

AGREEMENT FOR THE PROVISION OF HYBRID MAIL

INTRODUCTION

These terms and conditions together with any other documents referred to or incorporated into it (collectively referred to as the **Agreement**) set out the entire terms and conditions upon which the Licensor has agreed to licence the Licensee to access and use the Service.

Once the Licensee accepts these terms by completing the tick box as part of the registration process, this document (including the Schedules) will constitute a legally binding licence agreement between the Licensor and the Licensee under which the Licensee is granted certain limited rights to access and use the Service.

IT IS AGREED THAT:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following words have the following meanings:

- (a) **Approved Sub-Processor** means CFH Docmail Limited (company number 1716891).
- (b) **Business Days** means Monday to Friday (inclusive in any week) other than a bank holiday in the relevant country.
- (c) **Charges** means the charges as communicated by the Licensor to the Licensee from time to time in writing.
- (d) **Commencement Date** means the date of commencement of the Service.
- (e) **Confidential Information** means all information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in this Agreement.
- (f) **Data Map** means a file layout specification of how the Personal Data will be mapped out in regards to the Template.
- (g) **Data Legislation** means all applicable laws which govern the use of data relating to identified or identifiable individuals, including the Data Protection Act 2018, the GDPR and the Privacy and Electronic Communications Regulations 2003, as amended or replaced from time to time and to the extent applicable to a party.
- (h) **Force Majeure** means in relation to either party, any circumstance beyond the reasonable control of that party including any act of God, war, riot, explosion, abnormal, unusual or extreme weather conditions, loss of utilities, fire, flood, failure or breakdown of telecommunications systems or network infrastructure, malicious network attacks, strike, lock out or industrial dispute, fuel shortages and/or governmental or regulatory authority action.
- (i) **GDPR** means the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016.
- (j) **Initial Term** means 12 months.

- (k) **Intellectual Property Rights** patents, trade marks, service marks, trade names, registered and unregistered designs, trade or business names, copyright (including rights in software), database rights, design rights, rights in confidential information and any other intellectual property rights whatsoever irrespective of whether such intellectual property rights have been registered or not which may subsist in any part of the world.
- (l) **Licensee** means the licensee to whom the Licensor has agreed to licence the right to access and use of the Service to in accordance with this Agreement.
- (m) **Licensee Data** means any data provided by the Licensee which is uploaded to or processed via the Service or which is otherwise collected or generated by the Licensee as a result of its use of the Service including but not limited to Personal Data.
- (n) **Licensor** means Sharp Business Systems UK plc (Company Number 02136901) whose registered office is at Northern House, Moor Knoll Lane, East Ardsley, Wakefield, WF3 2EE.
- (o) **Live Data** means data which is used to produce the requested Product once all necessary testing with Test Data has been carried out and all Data Maps and Templates are provided.
- (p) **Minimum System Requirements** means the minimum requirements for hardware and third party software the Licensee must have in place in order to access and make use of the Service including: For Driver, supported OS: Windows server 2008, 2008 R2, 2012, 2012 R2, 2016 Windows 7, 8, 8.1 and 10.
- (q) **Personal Data** means any personal data which is processed from time to time by the Licensor and its Approved Sub-Processor in connection with the provision of the Services.
- The terms controller, processor, data subject, personal data, processing (and related expressions) shall have the meanings given to them in the Data Legislation.
- (r) **Product** means the downloadable driver software supplied to the Licensee that converts and sends the documents printed on the Licensee's PC to the form required by the Licensor for production.
- (s) **Service / Hybrid Mail** means the online Hybrid Mail service made available by the Licensor to the Licensee in accordance with this Agreement.
- (t) **Service Levels** means the performance specifications for the Service. This is set out in the delivery schedule located on <http://www.hybrid-mail.sharp.co.uk>, as varied from time to time in accordance with the provisions of the Agreement, and any additional service levels agreed by the parties in writing.
- (u) **Schedules** means the schedules annexed to this Agreement.
- (v) **Template** means a visual example of what the resulting Product should look like. It is a visual guide to what the resulting Product should be after application of the Personal Data;

(w) **Test Data** means data which is supplied by the Licensee which is not used in live production of Product. It is data which is used to confirm suitability and applicability of further Live Data via, including PDF proofs that are supplied by the Licensor to the Licensee;

(x) **Terms of Use** means the terms and conditions at Schedule 1.

