

SimplyBiz Services Limited (registered number 04590781) whose registered office is at Fintel House, St Andrew's Road, Huddersfield, West Yorkshire, HD1 6NA ("we" or "us" or "our")

STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF COMPLIANCE AND BUSINESS SUPPORT SERVICES

These Conditions apply to all of our compliance and business support offerings, including:

- (i) SimplyBiz Core and Plus;
- (ii) Signature;
- (iii) Consumer Credit Centre; and
- (iv) Compliance First,

(each a **"Business Support Service"**).

Your attention is particularly drawn to the exclusions and limitations of liability at Condition 9.

If you have any questions regarding the information contained in these Conditions, please contact us on 01484 439100.

1. DEFINITIONS AND INTERPRETATION

In these Conditions:

- 1.1 the following words and expressions have the following meanings unless the context otherwise requires:

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| "Additional Services" | any additional services that are requested by you after the Agreement Start Date which we agree to provide to you in accordance with Condition 3.3 |
| "Advisers" | the individuals who are permitted to access and use the Services at any given time in accordance with the terms of the Agreement |
| "Agreement" | the agreement between you and us for the provision of the Services formed in accordance with Condition 2.2 |
| "Agreement Controller Data" | Personal Data which: (a) is Processed by you and/or by us as Controller in connection with the Agreement; and (b) is not Processed by us as Processor on your behalf, which, in the case of Agreement Controller Data to be Processed by us, is more particularly described in our Privacy Notices |
| "Agreement Processor Data" | Personal Data which is to be Processed under the Agreement by us as your Processor, as more particularly described in Annex A (Agreement Processor Data) |
| "Agreement Start Date" | the date on which an Agreement is formed in accordance with Condition 2.2 |

"Applicable Law"

any:

(a) law including any statute, statutory instrument, bye-law, order, regulation, directive, treaty, decree, decision (as referred to in Article 288 of the Treaty on the Functioning of the European Union);

(b) rule, policy, guidance or recommendation issued by any governmental, statutory or regulatory body; and/or

(c) industry code of conduct or guideline,

in force from time to time which relates to the Agreement and/or the Services and/or the activities which are comprised in all or some of the Services or the use or application of the Deliverables

"Authorisation Date"

the date on which you are first permitted by the FCA to carry out regulated activities (as such term is defined in the FCA Handbook, as amended, replaced or superseded from time to time)

"Business Day"

a day that is not a Saturday, Sunday or public or bank holiday in England and/or Wales

"Charges"

(a) the Subscription Charges; and

(b) the charges payable by you to us for the provision of the Additional Services as agreed by you and us in writing,

in each case as may be amended by us giving written notice to you in accordance with the terms of the Agreement and/or as agreed by you and us in writing

"Conditions"

these standard terms and conditions for the supply of the Services, as varied from time to time in accordance with **Condition 14.4**

"Confidential Information"

the meaning given to it in **Condition 12.1**

"Customer Data"

all data in any medium which you permit or request (whether expressly or by implication) us to access, store, transmit, distribute or otherwise process as part of the Services

"Data Protection Laws"

any laws in force in the United Kingdom from time to time that relate to data protection, the processing of personal data and privacy applicable to the parties to the Agreement and/or the subject matter or performance of the Agreement; and references to **"Controller"**, **"Data Subjects"**, **"Personal Data"**, **"Process"**, **"Processed"**, **"Processing"** and **"Processor"** have the meanings set out in, and will be interpreted in accordance with, such laws

"Data Security Incident"

a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Agreement Processor Data

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| | or Agreement Controller Data (as applicable) transmitted, stored or otherwise Processed |
| "Deliverables" | any deliverables we supply to you in connection with the Services, including all content made available to you as part of the Subscription Services accessed via the Operating Centre, mailings, brochures and event materials |
| "Directory of Services" | the relevant Business Support Service directory of services as amended, updated and replaced by us from time to time and which is available upon request from us |
| "Discloser" | the meaning given to it in Condition 12.1 |
| "Engagement Documentation" | the documentation setting out the Services, the Notice Period, the Subscription Charges, the Minimum Payment Term (in each case as applicable) and your direct debit mandate (if applicable) |
| "FCA" | Financial Conduct Authority or any successor regulator |
| "FCA Handbook" | the FCA Handbook |
| "Group Companies" | <p>in respect of a person, its Holding Companies, its Subsidiaries and the Subsidiaries of any of its Holding Companies from time to time ("Holding Company" and "Subsidiary" having the meanings set out in section 1159 Companies Act 2006, and for the purposes of section 1159(1) a company (the first company) will be treated as a member of another company if:</p> <ul style="list-style-type: none"> (a) any of its subsidiaries is a member of that other company; or (b) any shares in that other company are held by a person acting on behalf of the first company or any of its subsidiaries; or <p>any shares in that other company are registered in the name of a person (or its nominee) by way of security or in connection with the granting of security over those shares by the first company)</p> |
| "Insolvent" | <p>you:</p> <ul style="list-style-type: none"> (a) have a receiver, administrator or provisional liquidator appointed; (b) are subject to a notice of intention to appoint an administrator; (c) pass a resolution for your winding-up (save for the purpose of a solvent restructuring previously approved in writing by us); (d) have a winding up order made by a court in respect of your business; |

- (e) enter into any composition or arrangement with creditors (other than relating to a solvent restructuring previously approved in writing by us);
- (f) cease to carry on business; or
- (g) are the subject of any proceeding in any Member State of the European Union which is capable of recognition under the EC Regulation on Insolvency Proceedings (EC 1346/2000) or the EU Regulation on Insolvency Proceedings (Recast) (EU 2015/848)

"Intellectual Property Rights"

all intellectual and industrial property rights of any kind whatsoever including patents, supplementary protection certificates, rights in Know-How, registered trade marks, registered designs, models, unregistered design rights, unregistered trade marks, rights to prevent passing off or unfair competition and copyright (whether in drawings, plans, specifications, designs and computer software or otherwise), database rights, topography rights, any rights in any invention, discovery or process, and applications for and rights to apply for any of the foregoing, in each case in the United Kingdom and all other countries in the world and together with all renewals, extensions, continuations, divisions, reissues, re-examinations and substitutions

"Know-How"

formulae, methods, plans, inventions, discoveries, improvements, processes, performance methodologies, techniques, specifications, technical information, tests, results, reports, component lists, manuals and instructions

"Liability"

liability arising out of or in connection with the Agreement, whether in contract, tort, misrepresentation, restitution, under statute or otherwise, including any liability arising from a breach of, or a failure to perform or defect or delay in performance of, any of a party's obligations under the Agreement, in each case howsoever caused including if caused by negligence

"Minimum Payment Term"

the term of the Agreement plus, where applicable as set out in the Engagement Documentation, such further period of time during which you are required to continue to pay the Charges following the Termination Date

"Notice Period"

the notice period for termination of the Agreement as set out in the Engagement Documentation or as otherwise determined in accordance with **Condition 10.3**

