

VWV Plus Terms of Service

1 Introduction

1.1 These Terms of Service set out the basis on which VWV Plus Limited or any successor organisation(s) will provide the Customer with Services.

1.2 VWV Plus Limited is a wholly owned subsidiary of Veale Wasbrough Vizards LLP.

2 Definitions and interpretation

2.1 In these Terms of Service the following definitions shall have the following meanings:

Agreement	the agreement between VWV Plus and the Customer incorporating these Terms of Service, the eLearning Solutions terms of service, the Proposal and the Pricing Options Document.
Commencement Date	the date on which VWV Plus acknowledges receipt of the Customer's signed Proposal.
Contract Period	the period from the Commencement Date to the date of termination during which the Services will be provided by VWV Plus to the Customer.
Customer Data	any data, information, or other content that may be uploaded, attached, provided or otherwise put into the Modules by or on behalf of the Customer or its Users.
Customer	the organisation named as the customer in the Proposal.
Customer Systems	any equipment, systems, cabling, communications or facilities provided by the Customer and used directly or indirectly in the supply of the Services or in respect of or in connection with the Services.
Customer Material	all documents, information and materials provided by the Customer relating to its use of the Services, including computer programs, data, reports and specifications.
Customer Support Contact	the Customer staff that are named as support contacts by the Customer to VWV Plus from time to time. These shall be the only Customer staff that are permitted to raise issues or queries via the VWV Plus support function. Customer Support Contacts shall have the appropriate level of knowledge and skill on the use and administration of the Modules. There is no limit to the number of support contacts that the Customer may nominate.
Data Processing Terms	the terms set out at Schedule 2 , which form part of this Agreement.
Fees	the fees described in the signature page of the Proposal.
Hours of Service	the hours during which the Modules are available for use by Users, which shall be 24 hours per day for seven days per week, except for scheduled system back-up or other ongoing maintenance as required and scheduled by VWV Plus as set out in Schedule 1 .
Intellectual Property Rights	all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral 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 for and renewals or extensions of such rights, and all similar or equivalent rights or forms.
Losses	all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and loss of opportunity to deploy resources elsewhere), damages, claims, demands, proceedings and judgments.
Modules	the courses selected by the Customer on the signature page of the Proposal (or as otherwise agreed between the parties in writing) and delivered via the internet on a "software as a service" basis.
Proposal	the proposal document that was sent to the Customer, and that the Customer signed and returned to VWV Plus.
Service Credits	the credits that the Customer may claim from VWV Plus should the availability of the Modules fail to meet the Service Levels as defined in Schedule 1 . Such credits will be calculated as the Fee paid for the use of the Modules, divided by 8760 (the number of hours in a non-leap year), multiplied by the number of whole hours for which the Modules were unavailable for use by Users.
Service Failure	the failure of VWV Plus to provide the Services in accordance with the Service Levels set out in Schedule 1 .
Service Levels	the service levels set out at Schedule 1 .
Services	access to VWV Plus's eLearning solutions platform, through which the Customer may access Modules and related services described in the Proposal, either live via the internet or downloadable via SCORM.
Support Hours	9.00 am to 5.00 pm on weekdays (excluding bank holidays).

Users	the users (any person, individual or entity whose details are created, imported or otherwise entered into the eLearning Solutions platform) licensed by VWV Plus to access, use or otherwise have their details held within the eLearning Solutions Platform.
VWV Plus	VWV Plus Limited, a company registered in England and Wales with company number 3318383.

2.2 Where the words include(s), including or in particular are used in these Terms of Service, they are deemed to have the words without limitation following them. Where the context permits, the words other and otherwise are illustrative and shall not limit the sense of the words preceding them.

2.3 Any obligation on a person not to do something includes an obligation not to agree to, allow, permit or acquiesce in that thing being done.

3 Commencement, duration and automatic renewal

3.1 The Agreement will take effect on the Commencement Date, and will continue for a period of 12 months. It will then automatically renew for successive periods of 12 months, unless either party gives the other party written notice of at least 30 days prior to the relevant anniversary of the Commencement Date (to expire on the relevant anniversary of the Commencement Date).