1.2 In this Agreement: Clause headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement; references to Clauses are to the Clauses of these terms and conditions; words denoting the singular shall include the plural and vice versa; words denoting any gender shall include all genders; any reference to any law, statute, statutory provision, statutory instrument, directive, subordinate legislation, code of practice or guideline shall be construed as a reference to the same as may be amended, consolidated, modified, extended, re-enacted or replaced from time to time; and use of words such as “include”, “including” and “in particular” shall not limit the generality of any preceding or following words which are not intended to be exhaustive.

1.3 In the Schedules: References to “supplier” “us”, “our” or “we” means the Licensor or the Approved Sub-Processor (as applicable) and references to “customer” “you”, “your” or “yourself” means the Licensee.

2 TERM

2.1 This Agreement shall come into force on the Commencement Date and subject at all times to earlier termination in accordance with its provisions shall remain in force for the Initial Term and thereafter until terminated by either party serving 3 months’ written notice of termination on the other.

2.2 For the avoidance of doubt, the earliest point in time at which a notice to terminate for convenience may be served by a party under Clause 2.1 shall be on the final day of the Initial Term.

3 LICENCE TO USE THE SERVICE

3.1 In consideration for payment of the Charges by the Licensee in accordance with this Agreement, the Licensor hereby grants to the Licensee a non-exclusive and non-transferable licence to access and use the Service in accordance with the terms and conditions of this Agreement for the term of this Agreement and only for such purposes as permitted by the Licensor.

3.2 For the avoidance of doubt, other than the limited licence to use the Service which is granted to the Licensee under this Agreement the Licensee shall not acquire any right or title in or to any Intellectual Property Rights in or capable of subsisting in the Service.

3.3 The Licensee shall maintain in strict confidence at all times any user names, access codes or other authorisations which may be provided or allocated to it by Licensor and/or via the Service from time to time together with any associated passwords (and, where the Licensee is responsible for setting its own password shall ensure that those are sufficiently robust in accordance with generally accepted password security recommendations in the IT industry from time to time) and shall not disclose the same to any other person.

3.4 The Licensee shall immediately inform the Licensor of any actual or suspected loss, theft, publication or disclosure of any of its user names, access codes, other

authorisations or passwords for the Service and/or of any actual or suspected unauthorised access to or use of the Service using the same of which the Licensee becomes aware.

3.5 The Licensee shall not:

- (a) use or attempt to use the Service for any illegal or unlawful purpose and/or for the purposes of publishing or otherwise distributing materials which are offensive, defamatory or in breach any Intellectual Property Rights belonging to any third party;
- (b) use or attempt to use the Service in any way which disrupts, restricts or interferes with the provision of the Service by the Licensor and/or its availability to and use by other users authorised by the Licensor;
- (c) access or attempt to access any part of the Service which the Licensee is not authorised to access and/or to access any data which is held on or accessible via the Service other than the Licensee Data and any data which is made publicly available by the Licensor to all users on or via the Service; and/or
- (d) reverse engineer, decompile, copy, distribute, disseminate, sub-licence, modify, translate, scan and/or adapt any software or other code or script which forms part of or is accessible via the Service.

3.6 The Licence granted to the Licensee is personal and other than those individual employees of the Licensee who the Licensee authorises from time to time to access and use the Service on its behalf (and for whose acts and omissions the Licensee shall be vicariously liable to the Licensor for under this Agreement as if those were the acts or omissions of the Licensee itself) the Licensee shall not permit any other person to access and use the Service, whether or not in return for payment.