"On-Site Visit"

each visit to your premises on a date agreed between us and you during which we provide on-site regulatory compliance and other business services, as more particularly described in the Directory of Services or as agreed in writing between you and us

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| "Operating Centre" | the online portal to which you will be granted access as part of the Subscription Services and through which our compliance support documentation is made available |
| "Payment Date" | the 27 th of each month unless otherwise set out in the Engagement Documentation or as otherwise agreed by you and us in writing |
| "Privacy Notices" | our privacy notices as set out at www.simplybiz.co.uk/privacy-notice as amended, updated, replaced and added to by us from time to time |
| "Recipient" | the meaning given to it in Condition 12.1 |
| "Representatives" | in respect of a party, that party's Group Companies and its and their officers, directors, employees, consultants and professional advisers and, where we are the Recipient, our agents and sub-contractors; and "Representative" means any of them |
| "Restricted Transfer" | a transfer of Agreement Processor Data which is undergoing Processing or which is intended to be Processed after transfer, to a country or territory to which such transfer is prohibited or subject to a requirement to take additional steps to adequately protect the Agreement Processor Data for the transfer to be lawful under the Data Protection Laws |
| "Services" | the Subscription Services and the Additional Services (in each case as applicable) |
| "Services Start Date" | the start date for the provision of each of the Services, which in the absence of anything to the contrary in the Engagement Documentation will be the Agreement Start Date |
| "Sub-Processor" | any third party appointed by us when we are acting as a Processor to Process Agreement Processor Data |
| "Subscription Charges" | the charges payable by you to us for the Subscription Services as set out in the Engagement Documentation |
| "Subscription Charges Limits" | the upper and lower limits on the Subscription Charges payable by you under the Agreement (where applicable to a Business Support Service) as set out in the Engagement Documentation being the maximum "cap" on the Subscription Charges and the minimum "collar" on the Subscription Charges |
| "Subscription Services" | the services to be provided to you by us as indicated in the Engagement Documentation and more particularly described as (i) being provided as part of your subscription and/or (ii) provided without charge or additional cost in the Directory of Services |
| "Supervisory Authority" | any governmental or regulatory authority responsible for enforcing any Data Protection Laws and any replacement or successor body or person for any such authority from time to time |

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| "Termination Date" | the date on which the Agreement terminates for whatever reason |
| "VAT" | value added tax |
| "Year" | the period of 12 months starting on the Agreement Start Date, each successive period of 12 months and/or the period (if any) starting on the day following expiry of the last such period of 12 months and ending on the Termination Date |
| "you" | the body corporate, association, partnership, firm, trust, organisation, sole trader, joint venture agreeing to receive the Services from us who accepts the Engagement Document and these Conditions in accordance with Condition 2.2 , and "your" will be construed accordingly |
| 1.2 | references to a "person" include any individual, body corporate, association, partnership, firm, trust, organisation, joint venture or any other entity (in each case whether or not having separate legal personality); |
| 1.3 | references to a "party" or to the "parties" will mean you and us as the context requires; |
| 1.4 | references to any statute or statutory provision will include any subordinate legislation made under it and will be construed as references to such statute, statutory provision and/or subordinate legislation as modified, amended, extended, consolidated, re-enacted and/or replaced and in force from time to time; |
| 1.5 | unless the context otherwise requires references to the singular include the plural and vice versa and references to any gender include every gender; |
| 1.6 | references to re-enactment of any statute or statutory provision (including any subordinate legislation) include references to the preservation, continuation of effect, conversion or incorporation of any of them into the law of England and Wales, Scotland and Northern Ireland, whether by the European Union (Withdrawal) Act 2018 or any other legislation relating to the withdrawal of the United Kingdom from the European Union; |
| 1.7 | Annex A to these Conditions forms part of these Conditions and will have the same force and effect as if set out in the body of these Conditions and any reference to these Conditions will include Annex A; |
| 1.8 | any reference to the Agreement will include the Engagement Documentation and these Conditions; |
| 1.9 | any words following the words "include", "includes", "including", "in particular" or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them; |
| 1.10 | references to "in writing" or "written" include facsimile and e-mail but not other methods of electronic messaging; |
| 1.11 | references to the Agreement are references to the Agreement as varied from time to time in accordance with Conditions 14.4 and 14.5 and as assigned or novated from time to time; |
| 1.12 | references to any other agreement or document in the Engagement Documentation or these Conditions are to such agreement or document as varied, assigned or novated from time to time; and |
| 1.13 | an obligation on a party to procure or ensure the performance or standing of another person will be construed as a primary obligation of that party. |

2. **AGREEMENT FORMATION**

- 2.1 We offer compliance and business support services. These Conditions set out the basis on which we will provide our services to you and will apply to the exclusion of all other terms and conditions including any terms and conditions which you purport to apply under any purchase order, confirmation of provision of supplementary services or similar document and any terms and conditions which may otherwise be implied by trade, custom, practice or course of dealing.
- 2.2 An Agreement will be formed when you accept the Engagement Documentation and these Conditions in one (whichever the sooner) of the following ways:
- 2.2.1 by you signing the Engagement Documentation; or
- 2.2.2 following receipt of Engagement Documentation from us, by you accepting the Engagement Documentation and these Conditions by electronic means.
- 2.3 The Agreement consists of the relevant Engagement Documentation and these Conditions (as may be amended from time to time in accordance with **Condition 14.4**). These Conditions will in all cases be deemed to be incorporated into and govern the Agreement. In the event of any conflict or inconsistency between these Conditions and the Engagement Documentation then, to the extent of any conflict or inconsistency, the order of precedence will be as follows: any provisions expressly stated in the Engagement Documentation to be "special terms" (first precedence); these Conditions; the provisions of the Engagement Documentation (other than any terms expressly stated as "special terms").

3. **SERVICES**

- 3.1 Subject to you paying to us the Charges and any Visit Cancellation Fees (as defined in **Condition 4.3**) and to the formation of the Agreement in accordance with **Condition 2.2**, we will provide each of the Services in accordance with these Conditions from the Services Start Date until the Termination Date.
- 3.2 We reserve the right, as we determine in our sole discretion, to make any improvement, substitution or modification to any element or part of the Services at any time provided that such improvement, substitution or modification will not have a material detrimental impact on the Services. Where practical to do so, we will give you at least three (3) months' notice in advance of any such change.
- 3.3 You may request and we may from time to time agree to provide Additional Services to you, such agreement to be in writing. We will not be under any obligation to provide such requested Additional Services unless agreed in writing and, for the purposes of the Agreement, such written agreement shall constitute Engagement Documentation. The applicable Charges and start date for such Additional Services will be agreed in writing prior to the relevant start date for such Additional Services and these Conditions will apply to such Additional Services.
- 3.4 Our ability to make the Operating Centre available to you is contingent on the availability and performance of the internet. We give no warranty, guarantee or assurance as to the availability of the Operating Centre and, subject to **Condition 9.4**, we accept no Liability in respect of any unavailability of, failure of, or deficiency in the Operating Centre. Any access to the Operating Centre which is provided to you by us will be on such terms as we notify to you from time to time. If you are unable to access the Operating Centre, you can call us on 01484 439100 to arrange for us to send you copies of the compliance support documentation that would otherwise have been available to you through the Operating Centre.
- 3.5 Where a set number of Deliverables per Year (including On-Site Visits) are included in your Subscription Services as set out in the Engagement Documentation, if you do not take up any such Deliverables (including On-Site Visits) allocated in any Year within 90 days of the end of the relevant Year, such Deliverables (including On-Site Visits) will automatically lapse and may no longer be taken up in any subsequent Year.

