

DATED

NON-DISCLOSURE AGREEMENT

between

FISCAL TECHNOLOGIES LIMITED

and

XXXX

THIS NON-DISCLOSURE AGREEMENT is dated **XXXXX**

PARTIES

- (1) FISCAL Technologies Ltd incorporated and registered in England and Wales with company number 4801836 whose registered office is at 448 Basingstoke Road, Reading, Berkshire, RG2 0LP (**FISCAL**).
- (2) **XXXXX** incorporated and registered in England and Wales with company number **XXXXX** whose registered office is at **XXXXX**-(**Company**).

BACKGROUND

The Company and FISCAL require to share and exchange information to enable FISCAL to carry out the Purpose (as defined in Clause 2.1).

FISCAL and the Company are entering into this non-disclosure agreement (the "**NDA**") for their mutual benefit in order to set out the respective rights and obligations of each party in relation to the disclosure of Confidential Information by one party (the "**Disclosing Party**") to the other (the "**Receiving Party**") in connection with the Purpose.

AGREED TERMS

1. DEFINITIONS

Confidential Information: all information (however recorded, preserved or disclosed) disclosed by one Party or its Representatives including but not limited to;

- (i) the existence and terms of this NDA;
- (ii) any information that would be regarded as confidential by a reasonable business person relating to:-
 - (a) the business, affairs, past or present customers, clients, employees, suppliers, plans, intentions, financial information, pricing information or market opportunities of the Disclosing Party; and/or;
 - (b) the operations, processes, product information, know-how, designs, trade secret, report formats, data, design concepts, discoveries, inventions, copyrights, patents or know-how or software of the Disclosing Party; and/or
 - (c) any information or analysis derived from Confidential Information; and/or

- (iii) any information is designated by the Disclosing Party as confidential or which the Receiving Party knows or ought to know is confidential; and/or
- (iv) is disclosed by or on behalf of the Disclosing Party to the Receiving Party or is otherwise in the possession of the Receiving Party, in connection with the Purpose and whether disclosed before, on or after the Effective Date at the top of this NDA.

Notwithstanding the definition above, Confidential Information shall not include information which:-

- (i) entered or subsequently enters the public domain without breach of this NDA or any other obligation of confidentiality by the Receiving Party;
- (ii) the Receiving Party can demonstrate was already in its possession or known to it by being in its use or being recorded in its files or computers or other recording media prior to receipt from the Disclosing Party and was not previously acquired from the Disclosing Party under any obligation of confidentiality;
- (iii) is disclosed to the Receiving Party by a third party without breach by the Receiving Party or such third party of any obligation of confidentiality owed to the Disclosing Party;
- (iv) the Receiving Party can demonstrate is independently developed or discovered by or for it, not as a result of any activities relating to the Purpose;
- (v) is hereafter disclosed by the Disclosing Party to a third party without restriction on disclosure or use;
- (vi) is disclosed by the Receiving Party with the prior written permission of the Disclosing Party; and
- (vii) is required to be disclosed by law, order of court, the requirement of any regulatory or taxation authority or the rules of any stock exchange.

In this NDA unless the context otherwise requires:

- a) The terms "party" and "parties" shall mean and refer to FISCAL and the Company individually and any one or more of them taken together.
- b) Words denoting the singular number shall include the plural and vice versa.
- c) Words denoting any gender will include all genders.
- d) References to persons shall include individuals, firms, corporations and other associations or bodies of persons whether or not incorporated and any

government, state or agency of a state whether or not any of the foregoing has any separate legal personality.

- e) Clause headings are for ease of reference only and shall not affect the construction or interpretation of this NDA.

2. THE PURPOSE

2.1 The purpose of the NDA is to allow FISCAL access to Confidential Information to enable FISCAL to (i) carry out a Financial Risk Review of Accounts Payable and Master Data on behalf of the Company; (ii) provide information in relation to the provision of professional services by FISCAL to the Company in relation to recovery projects and (iii) provide information to the Company in relation to FISCAL's software services; together with any discussions and negotiations relating to the same.