3.2 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Agreement, without liability to the other party, immediately on giving notice to that other party if that other party commits a material breach of any of the material terms of the Agreement and (if that breach is remediable) fails to remedy that breach within 30 days of being notified in writing of that breach.

3.3 VWV Plus may terminate the Agreement, without liability to the Customer, on giving not less than four months' notice to the Customer at any time. If VWV Plus terminates the Agreement under this clause 3, it will refund any money paid by the Customer in respect of the period after termination.

3.4 In the event of termination of the Agreement for any reason:

- a) the Customer's access to, and use of, the Modules shall cease immediately; and
- b) VWV Plus shall make available a copy of the Customer's Data to the Customer as described in clause 9.1 of Schedule 2.

4 Services

4.1 Subject to the Customer paying the Fees (and subject also to clause 3), VWV Plus will provide the Services for the Contract Period in accordance with the Service Levels. Any additional services shall be subject to separate agreement in writing between the Customer and VWV Plus.

4.2 VWV Plus grants to the Customer, and the Customer accepts, a non-transferable, non-exclusive right to access and use the Modules via the internet and use the Modules only as authorised in these Terms of Service, for its own purpose and operations, during the Contract Period. The Customer acknowledges that its access and use of the Modules may be provided live via the internet or in the form of a SCORM file. No other software will be provided to the Customer in any form of media or installed on any servers or other computer equipment owned or otherwise controlled by the Customer.

4.3 The maximum number of Users that are permitted to access, use or be registered within the eLearning solutions platform at any given time shall not exceed the number of Users specified in the signature page of the Proposal.

4.4 VWV Plus will perform its obligations under the Agreement in accordance with the Service Levels and with reasonable skill and care and in a suitably professional manner. Unless expressly stated otherwise, any dates agreed with VWV Plus for the performance of VWV Plus's obligations are estimates only and shall not be of the essence of the Agreement.

4.5 Subject to the rest of these Terms of Service, VWV Plus shall use commercially reasonable endeavours to meet the Service Levels and standards specified.

4.6 In providing the Modules, VWV Plus shall not knowingly breach any laws applicable to the provision of the Modules, including those relating to health and safety, data protection, non-discrimination and telecommunications.

5 Charges and payment

5.1 The Customer shall pay Fees on a periodic basis during the Contract Period as described in the Proposal. The Fees shall be fixed for the first year and may be subject to an adjustment at the time of renewal.

5.2 In accordance with the Proposal, VWV Plus shall invoice the Customer annually or termly in advance in respect of the Fees.

5.3 Any other fees relating to additional services that VWV Plus may provide during any month shall be invoiced as and when they arise, monthly in arrears.

5.4 All invoices shall be paid within 30 days of the invoice date unless otherwise agreed in writing.

5.5 For the avoidance of doubt, where the Customer does not use Modules (or Users do not use Modules) in any particular period which have already been included within the relevant Fees, no refund or credit will be given and the Customer shall not be entitled to roll over any unused Modules (or User licences) to be used in any subsequent period.

6 The Customer's obligations

6.1 The Customer is solely responsible for acquiring, servicing, maintaining, and updating the Customer Systems, including all equipment, computers, software and communications services not owned or operated by or on behalf of VWV Plus, that allow the Customer to access and use Modules, and for all expenses relating thereto (plus any applicable taxes). The Customer accepts and acknowledges that any failure to do so could lead to an interruption in access to the Modules (for which VWV Plus will have no liability of any kind).

6.2 The Customer shall (and shall ensure that all Users shall) at all times use the Modules in accordance with any and all operating instructions or procedures that may be issued by VWV Plus, and amended by VWV Plus, from time to time.

