

## INFORMATION PROCESSING AGREEMENT

**THIS AGREEMENT** is dated 25/05/2018

**Between:** You (a customer of Club Systems International Limited using our ClubV1 service) (**'the Controller'**); and Club Systems International Limited (**'the Processor'**).

### BACKGROUND

The following document is set out to determine the mutual obligations of both the Processor and Controller in protecting all personal data that is collected and processed as part of the business relationship.

The Controller agrees to share the Personal Data with the Processor on terms set out in this Agreement.

The Processor agrees to use the Personal Data on the terms set out in this Agreement and in accordance with the Master Agreement.

Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

The Controller and the Processor are sometimes referred as the "Parties" and individually as "Party".

A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

Unless the context otherwise requires the reference to one gender shall include a reference to the other genders.

Any Schedule(s) attached to this Agreement will form part of the Agreement and will have the same effect as if set out in the body of the Agreement.

This Agreement is subject to the terms of the Master Agreement (defined below) and is incorporated into the Master Agreement. Interpretations and defined terms set forth in the Master Agreement apply to the interpretation of this Agreement.

### DEFINITIONS:

**Data Subject:** an individual who is the subject of Personal Data.

**Personal Data:** means any information relating to an identified or identifiable natural person that is processed by the Processor as a result of, or in connection with, the provision of services; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**Processing, processes and process:** either any activity that involves the use of Personal Data or as the Data Protection Legislation may otherwise define processing, processes or process. It includes 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. Processing also includes transferring Personal Data to third parties.

**Data Protection Legislation:** all applicable privacy and data protection laws including the General Data Protection Regulation ((EU) 2016/679) (GDPR) and any applicable national implementing laws, regulations and secondary legislation in England and Wales relating to the processing of Personal Data and the privacy of electronic communications, as amended, replaced or updated from time to time, including the Privacy and Electronic Communications Directive (2002/58/EC) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426).

**Master Agreement:** means the contractual arrangement between the Controller and the Processor for the provision of the ClubV1 services detailed in Schedule 1 attached.

**Personal Data Breach:** a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.

**IT IS AGREED** as follows:-

**1. Compliance with data protection laws**

- 1.1 The Parties acknowledge that under the General Data Protection Regulation (GDPR), You are the Data Controller and Club Systems International Limited is the Data Processor instructed to process personal data under the terms of the Agreement.
- 1.2 Both Parties will ensure compliance with the Data Protection Legislation at all times during the term of the Agreement. This clause is in addition to and does not relieve, remove or replace a party's obligations under the Data Protection Legislation.

**2. Processing Personal Data**

- 2.1 Schedule 1 attached hereto sets out the scope, nature, and purpose of processing by the Processor, as well as the types of Personal Data and the categories of Personal Data processed.
- 2.2 The Processor agrees to process the Personal Data only for the purposes intended and strictly for no other purpose without the express written consent of the Controller. The Processor will not process Personal Data for any other purpose or in any way that does not comply with this Agreement or the Data Protection Legislation.
- 2.3 The Processor must notify the Controller if in its opinion the Controller's instructions would not comply with the Data Protection Legislation.
- 2.4 The Processor will NOT disclose or share the Personal Data processed, with any third party without the written consent of the Controller.
- 2.5 The Controller retains control of the Personal Data and remains responsible for its compliance obligations under the applicable Data Protection Legislation including providing any required notices and obtaining any required consents for the processing instructions it gives to the Processor.
- 2.6 Personal Data provided by the Controller to the Processor under the terms of this Agreement shall not be rented, sold, distributed, exported, transferred, stored, copied, used, deleted, accessed, modified, decompiled, disassembled, improved, created derivative works from or otherwise interfered with by the Processor or by any Processors' employees or any unauthorised party for any other purpose other than as expressly instructed by the Controller.

**3. Purpose**

- 3.1 The Agreement sets out the framework for the sharing of Personal Data between the Controller and the Processor. It sets out the purposes for which the Personal Data may be processed by the Parties, the principles and procedures that the Parties shall adhere to, and the responsibilities the Parties owe to each other.

