Beaumont Computer Software – SaaS Conditions

1. DEFINITIONS AND INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in these Conditions.

"Applicable Laws" means:

(a) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom.

(b) to the extent EU GDPR applies, the law of the European Union or any member state of the European Union to which Beaumont is subject.

"Applicable Data Protection Laws" means:

(a) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.

(b) to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which Beaumont is subject, which relates to the protection of personal data.

"Authorised Users" means those employees, agents and independent contractors of the Customer who are authorised by the Customer to access the Platform and the Documentation in connection with the Services.

"Beaumont" means Beaumont Computer Software Limited, a company incorporated in England and Wales under company number 03260073 and having its registered office at The Willows, Long Drove, Waterbeach, Cambridge CB25 9LW.

"Beaumont Personal Data" any personal data which Beaumont processes in connection with the Contract, in the capacity of a controller.

"Business Day" means a day other than a Saturday, Sunday or public holiday in the UK.

"Conditions" these terms and conditions set out in clause 1 (Definitions and Interpretation) to clause 21 (Governing Law and Jurisdiction) (inclusive) and in the Schedule to these terms and conditions.

"Confidential Information" means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 9.5 or clause 9.6.

"Contract" the contract between the Customer and Beaumont for the supply of the Services in accordance with these Conditions.

"Contract Year" means a 12-month period commencing with the Start Date or any anniversary of it.

"Customer" means the organisation that places an order for the Services (or any Trial) from Epos Now that is accepted by Epos Now.

"Customer Data" means the data inputted on the Platform by the Customer or the Authorised Users in connection with the use of the Services including the Customer Personal Data.

"Customer Personal Data" any personal data which Beaumont processes in connection with the Contract, in the capacity of a processor on behalf of the Customer.

"Customer Representative" a person duly authorised by the Customer to act on its behalf for the purposes of the Contract and identified to Beaumont on Beaumont's registration form for new customers.

"Documentation" means any documentation made available to the Authorised Users by Beaumont which sets out a description of the Services and the user instructions for use of the Platform in connection with the Services.

"Donor" any person who registers with the Customer for the purpose of making a donation.

"**Epos Now**" means EPOS NOW (UK) LIMITED, a company registered in England (company no. 07666961) with its registered address at 2 Whiting Road, Norwich Business Park, Norwich, NR4 6DJ, England

"**Epos Now Services**" means the point-of-sale software and hardware used by the Customer in conjunction Gift Aid Recorder

"**Epos Now Terms and Conditions**" means the agreement entered into by the Customer with Epos Now that governs the relationship between the Customer and Epos Now in relation to the Customer's use of Epos Now Services.

"EU GDPR" the General Data Protection Regulation (*(EU) 2016/679*).

"**Gift Aid Recorder**" means the software supplied by Beaumont to handle the collection of data for reclaiming tax according to the rules set by HMRC.

"Intellectual Property Rights" patents, utility models, rights to inventions, copyright and related rights, trademarks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or

equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

"Normal Business Hours" 9.00 am to 6.00 pm UK time, each Business Day.

"Platform" Beaumont's infrastructure and cloud computing platform and runtime environment made available by Beaumont in connection with the supply of the Services.

"Purpose" the purposes for which the Customer Personal Data is processed, as set out in Part 2 of the schedule to these Conditions.

"Renewal Period" a renewal period as defined in clause 11.1.

"Services" means the subscription services provided by Beaumont to the Customer under the Contract which enables access to and use of the Platform and the Documentation. These services comprise Gift Aid Recorder

"Start Date" means the date on which the Customer is granted access to the Platform.

"Subscriptions" means the subscriptions purchased by the Customer in connection with the Contract which entitle Authorised Users to access and use the Platform and the Services in accordance with the Contract.

"Subscription Fees" means the subscription fees payable by the Customer in connection with the Contract.

"Subscription Term" has the meaning given in clause 11.1 (being the Trial Period together with any subsequent Renewal Periods).

"Trial" the opportunity granted by Beaumont for the Customer to access the Platform and/or use the Services free of charge so that the Customer can evaluate whether the Platform and/or the Services meet its needs.

"Trial Period" the duration of the Trial as agreed to by Beaumont.

"UK GDPR" has the meaning given to it in the Data Protection Act 2018.

"Virus" any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

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

1.3 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of the Contract.