4 THE LICENSEE'S UNDERTAKING

The Licensee undertakes and agrees with the Licensor:

- 4.1 To, at all times, comply with the terms of the Agreement including the Schedules.
- 4.2 That use of Hybrid Mail will be carried out in the manner befitting that of the Licensor and will not be utilised for what the Licensor could reasonably consider to be improper use. For the avoidance of doubt, the Licensor reserves the right to terminate this Agreement in accordance with Clause 15 'Termination', if the Licensor reasonably believes that Hybrid Mail is being used by the Licensee in a way which breaches the terms of this Agreement and/or in which the Licensor reasonably believes could adversely affect the reputation of the Licensor in any way.
- 4.3 It shall not access all or any part of the Service in order to build a product or service which competes with Hybrid Mail, or use the Service to provide services to third parties.
- 4.4 The Licensor reserves the right to close a Licensee account if it deems necessary following notification of a breach of this Agreement on providing reasonable notice to the Licensee.
- 4.5 It will make no alteration or attempt to alter the limitations or restrictions or software, program, website details or code or any program, system or similar, including Hybrid

Mail, or any other further system or software supplied to the Licensee by the Licensor.

- 4.6 The Licensee will make no attempt to sell, copy, duplicate, modify, create derivative works from or distribute Hybrid Mail or any associated systems, programs or similar supplied to the Licensee by the Licensor to any third party nor provide information intended to allow any third party to duplicate any of the capabilities of the same.
- 4.7 It will not breach any Intellectual Property Rights of the Licensor or any third party owner or licensor of Hybrid Mail or associated software and programs.

5 LICENSEE DATA SUPPLY

- 5.1 The Licensee will ensure that Test Data and Live Data is supplied in a format reasonably acceptable to the Licensor (as specified by the Licensor to the Licensee from time to time), together with all Data Maps and Templates as required by the Licensor to ensure that such data is processed and such Products are created in accordance with the Licensee's specifications.
- 5.2 Upon notification by the Licensor of any issues or difficulties arising out of processing data supplied by the Licensee, the Licensee will resupply such data, to the extent permitted by law, within a reasonable period to allow for processing of such Licensee's supplied data.

6 SERVICE STANDARDS

- 6.1 The Licensor does not warrant that the Licensee's access to and use of the Service will be uninterrupted or error free.
- 6.2 The Licensor shall be entitled to temporarily suspend access to the Service as may be reasonably necessary from time to time in order to carry out maintenance, upgrade work and any other reasonable activity to the extent permitted or required by law; in the event of any actual or suspected security breach; and/or in the event of any other actual or suspected breach of this Agreement by the Licensee. The Licensor shall use reasonable endeavours to provide the Licensee with as much notice of any suspension of the Service as is reasonably practical in the circumstances and to undertake any planned maintenance or upgrade work.
- 6.3 The Licensee accepts responsibility for the selection of the Service to achieve its intended results and acknowledges that the Service has not been developed to meet the individual requirements of the Licensee.
- 6.4 The Licensee shall be solely responsible for ensuring at its own expense that its IT systems meet at all times the Minimum Systems Requirements and the Licensee shall ensure that at all times it is fully licenced to use any third party software as specified in the Minimum Systems Requirements and that it fully complies with the terms and conditions of all such third party software licences.
- 6.5 The Service does not include the provision of any back-up, disaster recovery or business continuity services and to the extent that any Licensee Data is stored or hosted by Licensor in connection with the Service then the Licensee shall back-up such Licensee Data itself at frequencies which are appropriate to enable it to recover such Licensee Data with minimal impact on its business.
- 6.6 This Agreement sets out the full extent of the Licensor's obligations and liabilities in respect of the provision of the Service. All conditions, warranties or other terms

concerning the same which might otherwise be implied into this Agreement or any collateral contract (whether by statute or otherwise) are hereby expressly excluded.

7 CHANGES TO THE SERVICE

7.1 The Licensor shall be entitled from time to time without the consent of the Licensee to introduce new functionality to the Service and/or to make changes to the Service.

8 CHARGES

8.1 The Licensee shall pay to Licensor the Charges.

8.2 All invoices which are correctly submitted by one party to the other under this Agreement shall be paid by the party making payment within 30 days of receipt by bank transfer into a single bank account as nominated in writing from time to time by the party receiving payment. Such nominated bank account must be held in the name of the party receiving payment and be located in the United Kingdom.

8.3 If the Licensee disputes any invoice, the Licensee shall notify the Licensor in writing within 20 Business days of the date of receipt of the invoice, specifying the reasons for disputing the invoice, failing which the invoice shall be deemed as agreed.

8.4 Without prejudice to any other rights or remedies available to it, the Licensor shall be entitled to suspend without liability the Licensee's right of access to the Service without notice in the event that payment of any Charges is overdue.