2.2 The Parties agree to comply with the GDPR provisions set out in Schedule 1.

3. RESTRICTION ON DISCLOSURE AND USE

3.1 In consideration of the mutual exchange and disclosure of Confidential Information, each party undertakes as a Receiving Party:-

- (i) to keep the Confidential Information confidential at all times;
- (ii) to use it only in connection with the Purpose and not for any other reason including not to make any commercial use of the same and not to use the same for the benefit of itself or any third party other than pursuant to a further agreement with the Disclosing Party;
- (iii) to take reasonable security precautions (at least as comprehensive as the precautions that the Receiving Party takes to protect its own confidential information which the Receiving Party warrants are adequate to prevent unauthorised disclosure, copying or use) to keep confidential the Confidential Information;
- (iv) not to disclose Confidential Information to any person except in confidence to such of its directors, employees and professional advisers who reasonably need access to the Confidential Information for the Purpose and provided that all such persons to whom Confidential Information is so disclosed are informed of the terms of this NDA and prior to disclosure to them either:-
 - (A) are obliged not to disclose the same; or
 - (B) where no existing contractual obligation exists, have entered into legally binding confidentiality agreements on equivalent terms to this NDA.

- (v) to be responsible for the performance of Clauses 3.1 (i), (ii) and (iii) above on the part of its directors, employees and professional advisors to whom Confidential Information is disclosed pursuant to Clause 3.1 (iv) above;
- (vi) not to copy, reproduce, summarise or reduce to writing any part of any Confidential Information except as may be reasonably necessary for the purpose of the Purpose and that any copies, reproductions, summaries or reductions so made shall be the property of the Disclosing Party; and
- (vii) not to reverse engineer, decompile or disassemble any software disclosed by the Disclosing Party.

4. NOTIFICATION OF UNAUTHORISED DISCLOSURE

- 4.1 The Receiving Party shall notify the Disclosing Party promptly upon discovery of any unauthorised use or disclosure of Confidential Information by the Receiving Party or any person to whom it discloses Confidential Information pursuant to this NDA, or any other breach of this NDA by the Receiving Party or such other person and shall co-operate with the Disclosing Party in every reasonable way to help the Disclosing Party regain possession of the Confidential Information and prevent its further unauthorised use.

5. RETURN OF CONFIDENTIAL INFORMATION

- 5.1 Upon receipt of the Disclosing Party's request in writing, the Receiving Party shall (and shall procure that any person to whom is discloses Confidential Information pursuant to this NDA) shall, to the extent technically possible, return to the Disclosing Party all documents and materials containing Confidential Information (including any copies, reproductions, summaries and reductions to writing thereof) or at the Disclosing Party's option, certify destruction of the same.
- 5.2 Any Company data shared in connection the Purpose and any results or analysis created as a result shall be destroyed by the Receiving Party within 180 days of the supply of Company data or sooner upon written request of the Disclosing Party.
- 5.3 The parties acknowledge that Confidential Information communicated and/or stored in electronic form may be routinely backed up for disaster recovery archival purposes such that destruction is not practical until such time that the back-up copy expires or is recycled or destroyed, in which case the Receiving Party will be entitled to retain related Confidential Information in accordance with the provisions of this Agreement until the date of destruction.
- 5.4 Notwithstanding the completion of the Purpose or the return of the documents as set out in Clause 5.1 above, the Receiving Party shall continue to be bound by the undertakings set out in Clause 3.

6. TERM AND TERMINATION OF OBLIGATIONS

- 6.1 This NDA shall be effective as of the date it is signed by the parties (the "Effective Date"). The term of this Agreement is for a period of one (1) year beginning on the Effective Date, unless

earlier terminated by either party upon thirty (30) days' prior written notice to the other party (the "Term"). With respect to Confidential Information disclosed during the Term, the confidentiality obligations and restrictions contained in this NDA will survive for a period of two (2) years from the termination of this NDA.

7. PROPERTY IN CONFIDENTIAL INFORMATION

7.1 All Confidential Information is and shall remain the property of the Disclosing Party notwithstanding added thereto by the Receiving Party. By disclosing information to the Receiving Party, the Disclosing Party does not grant any express or implied right to the Receiving Party to or under any of the Disclosing Party's patents, copyrights, trade marks or trade secret information.