6.3 The Customer shall (and shall ensure that all Users shall) at all times comply with these Terms of Service and the Customer shall (and, where relevant, shall ensure that all Users shall):

- a) co-operate with VWV Plus, and its personnel, affiliates and representatives, in all matters relating to the Agreement;
 - b) provide, in a timely manner and subject always to third party confidentiality undertakings, such Customer Material and access to all necessary and relevant information and documentation within the Customer's possession or control which is reasonably required by VWV Plus, or its personnel, affiliates or representatives, for the provision of the Modules and ensure that it is accurate in all material respects; and
 - c) permit VWV Plus to suspend or vary any Modules (or part thereof) as may be required to comply with any changes in applicable legal or regulatory requirements. Where any such suspension or variation is required as a result of the Customer's act or omission, the Customer will indemnify VWV Plus in respect of any and all Losses VWV Plus may incur in relation thereto.
- 6.4 If VWV Plus's performance of its obligations under the Agreement is prevented or delayed by any act or omission by the Customer, the Customer's agents, subcontractors, consultants, affiliates, representatives, employees or any other third party within the Customer's reasonable control, VWV Plus shall not be liable for any Losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay, and time for performance of such obligations shall be deemed extended accordingly to reflect the relevant impact on timing caused by such delay.
- 6.5 The Customer shall comply with Amazon Web Services' Acceptable Use Policy from time to time, and any other acceptable use policy of which VWV Plus notifies the Customer from time to time.
- 7 Intellectual property**
- 7.1 Any Intellectual Property Rights owned by either party prior to the date of the Agreement shall be vested in and remain with that party.
- 7.2 The Customer acknowledges that all Intellectual Property Rights in the Modules (and in all related software) are owned by or licensed to VWV Plus and that the Customer shall not acquire any equivalent or other rights in the Modules (or in any related software) except to the extent expressly granted under the Agreement.
- 7.3 Without prejudice to any rights the Customer may have at law which cannot be excluded or restricted, the Customer undertakes that it will not (and will not permit or enable third parties to) make or distribute copies of, tamper with, remove, reproduce, amend, copy, reverse assemble, reverse engineer, reverse compile or decompile, or attempt to discover the source and/or object code of any software or any part thereof which is provided to the Customer by or on behalf of VWV Plus or to which the Customer otherwise has access by virtue of the provision of the Modules.
- 8 Confidentiality and data protection**
- 8.1 Each party shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives, and customer, personnel and/or business information that are of a confidential nature and that have been disclosed to it by the other party (whether that information has been disclosed by or to either party's employees, agents, consultants or subcontractors). The terms of the Agreement shall be deemed confidential to VWV Plus.
- 8.2 Either party may disclose such information:
- a) to any of its personnel who need to know such information for the purposes of carrying out any obligations under the Agreement; and
 - b) as may be required by law, court order or any governmental or regulatory authority.
- 8.3 The parties shall ensure that all personnel to whom they disclose such information shall comply with this clause 8.
- 8.4 The parties shall not use any such information for any purpose other than to perform their obligations under the Agreement.
- 8.5 VWV Plus may collect Personal Data, including personal information about the Customer's officers and employees, for the purpose of managing and promoting the Services and in relation to the provision of Services to the Customer. Subject to clause 8.6, VWV Plus is a Data Controller of such Personal Data. To read more about how VWV Plus protects and uses information as a Data Controller please see VWV Plus's Transparency Notice at www.co.uk/vwvplus. VWV Plus may share Personal Data with other VWV entities (for example, so that they can provide information about their services to the Customer). Further information can be found in that Transparency Notice.
- 8.6 In some cases, VWV Plus will be a Data Processor rather than a Data Controller. Where VWV Plus is Processing Personal Data as a Data Processor then VWV Plus shall Process such Personal Data in accordance with [Schedule 2](#). The Proposal sets out the circumstances in which VWV Plus is a Data Processor to the Customer as Data Controller.
- 8.7 In this clause 8, the following defined terms having the meaning given in [Schedule 2](#): "Data Protection Laws", "Data Controller", "Data Processor", "Personal Data", and "Processing".
- 9 Limitation of VWV Plus's liability**
- 9.1 This clause 9 sets out the entire financial liability of VWV Plus (including any liability for the acts or omissions of its employees, agents, consultants and subcontractors) in respect of:
- a) any breach of the Agreement;
 - b) any use made by the Customer of the Modules or any part of them; and
 - c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.
- 9.2 VWV Plus shall use reasonable endeavours to ensure that the Modules meet the standards of good industry practice, (at the time of download in relation to SCORM files) having regard to the nature of the Modules and the Fees paid by the Customer. VWV Plus does not warrant the performance or results obtained by the Customer in using the Modules, or that the Modules will meet the Customer's requirements or that the operation of the Modules will be uninterrupted or error free.
- 9.3 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.
- 9.4 Nothing in the Agreement limits or excludes the liability of VWV Plus:
- a) for death or personal injury resulting from negligence;
 - b) for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by VWV Plus;
 - c) for any liability incurred by the Customer as a result of any breach by VWV Plus of the clause as to title or the warranty as to quiet possession implied