8.5 The Charges and any other amounts which may become payable from time to time by one party to the other under this Agreement are stated exclusive of VAT which if applicable, shall be payable in addition by the party making payment at the applicable rate in force from time to time (subject to the provision of a valid VAT invoice by the party receiving the payment in question).

8.6 The Charges and any other amounts which may become payable from time to time by one party to the other under this Agreement shall be paid by the applicable party in full in accordance with the terms of this Agreement without set off, deduction or withholding on any account.

8.7 The Licensee acknowledges that the Licensor shall be entitled to increase the Charges on an annual basis on giving reasonable written notice.

9 INTELLECTUAL PROPERTY RIGHTS

9.1 The Licensor confirms that it is the owner of all Intellectual Property Rights in or capable of subsisting in the Service and/or that it holds the necessary authority from any applicable third party owner of any such Intellectual Property Rights to grant the limited licence to use the Service to the Licensee under this Agreement.

9.2 The Licensee shall indemnify and hold the Licensor harmless from and against all losses (including without limitation loss of profit, business, goodwill and similar losses), claims, costs, damages, liabilities, proceedings, fees and expenses (including without limitation legal fees and expenses) awarded against or incurred by the Licensor as a direct result of or in connection with any alleged or actual any infringement of any third party's Intellectual Property Rights arising from the Personal Data or other data provided to the Licensor.

10 LICENSEE DATA

- 10.1 The Licensee hereby grants to the Licensor a non-exclusive, transferable, royalty free licence to use and process the Licensee Data for the term of this Agreement for the purposes of providing the Licensee with access to the Service and otherwise as may be reasonably necessary to enable the Licensee to discharge its obligations and exercise the rights granted to it under this Agreement.
- 10.2 The Licensee shall ensure that any Licensee Data which it uploads, collects or uses onto or via the Service is complete, accurate, and up-to date and does not contain any virus, worm, Trojan horse or other components which may be harmful to or disrupt the Service.
- 10.3 Without prejudice to any of the other rights and remedies of the Licensor, the Licensee acknowledges that the Licensor shall not be liable for any failure or delay in complying with any of its obligations under this Agreement nor for any error or omission in the provision of the Service to the extent that any such failure, delay, error or omission is caused as a result of any failure by the Licensee to comply with its obligations under this Clause 10.

11 LICENSOR DATA PROCESSING

The Licensor undertakes, in regards to data processing and handling required for the production of Licensee Products and/or printed goods:

- 11.1 to inform the Licensee as soon as reasonably possible of any issues or difficulties arising out of processing Test Data or Live Data supplied by the Licensee. The Licensee will re-supply such Test Data or Live Data as soon and as far as reasonably possible.
- 11.2 Where such loss or damage to Personal Data arises from a breach by the Licensee of the terms of this Agreement the Licensor shall have no liability for any loss or delay resulting from such loss or damage to Personal Data.

12 PERSONAL DATA

- 12.1 The parties acknowledge that during the provision of the Service:
- (a) the Licensor shall be required to process Personal Data contained within the Live Data and Test Data on behalf of the Licensee in the capacity of a processor; and
 - (b) the Approved Sub-Processor shall be required to process such Personal Data on behalf of the Licensor and the Licensee as a sub-processor.
- 12.2 In relation to the Licensor's processing of the Personal Data as a processor, the nature and purposes of the processing to be undertaken, types of personal data, the categories of data subjects involved and the duration of the processing are set out in Schedule 2 to this Agreement.
- 12.3 Both parties shall comply with their respective obligations under Data Legislation in relation to the Personal Data.
- 12.4 The Licensee shall:

- (a) ensure that its collection and provision of the Personal Data to the Licensor and/or the Approved Sub-Processor complies with Data Legislation;
- (b) ensure that the Licensor's and Approved Sub-Processor's use of the Personal Data in accordance with this Agreement shall not put the Licensor or the Approved Sub-Processor in breach of any Data Legislation; and
- (c) not do or omit to do anything which places the Licensor or the Approved Sub-Processor in breach of any Data Legislation.