3.2 The Parties consider this data sharing initiative necessary in order for the Processor to deliver its services to the Controller. Schedule 1 to the Agreement provides a detailed outline of the Processor's services and how the Personal Data will be processed to deliver those services.

3.3 The Processor agrees to only process the Personal data in accordance with the Controller's instructions, and only for the purposes of providing its services to the Controller as described in Schedule 1. The Parties shall not process Personal Data in a way that is incompatible with the purposes described in this clause.

#### **4. Fair and lawful processing**

4.1 Each Party shall ensure that it processes the Personal Data fairly and lawfully in accordance with the relevant Data Protection Legislation during the term of the Agreement.

#### **5. Data Accuracy**

5.1 The Processor agrees, so far as is reasonably practicable, to ensure that the Personal Data processed is accurate and kept up to date. The Processor agrees to make any necessary changes to any Personal Data which is inaccurate or requires updating.

#### **6. Complaints, Data Subject Requests and Third Party Rights**

6.1 The Processor must, at no additional cost, take such technical and organisational measures as may be appropriate, and promptly provide such information to the Controller as the Controller may reasonably require, to enable the Controller to comply with:

- (a) the rights of Data Subjects under the Data Protection Legislation, including subject access rights, the rights to rectify and erase Personal Data, object to the processing and automated processing of Personal Data, and restrict the processing of Personal Data; and
- (b) information or assessment notices served on the Controller by any supervisory authority under the Data Protection Legislation.

6.2 The Processor must notify the Controller immediately if it receives any complaint, notice or communication that relates directly or indirectly to the processing of the Personal Data or to either party's compliance with the Data Protection Legislation.

6.3 The Processor must notify the Controller within 48 hours days if it receives a request from a Data Subject for access to their Personal Data or to exercise any of their related rights under the Data Protection Legislation.

6.4 The Processor will give the Controller its full co-operation and assistance in responding to any complaint, notice, and communication or Data Subject request.

6.5 The Processor must not disclose the Personal Data to any Data Subject or to a third party other than at the Controller's request or instruction, as provided for in this Agreement or as required by law.

6.6 The Processor is required to maintain a record of requests or complaints from Data Subjects seeking to exercise their rights under the Data Protection Legislation, including requests for Personal Data processed under this Agreement. The records described in this clause must include copies of the request for information or complaint, details of the data accessed and shared and where relevant, notes of any meeting, measures taken by the Processor to resolve the complaint, correspondence or phone calls relating to the request or complaint.

## **7. Record Keeping**

- 7.1 The Processor agrees to maintain records of all Personal Data processed under the Agreement and its processing activities. The Controller reserves the right to inspect the records maintained by the Processor under this clause at any time. Without undue delay the Processor will give the Controller a copy of or access to all or part of the Controller's Personal Data in its possession or control in the format and on the media reasonably specified by the Controller.
- 7.2 The Processor will permit the Controller and its third-party representatives to audit the Processor's compliance with its Agreement obligations, on at least five days' notice, during the term of this Agreement. The Processor will give the Controller and its third-party representatives all necessary assistance to conduct such audits. The assistance may include, but is not limited to:
- (a) physical access to, remote electronic access to, and copies of the records and any other information held at the Processor's premises or on systems storing Personal Data;
  - (b) access to and meetings with any of the Processor's personnel reasonably necessary to provide all explanations and perform the audit effectively; and
  - (c) inspection of all records and the infrastructure, electronic data or systems, facilities, equipment or application software used to store, process or transport Personal Data.
- 7.3 At least twice a year, the Processor will conduct site audits of its Personal Data processing practices and the information technology and information security controls for all facilities and systems used in complying with its obligations under this Agreement, including, but not limited to, obtaining a network-level vulnerability assessment performed by a recognised third-party audit firm based on recognised industry best practices.
- 7.4 The Processor will promptly address any exceptions noted in the audit reports with the development and implementation of a corrective action plan by the Processor's management.