1.4 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.5 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of the Contract under that statute or statutory provision.

1.6 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. USER RIGHTS

2.1 The customer warrants that it has entered into and will maintain in force a contract with Epos Now whereby it may access the Services in accordance with Epos Now Terms and Conditions.

2.2 Subject to the Customer maintaining its contract with Epos Now, as described in 2.1, and subject to the other terms and conditions in the Contract, Beaumont grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to access and use the Services, the Platform and the Documentation during the Subscription Term or the Trial Period, as applicable, in conjunction with Epos Now Services, solely for the Customer's internal business operations (in their ordinary course).

2.3 The Customer shall ensure that:

(a) its Authorised Users access the Platform from only such number of locations that the Customer has purchased Subscriptions for; and

(b) each Authorised User shall keep a secure password for their use of the Services, the Platform and/or the Documentation and that each Authorised User shall keep their password confidential.

2.4 The Customer shall not and shall ensure that the Authorised Users shall not access, store, distribute or transmit any material during the course of its or their use of the Services and the Platform that:

(a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

(b) facilitates illegal activity;

(c) depicts sexually explicit images or promotes unlawful violence;

(d) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

(e) is otherwise illegal or causes damage or injury to any person or property;

and Beaumont reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's and the Authorised Users' access to any material that breaches the provisions of this clause.

2.5 The Customer shall not and shall ensure that its Authorised Users shall not:

(a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under the Contract:

(i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Platform and/or the Documentation in any form or media or by any means; or

(ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Platform; or

(b) access all or any part of the Platform and/or the Documentation in order to build a product or service which competes with the Platform and/or the Documentation; or

(c) except to the extent expressly permitted under the Contract use the Services, the Platform and/or Documentation to provide services to third parties; or

(d) subject to clause 16, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services, the Platform and/or the Documentation available to any third party except the Authorised Users; or

(e) attempt to obtain, or assist third parties in obtaining, access to the Services, the Platform and/or the Documentation, other than as provided under this clause 2; or

(f) introduce or permit the introduction of, any Virus into Beaumont's network and information systems including the Platform.

2.6 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services, the Platform and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Beaumont.

3. SERVICES

3.1 Beaumont shall, during the Subscription Term, provide the Services and make available the Platform and the Documentation to the Customer and its Authorised Users on and subject to the provisions of the Contract.

3.2 Beaumont shall use all reasonable commercial endeavours to make the Services available 24 hours a day, seven days a week, except for:

(a) planned maintenance carried out during the maintenance window of 10.00 pm to 4.00 am UK time; and

(b) unscheduled maintenance performed outside Normal Business Hours, provided that Beaumont has used reasonable endeavours to give the Customer at least 6 Normal Business Hours' notice in advance.

4. CUSTOMER DATA

4.1 For the purposes of this clause 4, the terms controller, processor, data subject, personal data, personal data breach and processing shall have the meaning given to them in the UK GDPR.

4.2 Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This clause 4 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.

4.3 The parties have determined that, for the purposes of Applicable Data Protection Laws:

(a) Beaumont shall act as controller of the personal data set out in paragraph 1.1 of Part 1 of the schedule to these Conditions; and

(b) Beaumont shall process the personal data set out in paragraph 1.2 of Part 1 of the schedule to these Conditions as a processor on behalf of the Customer.

4.4 Should the determination in clause 4.3 change, then each party shall work together in good faith to make any changes which are necessary to the schedule to these Conditions.

4.5 By entering into the Contract, the Customer consents to (and shall procure all required consents, from its Authorised Users) in respect of all actions taken by Beaumont in connection with the processing of Beaumont Personal Data.

4.6 Without prejudice to the generality of clause 4.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Beaumont Personal Data and Customer Personal Data to Beaumont and/or lawful collection of the same by Beaumont for the duration and purposes of the Contract.

4.7 In relation to the Customer Personal Data, Part 2 of the schedule to these Conditions sets out the scope, nature and purpose of processing by Beaumont, the duration of the processing and the types of personal data and categories of data subject.