4. **ON-SITE VISITS**

- 4.1 Any On-Site Visits in addition to those (if any) outlined in the Engagement Documentation as being provided as part of the Subscription Services will be subject to additional charges which we will agree with you in advance.
- 4.2 To book an On-Site Visit, or to rearrange or cancel an On-Site Visit, you should contact us by phone or e-mail. Once your On-Site Visit has been booked or rearranged, we will send you an e-mail confirming the charges (if applicable) and the date of the On-Site Visit.

4.3 If:

- 4.3.1 we rearrange or cancel an On-Site Visit, we will pay you the relevant amount as set out below (the "**SimplyBiz Cancellation Fees**"); and
- 4.3.2 you rearrange or cancel an On-Site Visit, you will pay us the relevant amount as set out below (the "**Visit Cancellation Fees**").

The SimplyBiz Cancellation Fees and Visit Cancellation Fees (as applicable) payable in respect of each rearrangement or cancellation of an On-Site Visit shall be as follows:

- 4.3.3 if an On-Site Visit is rearranged or cancelled more than 14 days before the scheduled On-Site Visit, there will be no amount payable as SimplyBiz Cancellation Fees or Visit Cancellation Fees;
- 4.3.4 if an On-Site Visit is rearranged or cancelled 14 days or less but more than 7 days before a scheduled On-Site Visit, the amount payable is £100;
- 4.3.5 if an On-Site Visit is rearranged or cancelled 7 days or less but more than 48 hours before a scheduled On-Site Visit, the amount payable is £200; and
- 4.3.6 if an On-Site Visit is rearranged or cancelled 48 hours or less before a scheduled On-Site Visit, the amount payable is £300.
- 4.4 Any SimplyBiz Cancellation Fees will be paid by BACS transfer (to the bank account set out in the direct debit mandate of the Engagement Documentation or such other bank account as you may nominate in writing from time to time) no later than 45 days after: (i) the scheduled On-Site Visit to which such SimplyBiz Cancellation Fees relate; or (ii) in the event that the direct debit mandate of the Engagement Documentation contains no bank account details, the date on which you nominate your bank account to us in writing (whichever is the later).
- 4.5 Any Visit Cancellation Fees will be payable in addition to the Charges. If the Visit Cancellation Fees relate to an On-Site Visit scheduled for a date at least 10 days prior to the next Payment Date, such Visit Cancellation Fees will be payable alongside the Charges that are payable on such Payment Date. If the date of the scheduled On-Site Visit falls 10 days or less prior to the next Payment Date, such Visit Cancellation Fees will be payable alongside the Charges that are payable on the following Payment Date.
- 4.6 You agree that the Visit Cancellation Fees represent a genuine pre-estimate of loss and a proportionate amount to protect our interests in the performance of the On-Site Visits should you rearrange or cancel an On-Site Visit as set out in **Condition 4.3** and will not be regarded as a penalty provision. You waive any right to claim that the Visit Cancellation Fees are a penalty provision.
- 4.7 Subject to **Condition 9.4**, your and our sole remedies and Liability in respect of the rearrangement or cancellation of any On-Site Visit will be as set out in this **Condition 4**. You will have no right to terminate the Agreement (under **Condition 10** or otherwise) because of the rearrangement or cancellation (as applicable) of any On-Site Visit.

- 4.8 The parties may agree (at each party's own discretion) to substitute an On-Site Visit for remotely delivered services of equivalent value (the determination of such equivalent value to be at our discretion). Such agreement will be made in writing.

5. **INTELLECTUAL PROPERTY RIGHTS**

- 5.1 With effect from the Agreement Start Date until the Termination Date and subject to your compliance with **Condition 5.2**, we grant to you a non-exclusive licence to use within the United Kingdom the Deliverables (and any Intellectual Property Rights in the Deliverables) solely for your own business purposes to the extent necessary to receive and use the benefit of the Services.

- 5.2 You must:

- 5.2.1 not modify, alter, adapt, make error corrections to or in any way interfere with any Deliverables (or any part thereof) provided or made available by us or merge them with or incorporate them into other products, services, data, programs or systems or attempt to do any of these things;
- 5.2.2 save to the extent expressly permitted by law, not decompile, reverse engineer, decode or disassemble any Deliverables (or any part thereof) provided or made available by us;
- 5.2.3 not remove or alter any copyright notices or similar proprietary devices, including any electronic watermarks or other identifiers, that may be incorporated in any Deliverables (or any part thereof) provided or made available by us;
- 5.2.4 not assign, novate, sub-license, rent, lease, sell, pledge, charge, transfer or otherwise dispose of or grant rights over or out of any Deliverables (or any part thereof) provided or made available by us and will not attempt to do any of those things; and
- 5.2.5 notify us as soon as you become aware of any unauthorised use by any person of any Deliverables (or any part thereof) provided or made available by us.

6. **YOUR OBLIGATIONS**

- 6.1 You will:

- 6.1.1 provide us with all such information and assistance as we may reasonably require from time to time to perform our obligations or exercise our rights under the Agreement;
- 6.1.2 provide all necessary access to your premises, personnel, systems, records and documentation to enable us to perform our obligations or exercise our rights under the Agreement;
- 6.1.3 take all necessary precautions to protect the health and safety and security of our personnel whilst they are at your premises;
- 6.1.4 provide all necessary access to data, programs and electronic records to enable us to comply with our obligations under the Agreement;
- 6.1.5 maintain complete, up to date, reproducible and accurate backup copies of all relevant data, programs and electronic records held by you including Customer Data; and
- 6.1.6 ensure that all Customer Data and all other information (including data and electronic records) which you provide (or is provided on your behalf) to us and/or are made available to us are accurate, adequate and complete.

