



## DATA PROCESSING AGREEMENT

This Data Processing Agreement ("**Agreement**") forms part of the agreement between

\_\_\_\_\_ a company incorporated under the laws of \_\_\_\_\_ (company number \_\_\_\_\_) whose registered office is \_\_\_\_\_;

(the "**Company**")

and

**FRAUDFINDER LTD**, a company incorporated under the laws of England (company number 10531940) whose registered office is at 71-75 Shelton Street Shelton Street, London, England, WC2H 9JQ;

(the "**Data Processor**")

hereinafter collectively referred to as "**Parties**" and individually "**Party**",

### WHEREAS

- (A) The Company acts as a Data Controller and/or a Data Processor, depending on the applicable processing arrangement..
- (B) The Company wishes to subcontract certain Services, which imply the processing of personal data, to the Data Processor, either as controller or as processor acting on behalf of the controller.
- (C) The Parties seek to implement a data processing agreement that complies with the requirements of the current legal framework in relation to data processing and with the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons regarding the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation).
- (D) The Parties wish to lay down their rights and obligations.

### Roles of the Parties

Where the Company acts as a data processor on behalf of an affiliated entity or other third party acting as the data controller, the Parties acknowledge and agree that Fraudfinder shall act as a sub-processor in respect of such processing. In such circumstances, the obligations set out in this Agreement shall apply mutatis mutandis, and the Company warrants that it has the authority to appoint Fraudfinder as a sub-processor and to pass down all relevant data protection obligations and instructions on behalf of the applicable data controller.

### IT IS AGREED AS FOLLOWS:

#### 1. Definitions and Interpretation

1.1. Unless otherwise defined herein, capitalized terms and expressions used in this agreement shall have the following meaning:

1.1.1. "**Applicable Controller**" means the entity which determines the purposes and means of the processing of Personal Data in the relevant processing arrangement.

- 1.1.2. **"Company Personal Data"** means any Personal Data Processed by a Sub Processor on behalf of the Company pursuant to or in connection with the Services;
- 1.1.3. **"Data Processing Agreement"** means this agreement and all Schedules;
- 1.1.4. **"Contracted Processor"** means a Subprocessor;
- 1.1.5. **"Data Protection Laws"** means UK Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;
- 1.1.6. **"EEA"** means the European Economic Area;
- 1.1.7. **"EU Data Protection Laws"** means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR;
- 1.1.8. **"GDPR"** means EU General Data Protection Regulation 2016/679;
- 1.1.8. **"Data Transfer"** means:
- 1.1.8.1. a transfer of Company Personal Data from the Company to a Contracted Processor; or
  - 1.1.8.2. an onward transfer of Company Personal Data from a Contracted Processor to a Subcontracted Processor, or between two establishments of a Contracted Processor
- in each case, where such transfer would be prohibited by Data Protection Laws (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Data Protection Laws);
- 1.1.9. **"Services"** means fraud detection services the Company provides
- 1.1.10. **"Subprocessor"** means any person appointed by or on behalf of the Processor to process Personal Data on behalf of the Company in connection with the Agreement.
- 1.2. The terms, "Commission", "Controller", "Data Subject", "Member State", "Personal Data", "Personal Data Breach", "Processing" and "Supervisory Authority" shall have the same meaning as in the GDPR, and their cognate terms shall be construed accordingly.

## 2. Processing of Company Personal Data

### 2.1. Processor shall:

- 2.1.1. comply with all applicable Data Protection Laws in the Processing of Company Personal Data; and
- 2.1.2. not Process Company Personal Data other than on the relevant Company's documented instructions.

### 2.2. The Company instructs Processor to process Company Personal Data, including where such instructions are provided by the Company acting on behalf of the Applicable Controller.

## 3. Processor Personnel

- 3.1. Processor shall take reasonable steps to ensure the reliability of any employee, agent or contractor of any Contracted Processor who may have access to the Company Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Company Personal Data, as strictly necessary for the purposes of the Principal Agreement, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

#### **4. Security**

- 4.1. Taking into account the state of the art, the costs of implementation and the nature, scope, context, and purposes of Processing, as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Processor, shall in relation to the Company Personal Data implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.
- 4.2. In assessing the appropriate level of security, Processor shall take account in particular of the risks that are presented by Processing, in particular from a Personal Data Breach.

#### **5. Subprocessing**

- 5.1. The Processor may appoint Subprocessors to process Company Personal Data, provided that the Company is notified in advance and given the opportunity to object on reasonable data protection grounds. The Processor shall remain fully liable for the acts and omissions of any Subprocessor.