4.8 Without prejudice to the generality of clause 4.2 Beaumont

shall, in relation to Customer Personal Data:

(a) process that Customer Personal Data only on the documented instructions of the Customer, unless Beaumont is required by Applicable Laws to otherwise process that Customer Personal Data. Where Beaumont is relying on Applicable Laws as the basis for processing Customer Personal Data, Beaumont shall notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Beaumont from so notifying the Customer on important grounds of public interest. Beaumont shall inform the Customer if, in the opinion of Beaumont, the instructions of the Customer infringe Applicable Data Protection Laws;

(b) implement appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data, which the Customer has reviewed and confirmed are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

(c) ensure that any personnel engaged and authorised by Beaumont to process Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;

(d) assist the Customer insofar as this is possible (taking into account the nature of the processing and the information available to Beaumont), and at the Customer's cost and written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(e) notify the Customer without undue delay on becoming aware of a personal data breach involving the Customer Personal Data;

(f) at the written direction of the Customer, delete or return Customer Personal Data and copies thereof to the Customer on termination of the Contract unless Beaumont is required by Applicable Law to continue to process that Customer Personal Data. For the purposes of this clause 4.8(f) Customer Personal Data shall be considered deleted where it is put beyond further use by Beaumont; and

(g) maintain records to demonstrate its compliance with this clause 4 and allow for reasonable audits by the Customer or the Customer's designated auditor, for this purpose, on reasonable written notice.

4.9 The Customer hereby provides its prior, general authorisation for Beaumont to:

(a) appoint processors to process the Customer Personal Data, provided that Beaumont:

(i) shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on Beaumont in this clause 4;

(ii) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of Beaumont; and

(iii) shall inform the Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the Customer the opportunity to object to such changes provided that if the Customer objects to the changes and cannot demonstrate, to Beaumont's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Customer shall indemnify Beaumont for any losses, damages, costs (including legal fees) and expenses suffered by Beaumont in accommodating the objection; and

(b) transfer Customer Personal Data outside of the UK as required for the Purpose, provided that Beaumont shall ensure that all such transfers are effected in accordance with Applicable Data Protection Law. For these purposes, the Customer shall promptly comply with any reasonable request of Beaumont, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the UK Information Commissioner from time to time (where the UK GDPR applies to the transfer).

4.10 Either party may, at any time on not less than 30 days' notice, revise clause 4.9 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

5. BEAUMONT'S OBLIGATIONS

5.1 Beaumont undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care and that the Platform will function substantially in accordance with the Documentation.

5.2 The undertaking at clause 5.1 shall not apply to the extent of any non-conformance which is caused by use of the Services or the Platform contrary to Beaumont's instructions, or modification or alteration of the Services or the Platform by any party other than Beaumont or Beaumont's duly authorised contractors or agents. If the Services or the Platform do not conform with the foregoing undertaking, Beaumont will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the

undertaking set out in clause 5.1.

5.3 Beaumont:

(a) does not warrant that the Customer's use of the Services or of the Platform will be uninterrupted or error-free; or that the Services, the Platform, the Documentation and/or the information or functionality obtained by the Customer through the Services and the Platform will meet the Customer's requirements; and

(b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services, the Platform and the Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

5.4 The Contract shall not prevent Beaumont from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under the Contract.

6. CUSTOMER'S OBLIGATIONS

The Customer shall:

(a) provide Beaumont with:

(i) all necessary co-operation in relation to the Contract; and

(ii) all necessary access to such information as may be required by Beaumont,

in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;

(b) without affecting its other obligations under the Contract, comply with all applicable laws and regulations with respect to its activities under the Contract;

(c) carry out all other Customer responsibilities set out in the Contract in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Beaumont may adjust any agreed timetable or delivery schedule as reasonably necessary;

(d) ensure that the Authorised Users use the Services, the Platform and the Documentation in accordance with the Contract and shall be responsible for any Authorised User's breach of the Contract;

(e) obtain and shall maintain all necessary licences, consents, and permissions necessary for Beaumont, its contractors and agents to perform their obligations under the Contract, including, without limitation, the Services;

(f) ensure that its network and systems comply with the relevant specifications provided by Beaumont from time to time;

(g) be, to the extent permitted by law and except as otherwise expressly provided in the Contract, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to Beaumont's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet; and

(h) engage the Customer Representative as the point of contact between the Customer and Beaumont.