by section 2 of the Supply of Goods and Services Act 1982; or

d) to the extent that such liability cannot be limited or excluded by law.

9.5 Subject to clauses 9.2 and 9.4, VWV Plus shall not be liable for loss of profits, loss of revenues, loss of business, loss or corruption of data, loss of operation, loss of production, loss of use of any equipment, depletion of goodwill and/or similar Losses, anticipated savings, loss of contracts or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses or any form of Losses arising out of any defect, error or fault in Customer equipment or Customer Material (other than as caused by VWV Plus directly).

9.6 VWV Plus's total aggregate liability in respect of the Modules, the eLearning solutions platform and the Agreement shall be capped at the total charges paid to VWV Plus by the Customer under the Agreement in the 12 months prior to the event that gave rise to such liability.

10 Force majeure

10.1 A party, provided that it has complied with the provisions of clause 10.3, shall not be in breach of the Agreement nor liable for any failure or delay in performance of any obligations under the Agreement, other than in respect of payment obligations which are expressly excluded from this clause 10 (and, subject to clause 10.3, the time for performance of the obligations shall be extended accordingly), arising from or attributable to acts, events, omissions or accidents beyond its reasonable control (**Force Majeure Event**), including any of the following:

- a) acts of God, including fire, flood, earthquake, windstorm, snow or other extreme adverse weather conditions or natural disaster;
- b) war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;
- c) terrorist attack, civil war, civil commotion or riots;
- d) nuclear, chemical or biological contamination;
- e) voluntary or mandatory compliance with any law (including a failure to grant any licence or consent needed or any change in the law or interpretation of the law);
- f) interruption or failure of utility service, including electric power, gas or water, other than where caused by VWV Plus or those within its control;
- g) pandemic or epidemic.

10.2 The corresponding obligations of the other party will be suspended to the same extent.

10.3 Any party that is subject to a Force Majeure Event shall not be in breach of the Agreement provided that it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance as soon as is reasonably practicable.

11 Variation

11.1 No variation of the Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties by authorised signatories.

12 Waiver

12.1 Failure to exercise, or any delay in exercising, any right or remedy provided under the Agreement or by law shall not constitute a waiver of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall preclude or restrict the further exercise of any such right or remedy.

13 Severance

13.1 If any provision of the Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision, to the extent required, shall be deemed not to form part of the Agreement and the validity and enforceability of the other provisions of the Agreement shall not be affected.

14 Entire agreement

14.1 These Terms of Service and any documents referred to in them, including the eLearning solutions terms of service, the Proposal and the Pricing Options Document, constitute the whole Agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter of the Agreement.

14.2 Each party acknowledges that, in entering into the Agreement, it does not rely on any statement, representation, assurance or warranty (**Representation**) of any person (whether a party to the Agreement or not) other than as expressly set out in these Terms of Service. Each party agrees that the only remedies available to it arising out of or in connection with a Representation shall be for breach of contract as expressly provided in these Terms of Service.

14.3 Nothing in this clause 14 shall limit or exclude any liability for fraud or fraudulent misrepresentation.

15 Governing law and jurisdiction

15.1 The 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, the law of England and Wales.

15.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1

Service Levels

- 1 VWV Plus will make the Modules available for use by Users during the Contract Period. VWV Plus will provide the Customer with secure access to the Modules via the internet for the Hours of Service.
- 2 VWV Plus will use commercially reasonable endeavours to make the Modules available for 99.5% of the Hours of Service during the Contract Period.
- 3 Should the Modules be available for less than 99.5% of the Hours of Service the Customer shall be entitled to claim Service Credits from VWV Plus.
- 4 For purposes of these Terms of Service, "availability" exists unless the Modules are not accessible to Users due to: (a) a hardware failure of the server(s) at

the third party site where the Modules are hosted; or (b) a connection failure between the server hosting the Modules and the closest internet router, in each case excluding during the times set aside for systems maintenance or system shutdown pursuant to paragraph 5. Software bugs, errors or other problems are not relevant to availability and are expressly excluded.

