controller retains control of the Personal Data and remains responsible for its compliance obligations under the applicable Data Protection Legislation, and for the processing instructions it gives to the Processor.

3.2 The subject matter and duration of the processing, the nature and purpose of the processing, the types of Personal Data and the categories of data subjects are set out in Schedule 1.

## **4. The Processor’s obligations**

4.1 The Processor will only process the Personal Data to the extent, and in such a manner, as is necessary for the Agreed Purposes in accordance with the Controller’s written instructions. The Processor will not process the Personal Data for any other purpose or in a way that does not comply with this agreement or the Data Protection Legislation.

4.2 The Processor will notify the Controller without delay if, in its opinion, the Controller’s instruction would not comply with the Data Protection Legislation.

4.3 The Processor will promptly comply with any Controller request or instruction requiring the Processor to amend, transfer, delete or otherwise process the Personal Data, or to stop, mitigate or remedy any unauthorised processing.

4.4 The Processor will maintain the confidentiality of all Personal Data and will not disclose Personal Data to third parties unless the Controller or this agreement specifically authorises the disclosure, or as required by law.

4.5 The Processor will reasonably assist the Controller with meeting the Controller’s compliance obligations under the Data Protection Legislation (at the Controller’s cost), including in relation to security of processing, data subject rights, data protection impact assessments and reporting to and consulting with supervisory authorities under the Data Protection Legislation.

## **5. The Processor’s employees**

5.1 The Processor shall ensure that all persons authorised by the Processor to process the Personal Data are informed of the confidential nature of the Personal Data and are bound by confidentiality obligations and use restrictions in respect of the Personal Data.

## **6. Security**

- 6.1 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing, the Processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk to the Personal Data, including:
- 6.1.1 the pseudonymisation and encryption of personal data;
  - 6.1.2 the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
  - 6.1.3 the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident; and
  - 6.1.4 a process for regularly testing, assessing and evaluating the effectiveness of security measures.

## **7. Personal Data Breach**

- 7.1 The Processor will notify the Controller without delay if it becomes aware of:
- 7.1.1 any accidental, unauthorised or unlawful processing of the Personal Data; or
  - 7.1.2 any personal data breach related to the Personal Data.
- 7.2 Where the Processor becomes aware of any matter within the scope of clause 7.1, it shall also provide the Controller with the following information:
- 7.2.1 a description of the nature of the matter, including the categories and approximate number of both data subjects and Personal Data records concerned; and
  - 7.2.2 a description of the measures taken, or proposed to be taken to address the matter, including measures to mitigate its possible adverse effects.
- 7.3 Promptly following any personal data breach related to the Personal Data, the parties will co-ordinate with each other to investigate the matter. The Processor will reasonably assist and co-operate with the Controller in the Controller's handling of the matter.
- 7.4 The Processor shall not inform any third party of any personal data breach related to the Personal Data without first obtaining the Controller's prior written consent (such consent not to be unreasonably withheld or delayed), except when required to do so by law.

## **8. Cross-Border transfers of Personal Data**

- 8.1 The Processor shall not transfer any Personal Data outside the United Kingdom or outside of the EEA without the Controller's prior written consent.
- 8.2 Where the Controller consents to the transfer, the Processor shall ensure that the transfer complies with Data Protection.

## **9. Subcontractors**

- 9.1 The Processor may not appoint a third party ("**Subcontractor**") to process the Personal Data without the prior written consent of the Controller and only if the Processor enters into a written contract with the Subcontractor that contains terms substantially the same as those set out in this agreement.
- 9.2 Those Subcontractors approved as at the commencement of this agreement are as set out in Schedule 1.
- 9.3 Where the Subcontractor fails to fulfil its obligations under such written agreement, the Processor remains fully liable to the Controller for the subcontractor's performance of its obligations.

## **10. Complaints, data subject requests and third-party rights**

- 10.1 The Processor shall take such technical and organisational measures as may be appropriate, and provide such information to the Controller as the Controller may reasonably require, to enable the Controller to comply with:
- 10.1.1 the rights of data subjects under the Data Protection Legislation; and
  - 10.1.2 information or assessment notices served on the Controller by any supervisory authority under the Data Protection Legislation.
- 10.2 The Processor shall notify the Controller without delay if it receives any complaint, notice or communication that relates directly or indirectly to the processing of the Personal Data.
- 10.3 The Processor shall notify the Controller within 2 Business Days if it receives a request from a data subject for access to their Personal Data or to exercise any of their related rights under the Data Protection Legislation.
- 10.4 The Processor shall give the Controller all reasonable co-operation and assistance in responding to any complaint, notice, communication or data subject request.
- 10.5 The Processor must not disclose the Personal Data to any data subject or to a third party other than at the Controller's written request or instruction, as provided for in this agreement or as required by law.