8. NON-ASSIGNMENT

8.1 This NDA is personal to the parties and shall not be assigned or otherwise transferred in whole or in part by either party without the prior written consent of the other party.

9. NO WARRANTY

9.1 No warranty or representation, express or implied, is given as to the accuracy, efficiency, completeness, capabilities or safety of any materials or information provided under this NDA.

10. COUNTERPARTS

This NDA may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one NDA.

11. GOVERNING LAW AND JURISDICTION

11.1 This NDA 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 laws of England and Wales. 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 this NDA or its subject matter or formation (including non-contractual disputes or claims).

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

Signed by (print name):

Signed by (print name):

Title:

Title:

Signature:

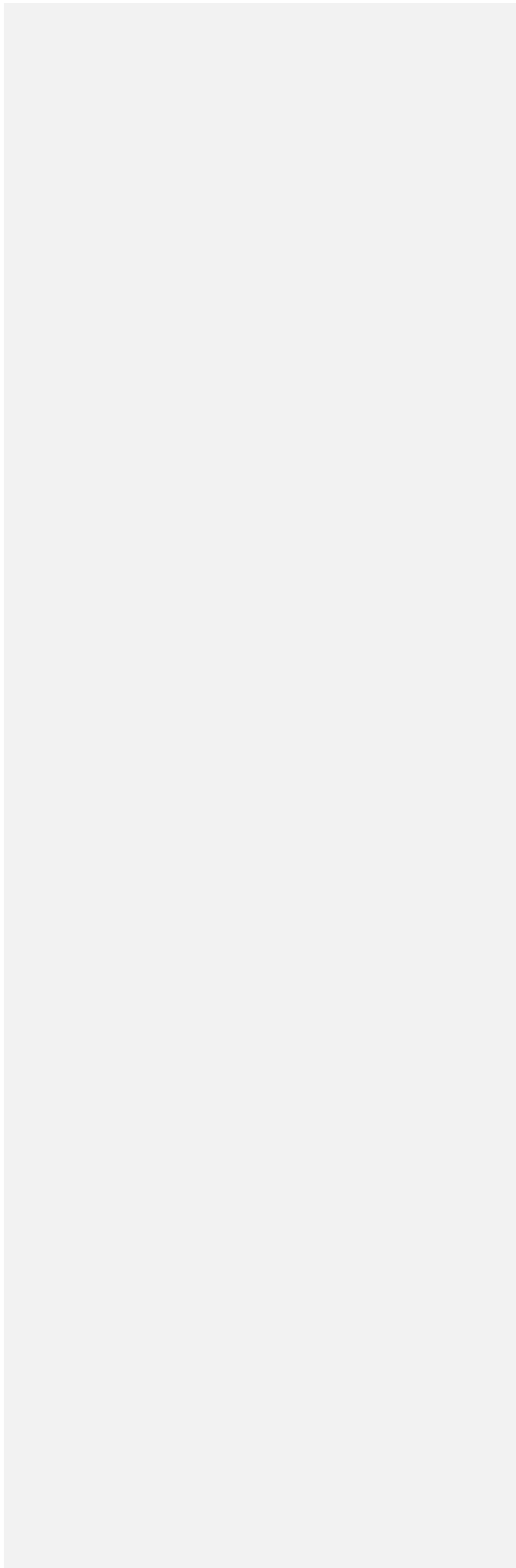
Date :.....

For and on behalf of FISCAL

Signature:

Date:

For and on behalf of XXXX



Schedule 1 - GDPR

This Schedule 1 contains the obligations of both FISCAL and the Company in relation to GDPR.

This Schedule 1 contains terms which are designed to ensure that activities carried out by FISCAL as Data Processor, on behalf of the Company, meet all the requirements of relevant and applicable data protection laws.

AGREED TERMS

Data Protection Laws: means the

- (i) General Data Protection Regulation (EU) 2016/679;
- (ii) Law Enforcement Directive (Directive (EU) 2016/680;
- (iii) Data Protection Act 2018 to the extent that it relates to processing of Personal Data and privacy;

and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time in the UK.