- 5 VWV Plus and/or its hosting or telecommunications providers may perform planned system maintenance between 8pm and 7am GMT or at any time on Saturdays and Sundays. The Customer understands and agrees that there may be instances where VWV Plus needs to interrupt access to the Modules without notice in order to protect the integrity of the Modules due to security issues, virus attacks, spam issues or other unforeseen circumstances.
- 6 Should the Customer believe that VWV Plus has failed to meet the availability set forth in paragraph 2, the Customer must notify VWV Plus in writing of both the date and the amount of time the Modules were unavailable within five business days following the end of the month in which unavailability occurred. VWV Plus will confirm the information provided in such notice. If VWV Plus cannot confirm the time that the Modules were unavailable, then the Customer and VWV Plus agree to refer the matter to executives at each organisation for resolution. Should VWV Plus agree that the availability service level was breached, the Customer will receive Service Credits for the affected period. Service Credits shall be the sole remedy to the Customer for any unavailability. Except as expressly set forth in these Terms of Service, any remedy the Customer may receive pursuant to this Schedule 1 does not relieve the Customer, or allow a set-off, from any other payment obligations to VWV Plus under the Agreement.
- 7 VWV Plus will not systematically monitor Customer Data, but VWV Plus reserves the right to: (a) disable access to, or delete, any Customer Data which VWV Plus determines in its sole discretion (such discretion to be exercised in good faith) to be illegal, obscene, threatening, defamatory, fraudulent, infringing, harassing, or otherwise offensive; and (b) disable access to, or delete, any other Customer Data under circumstances requiring urgent action, as such circumstances are determined in good faith by VWV Plus.
- 8 VWV Plus will provide online, telephone and email support to the Customer during the Support Hours during the Contract Period.
- 9 The Customer acknowledges and accepts that, due to the nature of technology and software, VWV Plus cannot guarantee to resolve any issue that may arise. However, subject to the other provisions of these Terms of Service, where any issue arises in respect of which the Modules are being (or are to be) provided, and which either VWV Plus becomes aware of or which is notified to VWV Plus by the Customer in writing, VWV Plus will use reasonable endeavours to respond and resolve the issue in accordance with the following response times:

Severity Level	Description (Problem)	Scheduled hours	Target response time
1	Critical System Problem. Production environment is inoperative and the Customer's business is being impacted. No system workaround exists and use of functionality is materially compromised.	Support Hours	60 minutes from when VWV Plus receives notification of the Problem.
2	Time Critical System Problem. Production environment for the system is adversely affected. Productivity for the Customer is compromised; work can be done by the Customer but not at full capacity.	Support Hours	By 10.00 am GMT the next business day from when VWV Plus receives notification of the Problem.
3	Non-Time Critical System Problem. Production environment for the system has encountered a non-critical problem or defect and / or questions have arisen on the use of the system.	Support Hours	Acknowledgment within 24 Support Hours from when VWV Plus receives notification of the Problem. A process will be agreed with the Customer to remedy any Level 3 Problem at the appropriate time.
4	Non-Time Critical System Problem. Low priority request with no system impact, low priority bugs. All other requests such as enhancements, feature request would go through a process that will be agreed with the Customer at the appropriate time.	Support Hours	Acknowledgment within 48 Support Hours from when VWV Plus receives notification of the Problem. A process will be agreed with the Customer to remedy any Level 4 Problem at the appropriate time.