7. PROPRIETARY RIGHTS

7.1 The Customer acknowledges and agrees that Beaumont and/or its licensors own all intellectual property rights in the Services, the Platform and the Documentation including, without limitation, in the product of any development, design and/or integration work that Beaumont may carry out for the Customer and including where any elements of such products were developed as a result of or using the Customer's ideas, suggestions or other feedback supplied by the Customer. Except as expressly stated herein, the Contract does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services, the Platform, the Documentation or the product of any development, design and/or integration work that Beaumont may carry out for the Customer.

7.2 Beaumont confirms that it has all the rights in relation to the Services, the Platform and the Documentation that are necessary to grant all the rights it purports to grant under the Contract.

8. CONFIDENTIALITY

8.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Contract. A party's Confidential Information shall not be deemed to include information that:

(a) is or becomes publicly known other than through any act or omission of the receiving party;

(b) was in the other party's lawful possession before the disclosure;

(c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or

(d) is independently developed by the receiving party, which independent development can be shown by written evidence.

8.2 Subject to clause 8.4, each party shall hold the other's

Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of the Contract.

8.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the provisions of the Contract.

8.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 8.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

8.5 The Customer acknowledges that details of the Services, the Platform and the Documentation constitute Beaumont's Confidential Information.

8.6 Beaumont acknowledges that the Customer Data is the Confidential Information of the Customer.

8.7 Beaumont may compile statistical information related to the performance of the Services for the purposes of improving the Platform and Services, provided that once compiled, any such information does not identify any individual Authorised User or personal data.

8.8 Unless the Customer requests otherwise in writing, Beaumont may include the Customer's name and logo in its marketing materials.

8.9 The above provisions of this clause 8 shall survive termination of the Contract, however arising.

9. LIMITATION OF LIABILITY

9.1 Except as expressly and specifically provided in the Contract:

(a) the Customer assumes sole responsibility for results obtained from the use of the Services, the Platform and the Documentation by the Customer;

(b) Beaumont makes no assurances, warranties or representations that the Customer's use of the Services will make the Customer or any other person compliant with HMRC's 'Gift Aid' scheme or any other tax relief scheme or that the Services will bring about any tax relief or other savings for the Customer or any other person. The Customer must take appropriate professional advice to ensure that its use of the Services complies with relevant tax laws and HMRC rules and guidance and that any relevant tax reliefs are properly obtained by the Customer and any Donor;

(c) Beaumont shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Beaumont by the Customer in connection with the Services, or any actions taken by Beaumont at the Customer's direction;

(d) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Contract; and

(e) the Services, the Platform and the Documentation are provided to the Customer on an "as is" basis.

9.2 Nothing in the Contract excludes the liability of Beaumont:

(a) for death or personal injury caused by Beaumont's negligence;

(b) for fraud or fraudulent misrepresentation; or

(c) for any other liability that cannot be excluded in law.

9.3 Subject to Clause 9.1 and Clause 9.2:

(a) Beaumont shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of revenue, loss of tax relief, overpayment of tax, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Contract; and

(b) Beaumont's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall not exceed the cap.

9.4 In Clause 9.3(b) and this clause 9.4:

(a) cap. The cap is one hundred per cent (100%) of the total charges in the Contract Year in which the breach of contract, tort, duty, misrepresentation or other default attributable to Beaumont occurred; and

(b) total charges. The total charges means all sums paid by the Customer for use of the Services under the Contract in the Contract Year in which the breach of contract, tort, duty, misrepresentation or other default attributable to Beaumont occurred.

9.5 Unless the Customer notifies Beaumont that it intends to make a claim in respect of an event within the notice period, Beaumont shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire six months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

10. TERM AND TERMINATION

10.1 The Contract shall, unless otherwise terminated as provided in this clause 10, commence on the Start Date and shall continue for the Trial Period (if any) and, thereafter, the Contract shall be automatically renewed for successive monthly periods (in the case of monthly Subscriptions) or successive yearly periods (in the case of annual Subscriptions) (each a Renewal Period), unless:

(a) the Customer notifies Beaumont before the expiry of the Trial Period that it does not wish to receive the Services beyond the expiry of the Trial Period; or

(b) either party notifies the other party of termination, in writing, at least 30 days before the end of any Renewal Period, in which case the Contract shall terminate upon the expiry of the applicable Renewal Period; or

(c) otherwise terminated in accordance with the provisions of the Contract;

and the Trial Period together with any subsequent Renewal Period shall constitute the Subscription Term.