Data Subjects, Data Protection Impact Assessments, Personal Data, process/processing, Supervisory Authority, Controller, Processor, Binding Corporate Rules and Special Category Data (or any of the equivalent terms): have the meaning set forth under the Data Protection Laws.

Duration: means the Term of the NDA.

Purpose: means the provision of the Services by FISCAL to the Company in accordance with the terms of the NDA.

Sub-Processor: means a third-party subcontractor, engaged by FISCAL which may process Personal Data as set forth in clause 3 of this Schedule 2.

1. DATA PROCESSING

- 1.1. Both parties shall, at all times, comply with all applicable requirements of the Data Protection Laws. This clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Laws. A breach of this Schedule 1 will be considered a material breach under the NDA.
- 1.2. For the purposes of this Schedule 1, FISCAL is the Processor and the Company is the Controller in accordance with the Data Protection Laws.
- 1.3. Each Party shall bear its own costs in relation to compliance with Data Protection Laws (with the exception that FISCAL reserves the right to charge the Company for reasonably and properly incurred costs (such costs to be agreed by FISCAL and the Company in writing in advance, both parties acting reasonably) incurred by FISCAL in relation to any audits required by the Company in accordance with clause 7.
- 1.4. FISCAL shall only process Personal Data for the Duration unless otherwise expressly provided, in which case the processing shall only last as long as necessary under the Data Protection Laws and only to the extent necessary for the Purpose.

1.5. The subject matter of the processing of Personal Data is set out in the NDA and the nature and purpose of the processing of Personal Data is the Purpose.

1.6. FISCAL as Processor may carry out processing activities 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 of data (whether or not by automated means) in accordance with the purposes set out in the NDA.

1.7. The Data Subjects whose Personal Data FISCAL may process for the Purpose may include:

- (i) suppliers or prospective suppliers;
- (ii) employees or prospective employees; or
- (iii) other entities (including temporary employees, contractors and sub-contractors)

of the Company as applicable.

1.8. The types of Personal Data which FISCAL may process (only to the extent necessary to carry out the Purpose) of those Data Subjects are:

- (i) personal contact information (including names, addresses, email addresses, mobile and telephone numbers);
- (ii) employment details (including employee name, employee ID, system login IDs, bank details);
- (iii) business contact details;
- (iv) financial details; and
- (v) other types of Personal Data which the Company expressly informs FISCAL that FISCAL may process in order to fulfil the Purpose.

1.9. No Special Category of Personal Data will be processed by FISCAL and the Company warrants to FISCAL that it shall not provide Special Category Data to FISCAL at any time.

2. DATA PROCESSOR OBLIGATIONS

2.1 FISCAL shall, in relation to any Personal Data processed in connection with the provision of the Services under the NDA:

- (a) process that Personal Data only on written instructions from the Company unless FISCAL is required by the laws of any member of the European Union or by the laws of the European Union applicable to FISCAL to process Personal Data ("Applicable Data Laws");
- (b) where FISCAL is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data under sub-clause (a) above, FISCAL shall promptly notify the Company of this before performing the processing required by the Applicable Data Laws unless those Applicable Data Laws (or other applicable laws) prohibit FISCAL from notifying the Company; and
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential. Only personnel of FISCAL who are necessarily required to have access to the Personal Data for the Purpose shall have access to the Personal Data.

- 2.2 FISCAL shall ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, 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 (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).