- 6.2 Your access to and use of any software (including software-as-a-service), platforms and/or systems provided by us as part of the Services are subject to our licence terms and acceptable use policies applicable to such software, platforms and/or systems (as updated, amended and replaced from time to time) ("**Usage Terms**"). You agree that:
 - 6.2.1 your access or use of software (including software-as-a-service), platforms and/or systems that we provide will be governed by the Usage Terms;
 - 6.2.2 all Usage Terms notified to you in writing shall be deemed incorporated into and will form part of the Agreement; and
 - 6.2.3 you will at all times comply with all applicable Usage Terms.
- 7. **AGREEMENT PERSONAL DATA, DATA PROTECTION AND INFORMATION SECURITY**
 - 7.1 Each party will comply with the Data Protection Laws in respect of Agreement Processor Data and Agreement Controller Data.
 - 7.2 To the extent that we Process Personal Data as Processor on your behalf as set out in Annex A (Agreement Processor Data):
 - 7.2.1 you authorise us to Process the Agreement Processor Data during the term of the Agreement as a Processor for the purposes set out in Annex A (Agreement Processor Data);
 - 7.2.2 you will ensure that:
 - 7.2.2.1 you have collected and transferred any Agreement Processor Data that we are instructed to Process as Processors in accordance with the Data Protection Laws;
 - 7.2.2.2 you have all necessary rights to authorise us to Process Agreement Processor Data in accordance with the Agreement and the Data Protection Laws; and
 - 7.2.2.3 your instructions to us relating to Processing of Agreement Processor Data will comply with Data Protection Laws and not put us in breach of Data Protection Laws, including with regard to Restricted Transfers;
 - 7.2.3 if we consider that any instructions from you relating to Processing of Agreement Processor Data may put us in breach of Data Protection Laws, we will be entitled not to carry out that Processing and will not be in breach of the Agreement or otherwise liable to you as a result of our failure to carry out that Processing;
 - 7.2.4 you authorise us to engage any person as a sub-processor for the Processing of Agreement Processor Data. We will inform you of any changes concerning the addition or replacement of Sub-Processors (but will not be required to obtain your consent to such changes);
 - 7.2.5 if we appoint a Sub-Processor, we will put a written contract in place between us and the Sub-Processor that specifies the Sub-Processor's Processing activities and imposes on the Sub-Processor no less protective terms to those imposed on us in this **Condition 7**. We will remain liable to you for performance of the Sub-Processor's obligations;
 - 7.2.6 we will:
 - 7.2.6.1 Process the Agreement Processor Data only on documented instructions from you (unless we or the relevant Sub-Processor is/are required to Process Agreement Processor Data to comply with:

- (a) European Union law or European Union Member State law, to which we are subject; or
- (b) if the United Kingdom leaves the European Union, United Kingdom law to which we are subject,

in which case we will notify you of such legal requirement prior to such Processing unless such Applicable Laws prohibit notice to you on public interest grounds). For the purpose of this **Condition 7.2.6.1**, the obligations on us to perform the Services are documented instructions. Nothing in this **Condition 7.2.6.1** will permit you to vary our obligations under the Agreement;
- 7.2.6.2 without prejudice to **Conditions 7.1** and **7.2.2.3**, immediately inform you if, in our reasonable opinion, any instruction received from you infringes:
 - (a) European Union law or European Union Member State law; or
 - (b) if the United Kingdom leaves the European Union, United Kingdom law;
- 7.2.6.3 ensure that any individual authorised to Process Agreement Processor Data is subject to confidentiality obligations or is under an appropriate statutory obligation of confidentiality; and
- 7.2.6.4 at your option, delete or return to you all Agreement Processor Data after the end of the provision of the Services relating to Processing, and delete any remaining copies. We will be entitled to retain any Agreement Processor Data which we have to keep to comply with any Applicable Law or which we are required to retain for insurance, accounting, taxation or record keeping purposes;
- 7.2.7 we will only make a Restricted Transfer if:
 - 7.2.7.1 a competent authority or body of the United Kingdom or the European Commission (as applicable) makes a binding decision that the country or territory to which the Restricted Transfer is to be made ensures an adequate level of protection for Processing of Personal Data;
 - 7.2.7.2 we or the relevant Sub-Processor provide(s) adequate safeguards for that Restricted Transfer in accordance with Data Protection Laws, in which case you will execute any documents (including data transfer agreements) relating to that Restricted Transfer which we or the relevant Sub-Processor require(s) you to execute from time to time; or
 - 7.2.7.3 we or the relevant Sub-Processor are/is required to make the Restricted Transfer to comply with:
 - (a) European Union law or European Union Member State law, to which you are subject; or
 - (b) if the United Kingdom leaves the European Union, United Kingdom law to which you are subject,

in which case we will notify you of such legal requirement prior to such Restricted Transfer unless such Applicable Laws prohibit notice to you on public interest grounds;
- 7.2.8 we will:

- 7.2.8.1 implement appropriate technical and organisational measures designed to ensure a level of security appropriate to the risk of the Processing undertaken by us under the Agreement;
- 7.2.8.2 notify you without undue delay after becoming aware of a Data Security Incident;
- 7.2.8.3 provide reasonable assistance to you (at your cost) in:
 - (a) complying with your obligations under the Data Protection Laws relating to the security of Processing Agreement Processor Data;
 - (b) responding to requests for exercising Data Subjects' rights under the Data Protection Laws, including by appropriate technical and organisational measures, insofar as this is possible;
 - (c) documenting any Data Security Incidents and reporting any Data Security Incidents to any Supervisory Authority and/or Data Subjects; and
 - (d) conducting privacy impact assessments of any Processing operations and consulting with Supervisory Authorities, Data Subjects and their representatives accordingly;
- 7.2.9 we will:
 - 7.2.9.1 at your cost, make available to you all information necessary to demonstrate compliance with the obligations set out in this **Condition 7**; and
 - 7.2.9.2 allow for and contribute to audits, including inspections, conducted by you or another auditor mandated by you, provided that you give us at least 90 days' prior written notice of each such audit and that each audit is carried out at your cost, during business hours, so as to cause the minimum disruption to our business and without you or your auditor having any access to any data belonging to a person other than you. Any materials disclosed during such audits and the results of and/or outputs from such audits will be deemed to be our Confidential Information and the provisions of **Condition 12** will apply to them;
- 7.2.10 you will ensure that you have collected and transferred any Agreement Processor Data we are instructed to Process as Processors in accordance with the Data Protection Laws so that our Processing of Agreement Processor Data is compliant with the Data Protection Laws.
- 7.3 The parties agree and acknowledge that we will act as Controller in respect of Agreement Controller Data set out in the Privacy Notices.
- 7.4 Where each party is acting as Controller of Agreement Controller Data:
 - 7.4.1 you agree that nothing will preclude us from being able to act as a sole Controller in our own right in respect of Agreement Controller Data relating to your customers/clients or other third parties outside of and/or ancillary to the Services;
 - 7.4.2 each party will independently:
 - 7.4.2.1 Process the Agreement Controller Data in accordance with its obligations under the Data Protection Laws;