12.5 When processing Personal Data on behalf of the Licensee in the capacity of a processor, the Licensor shall:

- (a) only process the Personal Data in accordance with the Licensee's written instructions from time to time, unless otherwise required by law, in which case, the Licensor shall (to the extent permitted by law) inform the Licensee of that legal requirement before carrying out the processing. The Licensee hereby instructs the Licensor to process the Personal Data to the extent necessary to provide the Service;
- (b) take appropriate technical and organisational measures to ensure a level of security for the Personal Data which is appropriate to the risks to individuals that may result from the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Personal Data;
- (c) not engage a sub-processor to process the Personal Data unless:
 - (i) subject to clause 12.6, it has obtained prior written consent from the Licensee; and
 - (ii) the proposed sub-processor has entered into a contract with the Licensor which imposes obligations on the sub-processor which are equivalent to those imposed on the Licensor in this clause 12;
- (d) upon the Licensee's written request and at the Licensee's reasonable cost, provide commercially reasonable assistance which is necessary for it to provide to enable the Licensee to fulfil its obligations to respond to any requests from data subjects in accordance with Data Legislation and to comply with its obligations under Articles 32 – 36 (Security, Breach Notifications, Data Protection Impact Assessments, Prior Consultation) of the GDPR or any other equivalent obligations under other Data Legislation;
- (e) upon expiration or termination of the provision of the Service, at the Licensee's choice, return and/or erase any Personal Data (including any copies of it) in its possession or control unless the Licensor is required to retain Personal Data in order to comply with applicable laws;
- (f) upon the Licensee's written request and at the Licensee's reasonable cost, make available to the Licensee the information the Licensee reasonably requires to enable the Licensee to verify that the Licensor is in compliance with this clause 12;
- (g) upon reasonable notice and agreeing an audit plan in advance, at the Licensee's reasonable cost permit the Licensee to audit the Licensor's systems that are used to process the Personal Data, to the extent necessary to assess the Licensor's compliance with this clause 12; and

- (h) ensure that all of the Licensor's employees who have access to the Personal Data are bound by confidentiality obligations when accessing it.

12.6 The Licensee hereby consents to the processing of the Personal Data by the Approved Sub-Processor.

12.7 The Licensee agrees to fully indemnify and keep indemnified and defend at its own expense the Licensor against all costs, claims, damages and expenses incurred by the Licensor or for which the Licensor may become liable due to any failure by the Licensee or its employees or sub-contractors to comply with any obligations under this clause 12 or the Data Legislation.

13 LICENSOR PRODUCTION AND POSTAGE

13.1 Save for any unexpected downtime of the Service beyond the reasonable control of the Licensor (the Licensee acknowledging that the Licensor cannot guarantee that the Service will be uninterrupted at all times), or scheduled downtime, the Licensor will use reasonable endeavours to provide the Service in accordance with any agreed Service Level.

13.2 The Licensor may, on providing reasonable notice to the Licensee, make Hybrid Mail unavailable for the purpose of completing essential maintenance or scheduled updates on Hybrid Mail or the Licensor's systems.

13.3 The Licensor reserves the right to cancel any orders which it feels could be reasonably considered to be inappropriate or that would have any detrimental or negative affect on the Licensor's reputation or the reputation of Hybrid Mail.

14 LICENSOR ACCESS

The Licensor reserves the right to access:

14.1 Hybrid Mail to apply system updates at any time. For the avoidance of doubt, such system updates would not carry a cost unless they were at the request of the Licensee; and

14.2 Any software or alike supplied to the Licensee, insofar that such access is limited to maintenance of such software or general audit of use.

15 TERMINATION

15.1 Without prejudice to any other rights or remedies available to it, either party may terminate this Agreement at any-time by giving written notice to the other if any of the following events occur:

- (a) the other party commits any material breach of this Agreement and either:
 - (i) that breach is not capable of remedy; or
 - (ii) that breach is capable of remedy, but the defaulting party fails to remedy it within 30 days of receiving a written notice from the first party containing full particulars of the material breach and requiring it to be remedied;
- (b) the other party becomes bankrupt or goes into liquidation (whether voluntary or compulsory), becomes insolvent, is dissolved, compounds with its creditors

or has a receiver, administrative receiver or administrator appointed over the whole or any part of its assets or a petition is presented, or a meeting is convened for the purpose of considering a resolution, for the making of an administrative order, the winding-up, bankruptcy or dissolution of that party or the other party suffers any similar process in any jurisdiction outside of England and Wales; and/or

- (c) the other party ceases or threatens to cease carrying on its business, operations or activities.