#### **6. Providing Assistance and Cooperation**

- 6.1. The Processor shall provide the Company with all necessary assistance and cooperation in complying with the obligations borne by the Parties on the basis of the GDPR and other applicable legislation and regulations concerning the Processing of Personal Data.
- 6.2. Taking into account the nature of the Processing, Processor shall assist the Company by implementing appropriate technical and organizational measures, insofar as this is possible, for the fulfillment of Company's obligations, as reasonably understood by the Company to respond to requests to exercise Data Subject rights under the Data Protection Laws.
- 6.3. Processor shall:
  - 6.3.1. promptly notify Company if it receives a request from a Data Subject under any Data Protection Law in respect of Company Personal Data; and
  - 6.3.2. ensure that it does not respond to that request except on the documented instructions of Company or as required by Applicable Laws to which the Processor is subject, in which case Processor shall to the extent permitted by Applicable Laws Data Processing Agreement — Your Company inform Company of that legal requirement before the Contracted Processor responds to the request.

#### **7. Personal Data Breach**

- 7.1. Processor shall notify Company without undue delay upon Processor becoming aware of a Personal Data Breach affecting Company Personal Data, providing Company with sufficient information to allow the Company to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the Data Protection Laws.
- 7.2. Processor shall co-operate with the Company and take reasonable commercial steps as are directed by Company to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

#### **8. Data Protection Impact Assessment and Prior Consultation**

- 8.1. Processor shall provide reasonable assistance to the Company with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which Company reasonably considers to be required by article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to Processing of Company Personal Data by, and taking into account the nature of the Processing and information available to, the Contracted Processors.

#### **9. Deletion or return of Company Personal Data**

- 9.1. Subject to this section 9 Processor shall promptly and in any event within 10 business days of the date of cessation of any Services involving the Processing of Company Personal Data (the "Cessation Date"), delete and procure the deletion of all copies of those Company Personal Data.

9.2. At the Controller's request, the Processor shall confirm In Writing that the Processor has satisfied all obligations under Article 9.1 within 10 business days of the Cessation date.

## **10. Audit rights**

10.1. Subject to this section 10, Processor shall make available to the Company on request all information necessary to demonstrate compliance with this Agreement, and shall allow for and contribute to audits, including inspections, by the Company or an auditor mandated by the Company in relation to the Processing of the Company Personal Data by the Contracted Processors.

10.2. Information and audit rights of the Company only arise under section 10.1 to the extent that the Agreement does not otherwise give them information and audit rights meeting the relevant requirements of Data Protection Law.

## **11. Data Transfer**

11.1. The Processor may not transfer or authorize the transfer of Data to countries outside of the UK or the EU and/or the European Economic Area (EEA) without the prior written consent of the Company. If personal data processed under this Agreement is transferred from a country within the European Economic Area to a country outside the European Economic Area, the Parties shall ensure that the personal data are adequately protected. To achieve this, the Parties shall, unless agreed otherwise, rely on EU-approved standard contractual clauses for the transfer of personal data.

## **12. Confidentiality Of Personal Data**

12.1. All Personal Data are qualified as confidential and must be treated as such. 12.2. The Parties shall keep all Personal Data confidential and shall not disclose them in any way, either internally or externally, except in so far as:

12.2.1. Disclosure and/or provision of the Personal Data is necessary in the context of the performance of the Agreement or the Data Processing Agreement;

12.2.2. Any mandatory statutory provision or court decision requires the Parties to disclose and/or provide the Personal Data, in which case the Parties shall first notify the other Party of this unless such notification is prohibited on the grounds of applicable legislation or court order;

12.2.3. Disclosure and/or provision of the Personal Data takes place with prior consent In Writing from the other Party.

## **13. Liability clause**

13.1. Data Controller warrants that it has lawfully obtained the Personal Data it provides to Data Processor and that Data Processor can lawfully process the Personal Data pursuant to Data Controller's specific instructions in order for Data Controller to provide the Services. If the Processor does not follow the instructions of the Controller or act out of the scope of their power and responsibilities under the GDPR and this agreement, then they qualify as controllers with additional obligations.

## **14. Term and Termination**

14.1. The Company is entitled to terminate the Data Processing Agreement if the Processor fails to comply or can no longer fulfill an essential obligation under the Data Processing Agreement, and only after the Company immediately and properly informs the Processor In Writing of the attributable shortcoming, providing a reasonable period for the purification of the shortcoming, and after this period, the Processor remains accountable in the performance of his obligation. When canceling, the Company shall observe a reasonable notice period, unless the circumstances justify immediate cancellation.

**15. Governing Law and Jurisdiction**

15.1. This Agreement will be construed in accordance with and governed by the laws of England and Wales.

15.2. The Governing Law applies to this Agreement and all disputes will only be litigated in the courts of the Jurisdiction.

**IN WITNESS WHEREOF**, this Data Processing Agreement is entered into with effect from the date first set out below.

Title: CEO, Director

Date Signed: \_\_\_\_\_

**FRAUDFINDER LTD**

By: Alexander Siedes

**Title:**

Date Signed \_\_\_\_\_

By \_\_\_\_\_

**For and behalf of** \_\_\_\_\_