- 7.4.2.2 implement technical and organisational security measures to ensure a level of security appropriate to the risk presented by Processing the Agreement Controller Data, in particular from a Data Security Incident;
- 7.4.2.3 be responsible for complying with any request from or on behalf of Data Subjects seeking to exercise their rights under the Data Protection Laws and responding to complaints or queries that the party receives from any member of the public;
- 7.4.2.4 as soon as reasonably practicable and without undue delay inform the other party about any:
 - (a) request relating to any Agreement Controller Data which is Processed by the other party from any law enforcement authority ("**Law Enforcement Request**");
 - (b) communication from any supervisory authority specifically relating to any Agreement Controller Data which is Processed by the other party ("**Supervisory Authority Request**"); and
 - (c) request by a data subject in relation to the exercise of his or her rights pursuant to the Data Protection Laws relating to any Agreement Controller Data which is Processed by the other party ("**Data Subject Request**"),
 unless it is otherwise legally prohibited from doing so and to the extent permitted by the Data Protection Laws; and
- 7.4.2.5 at its own cost, provide reasonable assistance to the other party as necessary to enable the other party to comply with any Law Enforcement Request, Supervisory Authority Request and/or Data Subject Request;
- 7.4.3 you will ensure that:
 - 7.4.3.1 any Agreement Controller Data you share with us is:
 - (a) shared in compliance with the Data Protection Laws and in accordance with the purposes set out in the Privacy Notices; and
 - (b) not corrupt, damaged, degraded or otherwise unusable;
 - 7.4.3.2 you have all necessary rights, consents required and have provided all such notices, to ensure its direct or indirect disclosure of Agreement Controller Data to us is fair and lawful and in accordance with Data Protection Laws;
 - 7.4.3.3 you will not cause us to breach any relevant obligation under the Data Protection Laws; and
 - 7.4.3.4 you will not refer to us in relation to any report in respect of a Data Security Incident without our prior written consent.
- 7.5 To the extent that we reasonably consider that the parties act as joint Controllers in respect of any Personal Data, you will act reasonably to agree documented details of the Processing operations undertaken by each of the parties in that role and the other information required by Article 26 GDPR prior to any such Processing as joint Controllers taking place.
- 7.6 Without prejudice to the foregoing provision in this **Condition 7**, you authorise us to act on your behalf to:

- 7.6.1 obtain, disclose, store, migrate, transmit, use, manage and process Customer Data;
- 7.6.2 issue instructions to any processor of Customer Data on your behalf and, where different, each controller of the relevant Customer Data (including for the purposes of Articles 28 and 29 of the General Data Protection Regulation); and
- 7.6.3 require any third party to offer-up the Customer Data to you, us and/or any third party,

in each case as reasonably determined by us for the purpose of enabling you, us and/or any third parties to: (i) obtain, migrate and/or transmit the Customer Data to us, any replacement or alternative platform and/or any replacement or alternative supplier; and (ii) further disclose, store, migrate, transmit, use, manage and process the Customer Data in connection with the Agreement.

8. CHARGES AND PAYMENT

- 8.1 You will pay the Charges to us in accordance with this **Condition 8**. You will pay any applicable Visit Cancellation Fees to us in accordance with **Condition 4.5** and this **Condition 8**.
- 8.2 Any sum payable under the Agreement is exclusive of VAT (and any other similar or equivalent taxes, duties, fees and levies imposed from time to time by any government or other authority) which will be payable in addition to that sum in the manner and at the rate prescribed by law from time to time.
- 8.3 From the Agreement Start Date, you will pay: (i) the Subscription Charges and the Charges for Additional Services monthly; and (ii) any Visit Cancellation Fees in accordance with **Condition 4.5**. Payments shall be made by monthly direct debit or by using such other method as agreed by us in writing. All payments shall be made in pounds sterling.
- 8.4 We reserve the right to increase the Charges on an annual basis which will take effect from 1 January each Year and will be notified to you 10 Business Days in advance of the applicable 1 January.
- 8.5 Notwithstanding **Condition 8.4** and subject to **Condition 8.6**, we will be entitled to vary the Charges at any time by giving six (6) months' written notice to you in advance.
- 8.6 Subscription Charges are set out in the Engagement Documentation. Subscription Charges following your Authorisation Date will typically be calculated either as: (i) a percentage of your turnover; or (ii) based on the number of your Advisers and On-Site visits taken, but bespoke pricing may be applicable. The Subscription Charges will not exceed the Subscription Charges Limits (where applicable).
- 8.7 If the Subscription Charges are calculated as a percentage of your turnover, we reserve the right, in addition to our rights under **Conditions 8.4** and **8.5** but subject to **Condition 8.6**, to vary the Subscription Charges on 30 days' notice to you to reflect any increase(s) in your turnover. Any increase(s) in the Subscription Charges pursuant to this **Condition 8.7** will be calculated by applying the same agreed percentage of turnover figure to your increased turnover.
- 8.8 If the Subscription Charges are calculated based on the number of Advisers, we reserve the right, in addition to our rights under **Conditions 8.4** and **8.5**, to vary the Subscription Charges on 30 days' notice to you following an increase in the number of Advisers. For the avoidance of doubt, you will not have any right to a reduction in the Subscription Charges in the event that there is a decrease in the number of your Advisers.
- 8.9 Any variation to the Charges made in accordance with this **Condition 8** will come into effect on the date following the day on which the relevant notice period expires (with the exception of **Condition 8.4**, for which any variation in the Charges will take effect from 1 January in the relevant Year).

- 8.10 If you pay by direct debit, we will be entitled to take a direct debit payment from you for the Charges and any Visit Cancellation Fees on the relevant Payment Date. We will notify you of the amount to be debited no less than 10 days in advance of the first Payment Date and will further notify you of any subsequent change to the amount to be debited no less than 10 days in advance of the Payment Date immediately following such change.
- 8.11 Should you have any queries relating to the amount to be taken on the Payment Date, these should be raised within five (5) Business Days from receipt of the notification confirming the sum to be deducted by direct debit on the Payment Date.
- 8.12 If you pay by any means other than direct debit, you will ensure that the Charges and any Visit Cancellation Fees are paid in full in available cleared funds on or before the relevant Payment Date.
- 8.13 If any sum payable by you under the Agreement is not paid on or before the relevant Payment Date, we will be entitled to:
- 8.13.1 charge you interest on that sum at the rate set out in the Late Payment of Commercial Debts (Interest) Act 1998 from the due date until the date of payment (whether before or after judgment), such interest to accrue on a daily basis; and/or
 - 8.13.2 suspend the supply of the Services until payment of all overdue sums has been made.
- 8.14 Unless otherwise expressly set out in the Agreement or required by law, all payments to be made by you to us under the Agreement will be made in full and without any set-off or any deduction or withholding including on account of any counter-claim.
- 8.15 Following termination of the Agreement we will be entitled to request payment by your usual payment method (or by any other payment method reasonably required by us) for all Charges, Visit Cancellation Fees and any other sums that you owe to us which have not yet been paid. You shall pay all such sums promptly and, in any event, within 30 days of our request for payment.
- 8.16 Unless we notify you otherwise, we will be entitled, by giving you written notice, to appropriate any payment made by you to any payment you owe to us.

9. **EXCLUSIONS AND LIMITATIONS OF LIABILITY**

Your attention is particularly drawn to this Condition.