15.2 The Licensor will be entitled to terminate the Agreement or suspend the Service in the event of non-payment by the Licensee in accordance to Clause 8.3 and 8.4.

15.3 Upon termination or expiry of this Agreement for any reason all rights granted to the Licensee under this Agreement shall cease and the Licensee shall:

- (a) cease all use of and access to the Service and all other activities authorised under this Agreement and if requested to do so by the Licensor certify to the Licensor in writing via a senior officer of the Licensee that it has done so; and
- (b) immediately pay to the Licensor without need for demand any sums due or accrued to the Licensor from the Licensee under this Agreement (including any Charges) which are unpaid.

15.4 In the event of termination:

- (a) The Licensee shall pay the licensor within ten (10) Business Days of receipt of a valid invoice for Service provided prior to termination in accordance with the terms of this Agreement;
- (b) The Licensor shall cease to provide the Service or such part of them as have been terminated;
- (c) Each party shall return or destroy (at the other party's discretion) all data and Confidential Information belonging to the other party (except where it relates to Service which the Licensor is to continue to provide to the Licensee);
- (d) The Licensor will revoke the Licensee's access to Hybrid Mail and associated software within ten (10) Business Days from the date of termination.

15.5 Termination or expiry of this Agreement on whatever basis shall be without prejudice to any rights or obligations of either party which have accrued prior to the date of termination and shall not affect the continuing in or coming into force of any provision of this Agreement which, whether expressly or by implication, is to continue in or come into force following expiry or termination.

16 LIMITATION OF LIABILITY

16.1 Neither party seeks to limit or exclude in any way its liability for death or personal injury caused by negligence; for fraud or fraudulent misrepresentation; for any breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; and/or for any other matter or liability which cannot be lawfully limited or excluded. Each provision of this Agreement shall be read as subject to this Clause 16.1 and no provision of this Agreement is intended to nor shall be interpreted as seeking to limit or exclude any of the foregoing types of liability.

- 16.2 Subject at all times to Clauses 16.1 and 16.3, the maximum liability of the Licensor to the Licensee for all claims under or in connection with this Agreement howsoever arising shall be limited in aggregate to the value of the Charges actually paid by the Licensee to the Licensor during the Initial Term. To the extent that any Services are provided by a third party the Licensor shall only be responsible for any liability howsoever incurred by the Licensee to the extent that the Licensor is able to recover such liability from the third party.
- 16.3 The Licensor shall not be liable for: loss of business; loss of use; loss of profit; loss of anticipated profit; loss of contracts; loss of revenues; loss or damage to goodwill or brand; loss of anticipated savings; loss of data or use of data; product recall costs; damage to reputation; and/or consequential, special or indirect loss or damage in any case, regardless of whether or not the Licensor was aware (or ought reasonably to have been aware) of the risk that such loss or damage might occur.
- 16.4 For the avoidance of doubt, Clause 16.3 shall not act so as to limit or exclude the right of the Licensor to recover any overdue or unpaid Charges or other amounts owing from the Licensee to the Licensor under this Agreement from time to time.
- 16.5 Neither party shall be liable to the other for any failure or delay in complying with its obligations under this Agreement where such delay or failure is reasonably attributable to an event of Force Majeure provided that the obligation of the Licensee to pay the Charges in accordance with Clause 8 shall not be affected by the occurrence of any event of Force Majeure.

17 CONFIDENTIALITY

- 17.1 Each party shall, during the term of this Agreement and thereafter, keep confidential all, and shall not use for its own purposes (other than implementation of this Agreement) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any information of a confidential nature (including, without limitation, trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party or any of its affiliates or group companies, unless that information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this Agreement, or subsequently comes lawfully into the possession of such party from a third party. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.
- 17.2 The terms of this Agreement are confidential and may not be disclosed by the Licensee without the prior written consent of the Licensor.