10.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

(a) the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 15 days after being notified in writing to make such payment;

(b) the other party commits a material breach of any other provisions of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 15 days after being notified in writing to do so; or

(c) the other party makes a resolution for its winding up, makes an arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for protection from its creditors or an administration or winding-up order is made or an administrator or receiver is appointed.

10.3 On termination of the Contract for any reason:

(a) all licences granted under the Contract shall immediately terminate and the Customer shall and shall procure that the Authorised Users shall immediately cease all access and use of the Services, the Platform and the Documentation;

(b) the Customer shall and shall procure that the Authorised Users shall immediately and permanently erase any software made available or supplied by Beaumont to the Customer;

(c) each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;

(d) Beaumont may destroy or otherwise dispose of any of the Customer Data in its possession unless Beaumont receives, no later than ten days after the effective date of the termination of the Contract, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Beaumont shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and/or resulting from termination (whether or not due at the date of termination); and

(e) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination shall not be affected or prejudiced.

11. FORCE MAJEURE

Beaumont shall have no liability to the Customer under the Contract if it is prevented from or delayed in performing its obligations under the Contract, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including epidemic, pandemic, strikes, lock-outs or other industrial disputes (whether involving the workforce of Beaumont or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

12. VARIATION

No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13. WAIVER

No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

14. SEVERANCE

14.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.

14.2 If any provision or part-provision of the Contract is deemed deleted under clause 14.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

15. ENTIRE AGREEMENT

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

15.2 Each party acknowledges that in entering into the Contract 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 Contract.

15.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

16. ASSIGNMENT

16.1 The Customer shall not, without the prior written consent of Beaumont, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

16.2 Beaumont may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

17. THIRD PARTY RIGHTS

The Contract does not confer any rights on any person other than Beaumont and the Customer.

18. NO PARTNERSHIP

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other party, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

19. NOTICES

19.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be: (a) delivered by hand or first class post to its registered office (if a company) or its principal place of business (in any other case); (b) sent by email to (for Beaumont) accounts@beaumontsoftware.com or (for the Customer) to the Customer Representative's email addresses as notified to Beaumont.

19.2 Any notice shall be deemed to have been received if (a) delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; or (b) if sent by email at the time of the transmission provided that no bounce back message is received.

19.3 This clause 19 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.

20. GOVERNING LAW AND JURISDICTION

20.1 The Contract 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.

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

Schedule – Data Protection

Part 1 – Role of the parties

1.1 **Where Beaumont acts as a controller:**

    (a)   when processing personal data contained within correspondence between the Customer's staff (including Authorised Users) and Beaumont's staff and/or documents relating to the establishment, management, audit and operation of the Contract including the Services, orders for Services and payment for the Services and any other communications which Beaumont may wish to rely on to establish its rights and liabilities under the Contract; and

    (b)   when processing the personal data of the Customer's staff (including Authorised Users) for marketing purposes.

1.2 **Where Beaumont acts as a processor:**

    (a)   save as set out in paragraph 1.1 of this Part 1 of this Schedule, when processing the personal data of the Donors or of the Customer's staff (including Authorised Users) and any other data subjects (other than Beaumont's staff) whose personal data is inputted on or collected by the Platform in connection with the Contract.

Part 2 – Particulars of processing

2.1 **Scope:**

The collection and storage of the personal data of:

    (a)   the Customer's staff (including Authorised Users);

    (b)   those individuals who are Donors or potential Donors of the Customer; and

    (c)   the staff members of Donors or of potential Donors of the Customer

on the Platform.

2.2 **Nature**

Collecting and storing personal data on the Platform.

2.3 **Purpose of processing**

To enable Beaumont to deliver the Services and the Customer and its Authorised Users to receive the benefit of the Services including access to the Platform.

2.4 **Duration of the processing**

The duration of the Contract and such reasonable time after this period to enable Beaumont to transfer or delete the relevant data or as otherwise agreed between the parties.

2.5 **Types of personal data**

Name, contact details, training data, work performance data and such other personal data as processed by Beaumont as a data processor in connection with the Contract.

2.6 **Categories of data subject**

    (d)   the Customer's staff (including Authorised Users);

    (e)   those individuals who are Donors or potential Donors of the Customer;

    (f)   the staff members of Donors or potential Donors of the Customer; and

such other data subjects whose personal data is processed by Beaumont as a data processor in connection with the Contract.