- 9.1 Subject to **Conditions 9.2 and 9.4**, our maximum aggregate Liability to you which arises from acts, events, omissions or circumstances that occur in any one Year will be limited to 150% of the Charges paid by you to us in that Year.
- 9.2 We will have no Liability to you for any:
- 9.2.1 loss of profit (whether direct, indirect or consequential);
 - 9.2.2 loss of use, loss of revenue, loss of production or loss of business (in each case whether direct, indirect or consequential);
 - 9.2.3 loss of goodwill, loss of reputation or loss of opportunity (in each case whether direct, indirect or consequential);
 - 9.2.4 loss of anticipated savings or loss of margin (in each case whether direct, indirect or consequential);
 - 9.2.5 loss of bargain (whether direct, indirect or consequential);
 - 9.2.6 liability that you have to third parties (whether direct, indirect or consequential);

- 9.2.7 loss of use or value of any data or software (whether direct, indirect or consequential);
- 9.2.8 loss or damage arising out of any failure by you to keep full and up to date security copies of any computer program and data held or used by or on behalf of you (whether direct, indirect or consequential); or
- 9.2.9 indirect, consequential or special loss,

subject always to **Condition 9.4**.

- 9.3 Whilst we will use reasonable endeavours to ensure the accuracy and completeness of the Deliverables, including by adapting the Deliverables to your lawful and reasonable instructions, maintaining and complying with internal quality and assurance procedures and carrying out appropriate due diligence, the Deliverables will not always be tailored to your individual business needs. We give no warranty, guarantee or assurance that the Deliverables will be accurate and complete and/or suitable for your requirements and/or fit for any purpose you may require. It is therefore your responsibility to determine whether the Deliverables meet your requirements and/or intended use. As a result, subject to **Condition 9.4**, we will have no Liability to you for any losses (whether direct, indirect or consequential) incurred or suffered by you or any of your clients in reliance on the Deliverables and/or the information contained within the Deliverables. You accept that you act on information contained within the Deliverables at your own risk.
- 9.4 Nothing in the Agreement will operate to exclude or restrict one party's Liability (if any) to the other:
 - 9.4.1 that cannot be excluded or restricted in the Agreement in respect of death or personal injury resulting from negligence by operation of Section 2(1) Unfair Contract Terms Act 1977;
 - 9.4.2 for its fraud or fraudulent misrepresentation or fraud or fraudulent misrepresentation by a person for whom it is vicariously liable; or
 - 9.4.3 for any matter for which it is not permitted by law to exclude or limit, or to attempt to exclude or limit, its liability.
- 9.5 Any of our Liability which falls within **Condition 9.4** will not be taken into account in assessing whether the financial limit in **Condition 9.1** has been reached.
- 9.6 Subject to **Condition 9.4**, all warranties, conditions and other terms implied by law (whether by statute, common law or otherwise) are excluded from the Agreement.

10. **TERMINATION**

- 10.1 If you fail to make any payment due to us under the Agreement on or before the Payment Date we may terminate the Agreement immediately by giving written notice to that effect.
- 10.2 If you:
 - 10.2.1 commit a breach of any term of the Agreement or any term of any other contract between you and us;
 - 10.2.2 become Insolvent; or
 - 10.2.3 do or omit to do anything which does or may damage or adversely affect our reputation or the reputation of any of our Group Companies,

we may terminate the Agreement immediately by giving written notice to you to that effect.

- 10.3 Either we or you may terminate the Agreement by giving the other party written notice to that effect which is equal to the Notice Period. If no Notice Period is set out in the Engagement Documentation such written notice will be six (6) months.
- 10.4 If you terminate the Agreement in accordance with **Condition 10.3**, you will continue to pay the Charges for the duration of the Minimum Payment Term.
- 10.5 You will notify us immediately upon becoming Insolvent.
- 10.6 We may terminate the Agreement immediately by giving written notice to you to that effect in the event that any other contract between you and us expires or is terminated for any reason.
- 10.7 Following termination of the Agreement:
- 10.7.1 the following Conditions will continue in force: **1, 7, 8, 9, 10.7 – 10.9, 12, 13, 14, 15** and **16**, together with any other Conditions which impliedly continue to have effect after termination of the Agreement will continue in force; and
- 10.7.2 all other rights and obligations will immediately cease without prejudice to any rights, obligations, claims (including claims for damages for breach) and liabilities which have accrued prior to the Termination Date.
- 10.8 Within 20 Business Days after the Termination Date:
- 10.8.1 we will, subject to **Condition 7.2.6.4** and the exception set out in **Condition 10.9**:
- 10.8.1.1 if requested to do so by you, return to you all of your Confidential Information in our possession or control; and
- 10.8.1.2 cease to use your Confidential Information; and
- 10.8.2 you will, subject to the exception set out in **Condition 10.9**:
- 10.8.2.1 if requested to do so by us, return to us all of our Confidential Information (including all copies and extracts) in your possession or control; and
- 10.8.2.2 cease to use our Confidential Information.
- 10.9 Subject to **Condition 7.2.6.4**, we may retain any of your Confidential Information to the extent such retention is necessary but only for as long as necessary to comply with any applicable law, rule or regulation or which we are required to retain (i) for insurance, accounting or taxation purposes; and/or (ii) in order to comply with our obligations under or receive the benefit of any other contract(s) between you and us. You may retain any of our Confidential Information to the extent such retention is necessary but only for as long as necessary to comply with any applicable law, rule or regulation, including the FCA Rules, or which you are required to retain (i) for insurance, accounting or taxation purposes and/or (ii) in order to comply with your obligations under or receive the benefit of any other contract(s) between you and us. The provisions of **Condition 12** will continue to apply to retained Confidential Information.
11. **FORCE MAJEURE**
- 11.1 Notwithstanding any other terms of the Agreement, we will not be in breach of the Agreement or otherwise liable to you for any failure to perform or delay or defect in performing our obligations under the Agreement if our failure to perform or delay or defect in performing our obligations under the Agreement arises as a result of:
- 11.1.1 any breach by you of your obligations contained in the Agreement;