18 GENERAL

- 18.1 Any notices to be served on either party by the other shall be in writing and sent by pre-paid registered post to such address as notified in writing by a party from time to time. Such notice shall be deemed to have been received by the addressee 72 hours after posting provided applicable evidence of posting is retained and produced on request.
- 18.2 Whilst the parties may make operational communications concerning this Agreement via email, formal notice may not be served via email.

- 18.3 The parties are with respect to each other independent contractors and nothing in this Agreement and no actions taken by the parties under it shall be deemed to constitute any agency, partnership, association, joint venture or other co-operative enterprise between the parties.
- 18.4 This Agreement together with any documents referred to or incorporated into it in accordance with its terms represents the entire agreement between the parties relating to its subject matter and supersedes all previous presentations made and/or agreements, negotiations and discussions between the parties relating to the same.
- 18.5 The Licensee may not sub-licence, assign, transfer, novate, charge or sub-contract the performance of any of its rights and/or obligations under this Agreement without the prior written consent of the Licensor. The Licensee acknowledges and agrees that any breach by it of the restrictions imposed on it under this Clause 18.5 shall constitute a material breach of this Agreement which is not capable of remedy.
- 18.6 If there is an inconsistency between any of the provisions in the main body of this Agreement and the Schedules, the provisions in the main body of this Agreement shall prevail.
- 18.7 The Licensee acknowledges that details of the Service, and the results of any performance tests of the Service, constitute the Licensor's Confidential Information.
- 18.8 The Licensor acknowledges that Personal Data is the Confidential Information of the Licensee.
- 18.9 Subject to Clause 10.7, the Licensor may at any-time by written notice to the Licensee sub-licence, assign, transfer, novate, charge or sub-contract the performance of any of its rights and/or obligations under this Agreement but in the case of any sub-contracting shall remain primarily liable to the Licensee for the acts or omissions of any of its sub-contractors as if those were the acts or omissions of the Licensor itself under this Agreement.
- 18.10 If any provision of this Agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable, the remaining provisions shall remain in full force and effect.
- 18.11 The failure to exercise or delay in exercising any right or remedy under this Agreement shall not be regarded as a waiver of such right or remedy, or a waiver of other rights or remedies. No single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or any other right or remedy.
- 18.12 A person who is not a party to this Agreement shall have not right to enforce any term of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 18.13 This Agreement shall be governed by English law and, save in respect of the enforcement of any judgment, the parties agree to submit to the exclusive jurisdiction of the English courts.

SCHEDULE 1

TERMS AND CONDITIONS

What we aim to do for you

We will take reasonable steps to ensure that this website is available for your use and functions correctly; however, we cannot guarantee that it will be available at all times, or that it will always function as expected.

Once your order has been paid for, it will normally be processed on the next working day.

We will use reasonable endeavours to produce and dispatch your order on the next working day following receipt of payment for your order.

Standard delivery is 2-3 days - the same as Royal Mail Second Class. You can select First Class as an extra cost option. These are estimates only and we cannot guarantee any delivery dates or times.

If your mailing is incorrect, and it is reasonable to conclude that it is our fault, we will reprint and re-mail it for you at no extra cost.

We will provide print and paper quality appropriate to the purpose for which it is used. We will look after your data in line with our Privacy Policy, which can be located using <http://www.hybrid-mail.sharp.co.uk>.

We will charge you the price according to our published price list. The price that you are charged will be inclusive, there will be no hidden charges and no extra charges.

In the event that we are unable to send your mailing we will let you know promptly.

What we cannot offer you

Once you have approved your proof, it will go straight into production, so we are unable to cancel the order.

In exceptional circumstances - if you let us know early enough, then we may be able to prevent your mail being dispatched, but we will not be able to refund costs.

We cannot guarantee the delivery of any mail items on any specific dates. Once we have handed the mail items over to Royal Mail we no longer have any control over the items and we do not accept responsibility for late delivery caused by delays in Royal Mail's network.

Estimated delivery times can be found using <http://www.hybrid-mail.sharp.co.uk>.

We do not accept any liability whatsoever for the late delivery of items where such late delivery is caused by delays in Royal Mail's network.

What you are responsible for

You are responsible for the content of your mailing and for the data used to send your mailing and we accept no liability whatsoever for that content or data.

You are responsible for the legality and accuracy of your mailing and data and we are not obliged to check the content of your mailing and data.