## **8. Data Return and Destruction**

- 8.1 The Processor shall not retain or process Personal Data for longer than is necessary to carry out the agreed purposes set out in Schedule 1 or for longer than any period set by the Controller. For the avoidance of doubt, the Controller reserves the right to determine the periods for which the Processor may retain the Personal Data processed under this Agreement.
- 8.2 On the instructions of the Controller, the Processor shall ensure that the Personal Data processed under this Agreement are returned to the Controller or destroyed in accordance with the Controller's instructions. The Controller reserves the right to request the deletion or return of Personal Data under this clause at any time.
- 8.3 The Controller reserves the right to issue instructions to the Processor as to the methods by which Personal Data is destroyed.
- 8.4 Following the deletion of Personal Data, the Processor shall notify the Controller that the Personal Data in question has been deleted. Where applicable, the Processor shall also provide confirmation that the Personal Data has been destroyed in accordance with any instructions issued by the Controller.
- 8.5 If any law, regulation, or government or regulatory body requires the Processor to retain any documents or materials that the Processor would otherwise be required to return or destroy, it will notify the Controller in writing of that retention requirement, giving details of the documents or materials that it must retain, the legal basis for retention, and establishing a specific timeline for destruction once the retention requirement ends.

## **9. Sub-processors or sub-contractors**

- 9.1 The Processor shall not engage any agent, sub-processor, sub-contractor or permit any processing of the Personal Data provided by the Controller by any agent, sub-processor, sub-contractor without the prior written consent of Controller.
- 9.2 If the Controller consents to the Processor sub-contracting its obligations under this Agreement it shall continue to ensure compliance with the requirements of the Data Protection Legislation and impose the same obligations on the sub-contractor in respect of the Controller's Personal Data as are imposed on the Processor under this Agreement.
- 9.3 The Processor shall ensure that any such-subcontract provides sufficient guarantees that it will implement and maintain appropriate technical and organisational measure to ensure that the processing of Personal Data meets the requirement of the Data Protection Legislation and the level of security appropriate to that risk as defined in this Agreement.
- 9.4 The Processor shall remain fully liable to the Controller for any acts or omissions of any third party sub-contractor. The Processor shall provide a copy of the agreement between Processor and sub-contractor to the Controller at the time any such agreement is entered into and shall ensure that any confidentiality restriction in the sub-contractor agreement does not prevent the Controller's access to it.
- 9.5 If the sub-contractor is unable to comply with the term of the sub-contractor agreement, which must incorporate terms which are substantially similar to those set out in this Agreement, the Controller may request that the Processor terminates or suspends the sub-contractor agreement or the Controller may terminate the Agreement with Processor by giving [ ] days' notice in writing.

## **10. International Transfers**

- 10.1 For the purposes of this clause, international transfers of the Personal Data shall mean any sharing of Personal Data by the Processor with a third party, and shall include, but is not limited to, the following:
- (a) Storing Personal Data on servers outside the EEA
  - (b) Subcontracting the processing of Personal Data to data processors located outside the EEA
  - (c) Granting third parties located outside the EEA access rights to the Personal Data
- 10.2 The Processor shall not disclose or transfer the Personal Data to a third party located within or outside the EEA without the prior written consent of the Controller, and provided in any event the following conditions are fulfilled:
- (a) the Controller or the Processor has provided appropriate safeguards in relation to the transfer;
  - (b) the Data Subject has enforceable rights and effective legal remedies;
  - (c) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
  - (d) the Processor complies with reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data.

## **11. Processor' Employees**

- 11.1 The Processor will ensure that all of its employees:

- (a) are informed of the confidential nature of the Personal Data and are bound by confidentiality obligations and use restrictions in respect of the Personal Data;
  - (b) have undertaken training on the Data Protection Legislation relating to handling Personal Data and how it applies to their particular duties; and
  - (c) are aware both of the Processor's duties and their personal duties and obligations under the Data Protection Legislation and this Agreement.
- 11.2 The level, content and regularity of training shall be proportionate to the staff members' role, responsibility and frequency with respect to their handling and processing of the Personal Data.