- 10 The relevant time for responding to an issue as categorised above shall be measured from the time the issue is notified to VWV Plus in writing by the Customer Support Contact with sufficient detail to enable VWV Plus to categorise the issue in accordance with the foregoing or when VWV Plus was otherwise aware of the same. To the extent that the Customer notifies VWV Plus of any issue in accordance with the foregoing outside of Support Hours, such notification shall be deemed to have been received at the beginning of the first Support Hour subsequent to such notification. To the extent that the response time would exceed the contracted support time then the measure of the response time shall stop at the end of the contracted support time and recommence at the start of the next period of contracted support time.
- 11 Without prejudice to any other provisions of these Terms of Service, VWV Plus shall not have any liability in respect of any Service Failure where it is due to any one or more of the following:
 - a) any matter beyond the reasonable control of VWV Plus and/or where VWV Plus is entitled to relief pursuant to clause 10;
 - b) failure of all or any part of the Customer Systems (other than as caused by a breach of these Terms of Service by VWV Plus or those within its direct control); or
 - c) where VWV Plus has suspended access to the Modules in accordance with these Terms of Service.
- 12 If you have any questions regarding the Services, or ideas for future modules, please email support@vwvplus.co.uk or call 0117 314 5222 at any time between 9am and 5pm on weekdays (excluding bank holidays). If any problems arise with the Services we will use our reasonable endeavours to resolve them swiftly and collaboratively.

Schedule 2

VWV Plus Limited Data Processing Terms

The following definitions apply in these Data Processing Terms:

Data Breach: means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data;

Data Controller: means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data;

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

Data Protection Laws: the UK GDPR and the Data Protection Act 2018;

Data Subject: means an identified or identifiable natural person about whom Personal Data is processed; an identifiable natural person is one who can be identified, directly or indirectly, by reference to the Personal Data;

Personal Data: means information relating to a Data Subject such as a name, an identification number, location data, online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person, including opinions about a Data Subject;

Processing: means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

Protected Data: means any Personal Data in respect of which VWV Plus is a Data Processor to the Customer as Data Controller;

Sub-Processor: means any agent, subcontractor or other third party (excluding its employees) engaged by VWV Plus for carrying out any Processing activities on behalf of the Customer in respect of the Protected Data; and

UK GDPR: has the meaning given in the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019).

1 Compliance with Data Protection Laws

- 1.1 The parties agree that the Customer is the Data Controller and VWV Plus is a Data Processor for the purposes of Processing Protected Data. The Proposal sets out the circumstances in which VWV Plus is Processing Personal Data as a Data Processor to the Customer as Data Controller.
- 1.2 Both parties shall at all times comply with all Data Protection Laws in connection with the Processing of Protected Data.
- 1.3 The Customer shall ensure all instructions given by it to VWV Plus in respect of Protected Data shall at all times be in accordance with Data Protection Laws.
- 1.4 VWV Plus shall process Protected Data in compliance with the obligations placed on it under Data Protection Laws and these Terms.
- 1.5 The Customer shall, to the extent permitted by applicable law, indemnify and keep indemnified VWV Plus against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, demands and legal and other professional costs (calculated on a full indemnity basis and in each case whether or not arising from any investigation by, or imposed by, a supervisory authority) arising out of or in connection with any breach by the Customer of its obligations under these Terms.

2 Instructions

- 2.1 VWV Plus shall:
 - (a) only process (and shall ensure its employees, agents and subcontractor only process) the Protected Data in accordance with these Terms including **Appendix 1** (and not otherwise unless alternative Processing instructions are agreed between the parties in writing) except where otherwise required by applicable law (and shall inform the Customer of that legal requirement before Processing, unless applicable law prevents it doing so on important grounds of public interest); and
 - (b) without prejudice to clause 2.1, if VWV Plus believes that any instruction received by it from the Customer is likely to infringe the Data Protection Laws it shall promptly inform the Customer and be entitled to cease to provide the relevant Services until the parties have agreed appropriate amended instructions which are not infringing.