All mailing addresses are checked against the Royal Mail Postcode Address File and inaccurate addresses may result in additional postage costs. You will be given the option to amend inaccurate addresses before you submit your order. Once you have submitted your order you are deemed to have accepted any additional postage charges and we are unable to amend addresses following submission.

We accept no liability if your content or data breaches third party intellectual property rights.

We reserve the right to cancel any mailing, at our sole discretion if we believe the content to be in any way harmful, offensive, inappropriate or detrimental to our reputation.

You are responsible for paying us for the service that you order.

Your responsibilities concerning API use

You are at liberty to make full use of the API during your build and reasonable testing of the API link. At a point before roll out of your final live solution using the API link, you must present details of your solution to us for final approval. You must adhere to our Fair Usage Policy if you wish to connect to the API.

You may be asked to make changes to that solution where we reasonably conclude that the solution is not in accordance with our Fair Usage Policy or may be in any way detrimental to the Hybrid Mail system.

If you roll out a live solution without our approval, we reserve the right to withdraw service from your account(s) until such time as any issues that we identify are addressed.

Personalised Envelopes and Business Return Enveloped (BRE's)

These terms and conditions apply if you choose to use the Custom Design Outer Envelopes, Reply Envelopes or Custom Design Reply Envelopes services.

If using a pre-paid Reply Envelope indicia you must acquire a license for your Business Return Address from Royal Mail. We are not responsible for acquiring the license on your behalf. For further information, refer to the Royal Mail website. If you are using a Reply Envelope that is not pre-paid, i.e. has an "Affix Stamp Here" box, then you do not need to acquire a license.

Custom Design Outer Envelopes can only be used on mailings where this option is available to be selected as the envelope preference and only if this option has been selected. If this preference has not been selected standard Hybrid Mail Outer Envelopes will be used.

Large Letters (C4) cannot use Custom Design Outer Envelopes and such letters will be produced and enclosed into standard Hybrid Mail windowed envelopes.

We convert all artwork uploaded to Hybrid Mail to an RGB file format. Artwork colours on the final printed envelope may vary slightly from the artwork you uploaded to Hybrid Mail and we accept no liability for any variation in colour or shade caused by the conversion to RGB file or the production of your order.

We recommend that you send a test letter to yourself to check the final printed output prior to submitting your order. Should this highlight any issues please contact our Support Team.

Please be aware that the indicia (printed stamp) on your envelope may change once

printed in order to meet production requirements or postal specifications, this may affect the appearance of your indicia and the indicia may vary from your proof. We cannot guarantee that the printed output of your indicia will match your proof and we accept no liability for such changes to the indicia to meet either production or postal requirements.

You are responsible for the content and artwork of your envelope design, we accept no liability whatsoever for that content or artwork. We accept no liability if your content or artwork breaches third party intellectual property rights. We reserve the right to cancel any mailing, at our sole discretion if we believe the content or artwork to be in any way harmful, offensive, inappropriate or detrimental to our reputation.

Other

We reserve the right to cancel any mailing in the event that we believe that it may be detrimental to our company to send your mail.

We reserve the right to remove your account.

These terms and conditions are subject to change at any time. It is your responsibility to make yourself aware of such changes before using the service.

We accept no responsibility or liability for any breach of our commitments under this agreement that results from a situation beyond our reasonable control.

The VAT charge is currently applied on all orders regardless of your business location or the location you are sending your mail.

We are unable to remove or refund any VAT charges, so please be aware that if ordering from outside of the EU, your net price will be at a higher level since you will not be able to reclaim VAT as businesses in the EU can.

We are based in England, and this website and the service we provide are subject to the Law of England and Wales and the English Courts. We accept no other jurisdiction and your use of our Service confirms your agreement to this.

For additional information please refer to <http://www.hybrid-mail.sharp.co.uk> .

SCHEDULE 2

THE PERSONAL DATA

The nature and purpose of the processing

The Supplier will process the personal data for the purposes of providing the Services.

Types of personal data

Personal Data contained in the Live Data and the Test Data.

Categories of data subjects

Individuals whose details are contained in the Live Data and the Test Data, such as the recipients of the print mailings.

Duration of the processing

The Supplier shall only process the Personal Data for as long as it needs to in order to provide the Services.