## **11. Term and termination**

- 11.1 This agreement commences on the Commencement Date and continues until nTrust IT Support Service Agreement is terminated (or expires) and the Processor has ceased all processing of Personal Data under this agreement.
- 11.2 Without affecting any other right or remedy available to it, either party may terminate this agreement on giving not less than one month's written notice to the other party.

## **12. Data return and destruction**

- 12.1 At the written request of the Controller for any reason, the Processor will securely delete or destroy or return and not retain, all or any Personal Data in its possession or control.

- 12.2 If any law, regulation, or government or regulatory body requires the Processor to retain any documents or materials that the Processor would otherwise be required to return or destroy, it will notify the Controller in writing of that retention requirement, giving details of the documents or materials that it must retain, the legal basis for retention, and establishing a specific timeline for destruction once the retention requirement ends.

### **13. Audit and expenses**

The Processor shall provide the Controller with all information reasonably requested by the Controller to demonstrate compliance with this agreement. The Processor shall permit the Controller to audit the Processor's compliance with this agreement, on reasonable request.

### **14. Notices**

- 14.1 Any notice given to a party under this agreement shall be in writing and shall be sent by commercial courier to the recipient's address in this agreement or sent by email to the recipient's email address as below (or to such other address or email address notified by the recipient under this clause 14):

14.1.1 Controller: the email address set out in the Services Form (forming part of the nTrust IT Support Services Agreement);

14.1.2 Processor:

- 14.2 Any notice shall be deemed to have been received:

14.2.1 if sent by commercial courier, at the time the notice is left at the proper address;

14.2.2 if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause, business hours mean 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

### **15. General**

- 15.1 No variation of this agreement shall be effective unless it is in writing and signed by both parties.

- 15.2 A waiver of any right or remedy under this agreement or by law shall only be effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

- 15.3 This agreement constitutes the entire agreement between the parties, and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

- 15.4 This agreement does not give rise to any third-party rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

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

15.6 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

## **Schedule 1 Data Processing Details**

### **Subject matter and purpose**

The subject matter and purpose of the processing the Personal Data is for the Processors performance of the Services for the Controller

### **Duration**

The duration of the processing is for as long as the Processor is appointed under this agreement and holds or retains any Personal Data in its possession or control plus a short period afterwards to allow for the Personal Data to be deleted or returned to the Controller.

### **Nature**

The nature of the processing includes billing, CRM and support services.

### **Types of Personal Data**

The types of personal data to be processed includes names, addresses, telephone numbers and email addresses.

### **Categories of Data Subjects**

The categories of data subjects are employees of the Controller.

## **Subcontractors**

Some third-party suppliers to nTrust Systems may need to hold client related data. These suppliers may hold basic data such as Company Name and address, email address and contact number.

- 3CX (VOIP telephone systems)
- Amazon Business
- Arrow ECS (hardware and networking supplies)
- BitTitan (email migration)
- Cyber Smart (cyber security)
- Essanet Ltd (hardware supplies)
- Exclaimer Ltd (software licencing)
- Fortinet (Networking equipment)
- GFI Group Inc. (software licencing)
- Ingram Micro (hardware and software supplies)
- IASME (cyber security)
- Kaseya (helpdesk software)
- MailChimp (email distribution, data held in USA, see nTrust Systems Privacy Policy, Section 5)
- Microsoft Corporation (software supplies)
- Panda Security Ltd (antivirus software licencing)
- Skykick (cloud backup service)
- Solarwinds Inc. (software licencing)
- Tech Data Synnex (hardware and perpetual software supplies)
- The Change (hardware supplies)
- Xero (cloud accounting software)

These suppliers would hold basic contact information and, in the course of their supply of services to you, hold information such as your telephone call records.

- Gradwell Communications Ltd (VoIP telecoms)
- ICUK Computing Ltd (Website hosting platform, telephone line rental, broadband, phone calls)
- Voicehost (SIP providers)