## **12. Security**

- 12.1 The Processor must at all times implement appropriate technical and organisational measures against unauthorised or unlawful processing, access, disclosure, copying, modification, storage, reproduction, display or distribution of Personal Data, and against accidental or unlawful loss, destruction, alteration, disclosure or damage of Personal Data. The Processor must document those measures in writing and periodically review them to ensure they remain current and complete, at least annually.
- 12.2 The Processor must implement such measures to ensure a level of security appropriate to the risk involved, including as appropriate:
- (a) the pseudonymisation and encryption of Personal Data;
  - (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
  - (c) the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident; and
  - (d) a process for regularly testing, assessing and evaluating the effectiveness of security measures.

## **13. Data Security Breaches and Reporting Procedures**

- 13.1 The Processor will promptly and without undue delay notify the Controller if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable. The Processor will restore such Personal Data at its own expense.
- 13.2 The Processor will immediately and without undue delay notify the Controller if it becomes aware of:
- (a) any accidental, unauthorised or unlawful processing of the Personal Data; or
  - (b) any Personal Data Breach.
- 13.3 Where the Processor becomes aware of 13.2(a) and/or 13.2(b) above, it shall, without undue delay, also provide the Controller with the following information:
- (a) description of the nature of 13.2(a) and/or 13.2(b), including the categories and approximate number of both Data Subjects and Personal Data records concerned;
  - (b) the likely consequences; and
  - (c) description of the measures taken, or proposed to be taken to address 13.2(a) and/or 13.2(b), including measures to mitigate its possible adverse effects.

- 13.4 Immediately following any unauthorised or unlawful Personal Data processing or Personal Data Breach, the parties will co-ordinate with each other to investigate the matter. The Processor will reasonably co-operate with the Controller in the Controller's handling of the matter, including:
- (a) assisting with any investigation;
  - (b) providing the Controller with physical access to any facilities and operations affected;
  - (c) facilitating interviews with the Processor's employees, former employees and others involved in the matter;
  - (d) making available all relevant records, logs, files, data reporting and other materials required to comply with all Data Protection Legislation or as otherwise reasonably required by the Controller; and
  - (e) taking reasonable and prompt steps to mitigate the effects and to minimise any damage resulting from the Personal Data Breach or unlawful Personal Data processing.
- 13.5 The Processor will not inform any third party of any Personal Data Breach without first obtaining the Controller's prior written consent, except when required to do so by law.
- 13.6 The Processor agrees that the Controller has the sole right to determine:
- (a) whether to provide notice of the Personal Data Breach to any Data Subjects, supervisory authorities, regulators, law enforcement agencies or others, as required by law or regulation or in the Controller's discretion, including the contents and delivery method of the notice; and
  - (b) whether to offer any type of remedy to affected Data Subjects, including the nature and extent of such remedy.
- 13.7 The Processor will cover all reasonable expenses associated with the performance of the obligations under this clause 13 unless the matter arose from the Controller's specific instructions, negligence, wilful default or breach of this Agreement, in which case the Controller will cover all reasonable expenses.
- 13.8 The Processor will also reimburse the Controller for actual reasonable expenses that the Controller incurs when responding to a Personal Data Breach to the extent that the Processor caused such a Personal Data Breach, including all costs of notice and any remedy as set out above.

#### **14. Review and Termination of Agreement**

- 14.1 The Parties shall review the effectiveness of the processing of Personal Data under this Agreement every 12 months. The Controller may continue, amend or terminate the Agreement depending on the outcome of this review.
- 14.2 The review will involve:
- (a) Assessing whether the purposes for which the Personal Data is being processed are still correct;
  - (b) Assessing whether the Personal Data is still as listed in the Agreement;
  - (c) Assessing whether the legal framework governing data quality, retention, and data subjects' rights are being complied with;

- (d) Assessing whether personal data breaches involving the Personal Data have been handled in accordance with the Agreement and the applicable legal framework.

14.3 This Agreement will remain in full force and effect so long as:

- (a) the Master Agreement remains in effect, or
- (b) the Processor retains any Personal Data related to the Master Agreement in its possession or control.