- 11.1.2 us relying on any incomplete or inaccurate data provided by or on behalf of you;
 - 11.1.3 us complying with any instruction or request by you or one of your employees; or
 - 11.1.4 any event or circumstance beyond our reasonable control ("**a Force Majeure Event**").
- 11.2 If we are affected by a Force Majeure Event you will continue to pay the Charges in respect of any Services which we continue to supply and any Visit Cancellation Fees (if applicable).
- 11.3 If we are unable to provide all or substantially all of the Services for a period of more than 90 days due to a Force Majeure Event, we will be entitled to terminate the Agreement immediately by giving written notice to that effect to you.
- 11.4 Without prejudice to **Condition 11.1**, if you fail to perform any of your obligations under **Condition 6.1** including to the standards required or by the relevant date for performance as notified by us to you from time to time, then the date for performance by us of any obligations which relate to and/or are dependent on such performance by you will be extended by the period which we reasonably require in order to manage the impact of your defect or delay in performance. Subject to **Condition 9.4**, we will have no Liability for any such defect or delay in performance.
12. **CONFIDENTIALITY**
- 12.1 In the Agreement "**Confidential Information**" means, subject to **Condition 12.4**:
- 12.1.1 any information (whether written, oral, in electronic form or in any other media) that is disclosed in connection with the Agreement by or on behalf of a party (the "**Discloser**") (or one of the Discloser's Representatives) to the other party (the "**Recipient**") or any of the Recipient's Representatives whether before, on or after the date of the Agreement and that relates (in whole or in part) to the Discloser or any of the Discloser's Group Companies or its or their businesses;
 - 12.1.2 any information (whether written, oral, in electronic form or in any other media) disclosed by us (or one of our Representatives) that is contained in or relates to the Deliverables and/or the nature, specification or performance of the Services; and
 - 12.1.3 the terms of or subject matter of the Agreement or any discussions or documents in relation to it, and in respect of such information each party will be deemed to be a Recipient.
- 12.2 The Recipient will at all times, but subject to **Conditions 12.3** and **12.4**:
- 12.2.1 keep the Confidential Information secret and will only disclose it in the manner and to the extent expressly permitted by this **Condition 12**;
 - 12.2.2 use the Confidential Information solely for the purpose of performing its obligations and exercising its rights under the Agreement;
 - 12.2.3 only make such copies, summaries, extracts, transcripts, notes, reports, analyses and recordings (in any form of media) that use, contain or are based on (or derived from) Confidential Information as are reasonably necessary to perform its obligations and exercise its rights under the Agreement; and
 - 12.2.4 keep the Confidential Information safe and secure and apply to it documentary and electronic security measures that match or exceed those the Recipient operates in relation to its own confidential information and will never exercise less than reasonable care.

- 12.3 The Recipient may disclose Confidential Information:
- 12.3.1 subject to **Condition 7**, to those of the Recipient's Representatives who need access to that Confidential Information in order for the Recipient's obligations under the Agreement to be performed and the Recipient's rights under the Agreement to be exercised. Prior to any such disclosure the Recipient must make that Representative aware of the fact that the Confidential Information is confidential and secret and the obligations of confidentiality contained in this **Condition 12** and (unless that Representative is an employee, director or officer of the Recipient) the Recipient will procure that such Representative will enter into a confidentiality agreement with the Recipient on terms substantially equivalent to those contained in this **Condition 12**; and
 - 12.3.2 to the extent required by law, by an order of a court of competent jurisdiction or by any securities exchange, listing authority, governmental or regulatory authority to which the Recipient is subject or to which it submits. Where reasonably practicable and lawful the Recipient will notify the Discloser in writing in advance of such disclosure, will consult with the Discloser as to the content, purpose and means of disclosure and will seek to make such disclosure subject to obligations of confidence consistent, so far as reasonably possible, with the terms of the Agreement.
- 12.4 Subject to **Condition 12.5**, the Recipient's obligations under this **Condition 12** will not extend to Confidential Information which:
- 12.4.1 the Discloser agrees in writing is not Confidential Information;
 - 12.4.2 at the time of disclosure was in the public domain or subsequently enters into the public domain other than as the direct or indirect result of a breach of this **Condition 12** by the Recipient or any of the Recipient's Representatives;
 - 12.4.3 the Recipient can prove to the reasonable satisfaction of the Discloser from written records or other substantive evidence:
 - 12.4.3.1 has been received by the Recipient (or one of the Recipient's Representatives) at any time from a third party who did not acquire it in confidence and who is free to make it available to the Recipient (or the relevant Representative); or
 - 12.4.3.2 was independently developed by the Recipient (or one of the Recipient's Representatives) without any breach of the Agreement.
- 12.5 **Condition 12.4.3** will not apply to the Confidential Information referred to in **Condition 12.1.3**.
- 12.6 The Recipient acknowledges and agrees that damages alone would not be an adequate remedy for breach of **Condition 12.2** by the Recipient. Accordingly, the Discloser (or any of the Discloser's Group Companies) will be entitled, without having to prove special damages, to equitable relief (including injunction and specific performance) for any breach or threatened breach of such clauses by the Recipient.
13. **NOTICES**
- 13.1 Subject to **Condition 13.5**, any notice given under or in connection with the Agreement will be sent to your or our address (as applicable) by pre-paid first class post, mail delivery service providing proof of delivery or sent by e-mail to your or our e-mail address and, in the case of any notice to be given to us, marked for the attention of our specified representative.
- 13.2 Our address, e-mail address and representative are set out below and your address, e-mail address and representative are as set out in the Engagement Documentation and may be

changed by the relevant party giving at least 10 Business Days' notice in accordance with this **Condition 13**:

Address: Recruitment and Retention Team, Fintel House, St Andrew's Road,
Huddersfield, HD1 6NA

E-mail: info@simplybiz.co.uk

For the attention of: Managing Director, SimplyBiz Services Limited

- 13.3 Any notice given in accordance with **Condition 13.1** will be deemed to have been served if given as set out in **Condition 13.1** at 9.00am on the second Business Day after the date of posting for first class and mail delivery services, provided that if a notice is deemed to be served before 9.00am on a Business Day it will be deemed to be served at 9.00am on that Business Day and if it is deemed to be served on a day which is not a Business Day or after 5.00pm on a Business Day it will be deemed to be served at 9.00am on the immediately following Business Day.
- 13.4 To prove service of a notice it will be sufficient to prove that the provisions of **Condition 13.1** were complied with.
- 13.5 This **Condition 13** will not apply to the service of any proceedings.
14. **GENERAL**
- 14.1 The Agreement (consisting of the Engagement Documentation and these Conditions) constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of their subject matter and:
- 14.1.1 neither party has agreed to the Agreement in reliance upon, and it will have no remedy in respect of, any misrepresentation, representation or statement (whether made by the other party or any other person and whether made to the first party or any other person) which is not expressly set out in the Agreement;
- 14.1.2 the only remedies available for any misrepresentation or breach of any representation or statement which was made prior to entry into the Agreement and which is expressly set out in the Agreement will be for breach of contract; and
- 14.1.3 nothing in this **Condition 14** will be interpreted or construed as limiting or excluding the liability of any person for fraud or fraudulent misrepresentation.
- 14.2 A delay in exercising or failure to exercise a right or remedy under or in connection with the Agreement will not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor will the single or partial exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and signed by whichever of us is giving it in the circumstances and for the purpose for which it was given and will not constitute a waiver of any other right, remedy, breach or default.
- 14.3 If any term of the Agreement (including any exclusion from, or limitation of, liability set out in **Condition 9**) is found by any court or body or authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term will be deemed to be severed from the Agreement and this will not affect the remainder of the Agreement which will continue in full force and effect.
- 14.4 Subject to **Conditions 3.2, 8.4 to 8.8** (inclusive) and **14.5**, no variation to the Agreement will be effective unless it is in writing and:
- 14.4.1 signed by a duly authorised representative on behalf of each of the parties; or