3 Security

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

4 Sub-processing and personnel

- 4.1 Subject to clause 4.2, VWV Plus shall not permit any Processing of Protected Data by any agent, subcontractor or other third party (except its or its Sub-Processors' own employees in the course of their employment that are subject to an enforceable obligation of confidence with regards to the Protected Data) without the written authorisation of the Customer.
- 4.2 VWV Plus may appoint a Sub-Processor, subject to the following:
 - (a) prior to the relevant Sub-Processor carrying out any Processing activities in respect of the Protected Data, VWV Plus shall enter a written contract with the Sub-Processor that is enforceable by VWV Plus containing materially the same obligations as under these Terms and ensure each such Sub-Processor complies with all such obligations;
 - (b) VWV Plus shall remain fully liable to the Customer for all the acts and omissions of each Sub-Processor in respect of the Protected Data as if they were its own; and
 - (c) VWV Plus shall ensure that all persons authorised by VWV Plus or any Sub-Processor to process Protected Data are subject to a binding written contractual obligation to keep the Protected Data confidential.

5 Assistance

- 5.1 VWV Plus shall (at the Customer's cost):
- (a) assist the Customer in ensuring compliance with the Customer's obligations pursuant to Articles 32 to 36 of the UK GDPR (and any similar obligations under applicable Data Protection Laws) taking into account the nature of the Processing and the information available to VWV Plus; and
 - (b) taking into account the nature of the Processing, assist the Customer (by appropriate technical and organisational measures), insofar as this is possible, for the fulfilment of the Customer's obligations to respond to requests for exercising the Data Subjects' rights under Chapter III of the UK GDPR (and any similar obligations under applicable Data Protection Laws) in respect of any Protected Data.

6 International transfers

- 6.1 Subject to clause 6.2, VWV Plus shall not transfer (within the meaning of transfer in Article 44 of the UK GDPR) any Protected Data in or to countries outside the UK or to any international organisation without the prior written consent of the Customer.
- 6.2 The Customer authorises the permitted transfers listed in [Appendix 1](#).

7 Audits and Processing

- 7.1 VWV Plus shall, in accordance with Data Protection Laws, make available to the Customer such information that is in its possession or control as is necessary to demonstrate VWV Plus's compliance with the obligations placed on it under these Data Processing Terms and to demonstrate compliance with the obligations on each party imposed by Article 28 of the UK GDPR (and under any equivalent Data Protection Laws equivalent to that Article 28), and allow for and contribute to audits, including inspections, by the Customer (or another auditor mandated by the Customer) for this purpose at reasonable times and on reasonable notice (subject to a maximum of one audit request in any 12 month period under this clause 7.1).

8 Breach

- 8.1 VWV Plus shall notify the Customer without undue delay on becoming aware of any Personal Data Breach in respect of any Protected Data.

9 Deletion / return

- 9.1 The Customer instructs VWV Plus, upon termination of the Agreement, to make a copy of the Protected Data available to the Customer for one month following termination and to thereafter delete that copy. Previous versions of Protected Data may be retained in a secure back-up for up to a year following termination. The Customer may request a copy of a previous version at any point within that one year period (unless the previous version has already been deleted, which, for the avoidance of doubt, may happen at any point without further notice to the Customer). Any obligation on VWV Plus to delete Protected Data shall not apply to the extent that applicable law requires such Protected Data to be retained.

Appendix 1

1 Subject-matter and duration of Processing:

The subject-matter of the Processing is the provision of those Services that the Customer has decided to purchase. The duration of the Processing is as described in clause 9.1 of [Schedule 2](#).

2 Nature and purpose of the Processing:

The nature of the Processing is any operation that is performed on Protected Data in connection with the provision of the Services. Such operations may include, in particular uploading Protected Data to the VWV Plus system, storing such personal data and making it available to the Customer in accordance with the Services.

The purpose of the Processing is to assist the Customer to comply with its legal and regulatory obligations through the provision of the Services.

3 Type of Personal Data and categories of Data Subject:

Types of Personal Data are information about the Customer's staff, such as their name, job title, department etc.

The VWV Plus Services may be used to process special categories of Personal Data which the Customer is required to process in accordance with their statutory duties. For example, the SCR Plus module allows the Customer to store information about the results of Disclosure and Barring Service (DBS) disclosures which could include Personal Data concerning criminal convictions.

The categories of Data Subject are staff and other representatives of the Customer, such as school governors.