3. SUB-PROCESSORS

- 3.1 The Company agrees to FISCAL appointing Sub-Processors (including, without limitation, courier, customer service, fulfilment centre and IT services) in relation to the Purpose only provided that:
- (a) FISCAL confirms that it has entered or (as the case may be) will enter with a Sub-Processor into a written data processor agreement incorporating terms which are substantially similar to those set out in this Schedule 1;
 - (b) FISCAL shall make available to the Company a current list of Sub-Processors used by FISCAL in connection with the Purpose (including the identities of those Sub-Processors) and will from time to time inform the Company of any proposed new Sub-Processor and provide the Company with full details of the processing to be undertaken by that new Sub-Processor;
 - (c) if at any time the Company has reasonable grounds (based on non-compliance or a material risk of non-compliance with the Data Protection Laws) to object to any new Sub-Processor, FISCAL shall work with the Company in good faith to make available a commercially reasonable change in the provision of the Services which avoids the use of that new Sub-Processor. Where such a change cannot be made within 90 days of the Company notifying the same to FISCAL then, notwithstanding anything in the NDA, the Company may by written notice to FISCAL terminate the NDA to the extent it relates to the Services which require the use of the new Sub-Processor. Any such termination pursuant to this clause will not affect the accrued rights and obligations of the parties prior to that termination.

4. PROCESSING PERSONAL DATA OUTSIDE OF THE EEA

- 4.1 FISCAL shall not transfer any Personal Data outside of the UK.

5. RIGHTS OF DATA SUBJECTS

- 5.1 In the event that a Data Subject contacts FISCAL directly with a request to access, amend, restrict, object to or delete information held about such Data Subject, FISCAL shall, at no cost, as soon as reasonably practicable:
- (a) refer the Data Subject to the Company;
 - (b) advise the Company of such a request: and
 - (c) co-operate and assist the Company with resolving such request to the extent this is in the reasonable control of FISCAL.
- 5.2 FISCAL shall assist the Company in ensuring compliance with the Company's obligations under the Data Protection Laws with respect to security, breach notifications, Data Protection Impact Assessments and any other required notifications or consultations with any Supervisory Authority or regulator.

6. PERSONAL DATA BREACH NOTIFICATION

- 6.1 If FISCAL becomes aware of or reasonably suspects that a Personal Data breach has occurred (including any serious disruptions in operations of any Services), FISCAL shall:

- (a) notify the Company as soon as reasonably practicable of FISCAL becoming aware of the breach;
- (b) investigate the Personal Data breach and provide the Company with sufficient information to allow the Company to meet any obligations to report or inform Data Subjects of the Personal Data breach, including making available a suitably senior and appropriately qualified individual to discuss any concerns or questions the Company may have; and
- (c) co-operate with the Company and take such reasonable commercial steps as are directed by the Company to assist in the investigation, mitigation and remediation of such Personal Data breach and measures to prevent a recurrence.

6.2 FISCAL shall not make any public statement concerning the Personal Data breach without the prior written consent of the Company.

7. RECORDS AND RIGHT TO AUDIT

7.1 FISCAL shall maintain complete and accurate records and information to demonstrate FISCAL's compliance with this Schedule 1 and the Data Protection Laws, including a record of processing (where applicable), and allow for and contribute to audits by the Company or the designated auditors of the Company upon receiving prior reasonable notice in writing.

7.2 If FISCAL reasonably believes that any instruction given by the Company pursuant to this clause 7 will infringe the Data Protection Laws or any other Applicable Data Laws, FISCAL will immediately inform the Company of this in writing.

8. RETURN/DELETION OF PERSONAL DATA

8.1 FISCAL shall promptly and securely delete all Personal Data, whether manual or electronic (at no cost to the Company):-

- (i) within 4 weeks of the expiry of the NDA (unless FISCAL receives written instructions from the Company to the contrary), or
- (ii) upon an earlier written request from the Company (and on receipt of such written request FISCAL shall delete Personal Data within one week).

8.2 Clause 8.1 does not apply to the extent FISCAL is required by Applicable Data Laws to store the Personal Data.

9. LIABILITY

9.1 FISCAL shall indemnify the Company for any damage, cost or losses (including properly and reasonably incurred legal costs) incurred by the Company in connection with any third party claim made or threatened against the Company in connection with the loss, unauthorised disclosure or breach of the Data Protection Laws by FISCAL or any Sub-Processor in relation to any Personal Data declaring that such indemnity shall in no circumstances exceed a sum equal to £50,000 (fifty thousand pounds sterling). This indemnity shall not apply to the extent that FISCAL's act or omission was as a result of the express instruction of the Company.

Commented [SB1]: Can you explain the rationale for £50k?