- 14.4.2 in the case of any updates to these Conditions, we have given you written notice of such variation(s).
- 14.5 In the event that a new Applicable Law or a change in Applicable Law comes into effect after the Agreement Start Date which renders the provision of some or all of the Services illegal or unlawful, we may vary the Agreement to the extent required such that the provision of such Services is no longer illegal and/or unlawful or vary the Agreement as directed by the relevant regulatory body or, if it is not possible to vary the Agreement as such, we may terminate the provision of some or all of the Services immediately on written notice or as otherwise directed by the relevant regulatory body.
- 14.6 Nothing in the Agreement and no action taken by the parties in connection with them will create a partnership or joint venture or relationship of employer and employee between the parties or give either party authority to act as the agent of or in the name of or on behalf of the other party or to bind the other party or to hold itself out as being entitled to do so.
- 14.7 Each party agrees that it is an independent contractor and is subscribing to or providing the Services as principal and not as agent for or for the benefit of any other person.
- 14.8 The parties do not intend that any term of the Agreement will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person.
- 14.9 Except as set out in **Condition 4.7**, our rights and remedies set out in the Agreement are in addition to and not exclusive of any rights and remedies provided by law.
- 14.10 You will not be entitled to assign, transfer, charge, hold on trust for any person or deal in any other manner with any of your rights under the Agreement. You will not be entitled to sub-contract any of your obligations under the Agreement.
15. **COMPLAINTS AND DISPUTE RESOLUTION**
- 15.1 If you are dissatisfied with any aspect of the Services or you wish to register a complaint, please notify our Group Compliance Director in writing. Subject to **Condition 15.5**, neither party may commence proceedings in relation to any dispute arising out of or in connection with the Agreement, including any question regarding the validity, existence or termination of the Agreement and/or this dispute resolution provision (including in each case in relation to any non-contractual obligations) ("**Dispute**") unless that party has:
- 15.1.1 served a written notice (a "**Referral Notice**") on the other party notifying it of the relevant Dispute; or
- 15.1.2 already received a Referral Notice from the other party in relation to the same Dispute.
- 15.2 Following service of a Referral Notice, each party will respectively procure that the Dispute is referred for resolution to a senior employee who was not directly involved in the provision of the Services or Deliverables for the time being on our behalf and any director for the time being on your behalf. Those representatives will meet with each other either in person or by telephone, conference or other audio call within 7 days of service of the Referral Notice and will negotiate in good faith and attempt to resolve the Dispute.
- 15.3 If a Dispute has not been resolved within 7 days of the date of service of the relevant Referral Notice each party will respectively procure that such Dispute be referred for resolution to a director for the time being on our behalf and a director for the time being on your behalf. Those representatives will meet in person at the earliest convenient time and in any event within 14 days of the date of service of the relevant Referral Notice and will negotiate in good faith and attempt to resolve the Dispute.
- 15.4 If a Dispute is not resolved within 14 days of service of the relevant Referral Notice and if both parties agree in writing to do so, the parties will attempt to settle the Dispute by mediation in accordance with the CEDR Model Mediation Procedure in each case irrespective of whether **Conditions 15.2** and **15.3** have been complied with. The provisions of this

Condition 15.4 are without prejudice to any right that either party may have to damages in respect of any breach by the other party of **Conditions 15.2** and **15.3**. Either party may withdraw from a mediation at any time.

15.5 Nothing in this **Condition 15** will prevent or delay you or us from:

15.5.1 seeking orders for specific performance, interim or final injunctive relief;

15.5.2 exercising any rights you or we may have to terminate our provision of the Services; or

15.5.3 commencing any proceedings where this is necessary to avoid any loss of a claim due to the rules on limitation of actions.

16. **GOVERNING LAW AND JURISDICTION**

16.1 The Agreement and any non-contractual obligations arising out of or in connection with it will be governed by the law of England and Wales.

16.2 Subject to **Condition 16.3**, the courts of England and Wales have exclusive jurisdiction to determine any dispute arising out of or in connection with the Agreement (including in relation to any non-contractual obligations).

16.3 Either party may seek specific performance, interim or final injunctive relief or any other relief of similar nature or effect in any court of competent jurisdiction.

Annex A
Agreement Processor Data

Service Provision

| | |
|-------------------------------------|---|
| Subject Matter of Processing | Provision of services to our members. |
| Duration of Processing | The term of the Agreement between us and you, plus a period of 10 years. |
| Nature of Processing | Collecting, storing, analysing and reporting on Agreement Processor Personal Data in connection with the provision of the Services. |
| Purpose of Processing | The provision of the Services to you, including file checking services, audit, advisory and marketing support services, research and brokering services in relation to valuations, mortgages, insurance and investments. |
| Type of Personal Data | <p>Relating to principals, officers, agents, partners, employees: Name; Address; E-mail address; Employment details; Names and contact details of solicitor(s) or professional advisor(s) acting on your behalf; Details of your business performance including turnover and profits; financial product and services selection; National Insurance number.</p> <p>Relating to your clients: Name; Address; E-mail address; Employment details; Details of their physical health; Details of any properties relevant to transactions on which the member is providing services to the client; Names, dates of birth, gender and relationship type for dependants; Names and contact details of solicitor(s) acting on your clients behalf; Details of your client's income; regular and ad hoc expenditure; Financial product and services; National Insurance number; Details of trustees relevant to transactions on which the member is providing services.</p> |
| Categories of Data Subject | Your principals, officers, agents, partners, employees and clients. |

FCA Authorisation

| | |
|-------------------------------------|---|
| Subject Matter of Processing | FCA Authorisation. |
| Duration of Processing | The term of the Agreement between us and you, plus a period of 10 years. |
| Nature of Processing | Collecting, storing, analysing and reporting on Agreement Processor Personal Data in connection with your application for and ongoing management of your FCA authorisation. |
| Purpose of Processing | The provision of the Services to you in connection with your proposed or existing FCA authorisation. |
| Type of Personal Data | Name; Work e-mail address; Name of employer; Employer business type; Work address; Work telephone number(s); Personal telephone number(s); Financial Conduct Authority Individual Reference Number ("IRN"); Date of birth; National Insurance number; Identification document information (including personal data contained on your chosen form of identification, plus the reference number for the form of identification where available); Nationality; Place of birth; Home address; Criminal offences; Previous employment and career history details; Personal bank statement details. |
| Categories of Data Subject | Your principals, officers, agents, partners, employees and clients. |

Software products and tools

| | |
|-------------------------------------|--|
| Subject Matter of Processing | Provision of software products and tools. |
| Duration of Processing | The term of the Agreement between us and you, plus a period of 10 years. |
| Nature of Processing | Collecting, storing, back-up and recovery for the provision of software products and tools (and associated support and maintenance) related to the Services, including the SimplyBiz CENTRA software where applicable. |
| Purpose of Processing | To provide secure, robust software products and tools for your data. |
| Type of Personal Data | Full name; E-mail address; Username; Password; IP address; Financial Conduct Authority Individual Reference Number ("IRN"); Name of your employer or other SimplyBiz member on whose behalf you are using the software platform; Details of your usage of the relevant software, tools and/or products; Content of any queries you raise with our helpdesk and support team including the issues, concerns or questions raised with us and the relevant outcome in relation to them. |
| Categories of Data Subject | Your principals, officers, agents, partners, employees and clients. |