14.4 Any provision of this Agreement that expressly or by implication should come into or continue in force on or after the termination of the Master Agreement in order to protect Personal Data shall remain in full force and effect.

14.5 If a change in any Data Protection Legislation prevents either party from fulfilling all or part of its Master Agreement obligations, the parties will suspend the processing of Personal Data until that processing complies with the new requirements. If the parties are unable to bring the Personal Data processing into compliance with the Data Protection Legislation, they may terminate the Master Agreement on written notice to the other party.

## **15. Resolution of disputes with data subjects or the Data Protection Authority**

15.1 In the event of a dispute or claim brought by a data subject or the Data Protection Authority concerning the processing of Personal Data against either or both parties, the Parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably and in a timely fashion.

15.2 The Parties agree to respond to any generally available non-binding mediation procedure initiated by a Data Subject or by the Data Protection Authority. If they do participate in the proceedings, the parties may elect to do so remotely (such as by telephone or other electronic means). The Parties also agree to consider participating in any other arbitration, mediation or other dispute resolution proceedings developed for data protection disputes.

## **16. Third party rights**

16.1 Except for the rights of a Data Subject under the Data Protection Legislation a person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

## **17. Severance**

17.1 If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

17.2 If the Controller gives notice the Processor that any provision or part-provision of this agreement is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **18. Changes to the applicable law**

18.1 In case the applicable data protection and ancillary laws change in a way that the Agreement is no longer adequate for the purpose of governing lawful data sharing exercises, the Controller reserves the right to amend the Agreement. In such circumstances, the Processor agrees to implement any changes to its processing activities as are necessary to comply with the amended terms of the Agreement.

**19. No partnership or agency**

19.1 Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

**20. Entire agreement**

20.1 The Agreement and the Master Agreement (to the extent it applies to this Agreement) constitute the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

20.2 Each Party acknowledges that in entering into the Agreement it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement.

20.3 Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any statement in the Agreement.

**21. Notice**

21.1 Any notice or other communication given under or in connection with this agreement shall be in writing and shall be:

(a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); and

(b) sent by email

21.2 Any notice or communication shall be deemed to have been received:

(a) if delivered by hand, on signature of a delivery receipt;

(b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the

(c) second Business Day after posting or at the time recorded by the delivery service;

(d) if sent by email, at 9.00 am on the next Business Day after transmission.

21.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution

**22. Governing law**

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

This agreement has been entered into on the date stated at the beginning of it.

## Schedule 1

### PERSONAL DATA PROCESSING PURPOSES AND DETAILS

Club Systems International Limited (“the Company”) is engaged by You to provide a database management product called ClubV1 (“the Services”).

ClubV1 is a cloud database management service which is provided to the Company’s customers (normally golf clubs) (“the Clubs”) to enable the Clubs to input Personal Data belonging to their members, members’ families and associates to enhance the service the Club provides to its users.

The ClubV1 system only stores Personal Data.

Personal Data is stored for as long as the Club uses the Company’s Services or until the Company is expressly requested to delete Personal Data and there is no legal basis for retaining the Personal Data on the ClubV1 database.

The Types of Personal Data collected are set out in the table below:

Types of Personal Data Processed
Collection of data is organised and inputted by the ClubV1 user, this is often done via an application form that the member fills in.
The Personal Data the Club record on the ClubV1 system may be:
Gender, [Mandatory]
Title,
Forename, [Mandatory]
Middlename,
Surname [Mandatory]
Honours
Nickname
Date of Birth
CDH Number
Email address,
Alternative Email,
Salutation
Address,
Town / City,
County,
Postal code,
Country,
Home telephone number,
Work Telephone number,
Mobile telephone number
Facebook ID,
Twitter ID,
Instagram ID
Account No.
Sort Code
Company name
Billing Address

This Agreement has been entered into on the date stated at the beginning of it.

Signed by a DIRECTOR

for and on behalf of the Club

Director

Signed by a DIRECTOR

for and on behalf of Club Systems International Limited

Director