



## The Tellmi Mental Help Service: Terms of Service

*Updated on 18th August 2022*

This Agreement governs the Organisation's use of the Services and Materials. By using the Services and Materials, the Organisation confirms that it accepts this Agreement and that it agrees to abide and be bound by it. The Organisation may not use the Services and Materials unless it agrees to be bound by this Agreement.

### 1 Interpretation

1.1 In this Agreement:

**"Agreement"** means an Order Form together with these Terms of Service;

**"Apps"** means The Company's applications, including the Tellmi application;

**"App Services"** means the services that The Company provides to App Users via the Apps;

**"App Terms of Use"** means the Terms of Use that apply between The Company and App Users in relation to use of the Apps, which are available to view on the Site;

**"App User Information"** means any information the The Company collects directly from App Users or that App Users provide to, post, share or otherwise transmit via the Apps;

**"App Users"** means the Organisation's clients, students, teachers and staff who use the Apps;

**"Authorised User"** means any employee, agent, contractor or representative of the Organisation authorised by the Organisation to access and use the Cloud Services, using their own unique identifier provided by The Company, which for the avoidance of doubt excludes App Users;

**"Charges"** means The Company's fees for the Services, as stated in the Order Form, together with such other additional fees as may be charged in accordance with this Agreement or otherwise agreed between the parties from time to time;

**"Cloud Services"** means any Services that are provided by The Company to the Organisation over the internet;

**"Confidential Information"** means information that is proprietary or confidential to a party and is disclosed by it to the other party in connection with this Agreement, as this definition is supplemented by clause 7 (Confidential Information);

**"Initial Term"** means the period that runs from (and including) the Start Date until (but excluding) the Renewal Date;

**"Intellectual Property"** means any and all patents, copyrights (including future copyrights), design rights, trade marks, service marks, domain names, trade secrets, know-how, database rights, and all other intellectual property rights, whether registered or unregistered, and including applications for any of the foregoing and all rights of a similar nature which may exist anywhere in the world;

**"Materials"** means written documentation and content, verbal, electronic and other information, databases, computer software, Software, designs, drawings, pictures or other images (whether still or moving), the Site,



sounds or any other record of any information in any form belonging to The Company but for the avoidance of doubt excluding any Organisation Data;

“**The Company**” means MeeToo Education Limited, a company registered in England and Wales with company number 09764411 and its registered address at The Health Foundry, 1 Royal Street, London, SE1 7LL;

“**Order Form**” means an ordering document or online order specifying the Services to be provided, that is entered into between the Organisation and The Company;

“**Organisation**” means the person or entity stated as such on an Order Form;

“**Organisation Data**” means any information or data belonging to the Organisation that it provides to us, including its content that it uploads to its information portal for App Users but excluding App User Information;

“**Renewal Date**” means the date specified as such on the Order Form or, if the Order Form does not specify a Renewal Date, the date falling on the first anniversary of the Start Date;

“**Renewal Term**” has the meaning given to it in clause 13.1;

“**Reports**” means any insight reports (based on aggregated, anonymous App User Information) that The Company provides to the Organisation as part of the Services (including any insight reports that The Company has permitted the Organisation to download from the Cloud Services);

“**Services**” means the services (including any Cloud Services) to be provided by The Company to the Organisation under this Agreement as set out in the Order Form;

“**Site**” means The Company's website at <https://www.Tellmi.help/>, or other websites that The Company operates;

“**Software**” means The Company's data management and manipulation software made available by The Company to the Organisation as part of the Cloud Services;

“**Start Date**” means the earlier of the date specified as such on the Order Form (if any) and the date on which the Organisation starts using the Services; and

“**VAT**” means value added tax chargeable under English law and any similar additional tax, and any similar tax levied in any jurisdiction.

1.2 Any reference in these terms to “**writing**” or related expressions includes fax and email.

1.3 Except where the context requires otherwise:

(a) the singular includes the plural and vice versa; a reference to one gender includes all genders; words denoting persons include a natural person, corporate or unincorporated body (whether or not having separate legal personality); a reference to a “**company**” includes any company, corporation or other body corporate, wherever and however incorporated or established; and a reference to a “**party**” includes that party's personal representatives, successors and permitted assigns; and

(b) any words that follow “**include**”, “**includes**”, “**including**”, “**in particular**” or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words.

1.4 Any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction



other than England, be deemed to include a reference to what most nearly approximates in that jurisdiction to the English legal term.

- 1.5 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

## **2 Use of the Services**

- 2.1 The Company shall provide the Services in accordance with this Agreement.
- 2.2 Where the Site or Services contain links to other sites and resources provided by third parties, these links are provided for information only on an “as is” basis. The Company has no control over the availability or content of such other sites or resources and has no responsibility or liability for them or for any loss or damage that may arise from the Organisation's use of third party sites or resources.
- 2.3 The annual fee will only cover the Services described in the Order Form. The Company and the Organisation will agree pricing for any additional services provided by The Company.

## **3 App Services**

- 3.1 The App Services are the services that The Company provides directly to App Users. These are governed separately by the App Terms of Use that apply between The Company and App Users and are not a part of the Services covered by this Agreement.
- 3.2 Other than to aggregated, anonymous data contained in Reports, this Agreement does not create any rights for the Organisation in respect of App User Information. The Company's confidentiality obligations to its App Users (as set out in the App Terms of Use) are paramount, and the Organisation acknowledges and agrees that The Company has no obligation to disclose any App User Information (other than the aggregated, anonymous data contained in Reports) to the Organisation unless it is required to by law.
- 3.3 Neither the App Services that The Company provides to App Users, or the Services that The Company provides to the Organisation, constitute a medical device or an act of telemedicine. Neither the App Services or the Services are a substitute for consultation with competent health professionals. App Users should never, as a result of information read via the Apps, neglect or fail to seek the medical advice of their doctors or of other qualified professionals responsible for their healthcare. It is important to note that The Company cannot assess the health of individual App Users using the data they submit via the Apps. In an emergency, users should contact their doctor immediately or call an emergency number such as 999.

## **4 Charges & Payment**

- 4.1 The Organisation shall pay the Charges for the Services in accordance with this Agreement. Payment shall be made in GBP.
- 4.2 All Charges are exclusive of VAT or any relevant local sales taxes, for which the Organisation shall be responsible.
- 4.3 The Company operates a fair use policy in respect of welfare liaison activities. If the Organisation's App Users require The Company's teams to spend a higher than expected number of hours of welfare liaison, The Company will undertake a review of the annual fee, acting reasonably. Following such review, if the Organisation does not accept the additional Charges proposed by The Company, The Company may terminate this Agreement by giving 14 days' written notice to the Organisation.



- 4.4 The Company may increase the Charges on the commencement of each Renewal Term, in which case it shall provide the Organisation with at least 2 months' written notice prior to the start of the Renewal Term to which the increase will apply.
- 4.5 The Company will invoice the Charges to the Organisation in advance on an annual basis for payment within 30 days of the date of any such invoice, unless expressly stated otherwise on the Order Form. Sums shall be paid in full without set off or deduction. The Company's first provision of the Services is subject to its receipt of the Organisation's first annual payment.
- 4.6 No payment shall be deemed to have been made until The Company has received such payment in cleared funds from the Organisation.
- 4.7 If the Organisation fails to pay The Company any Charges by the due date, then without prejudice to its other rights and remedies The Company shall be entitled to charge interest on the outstanding amount at the prevailing rate of statutory interest (whether before or after any judgement). Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgement. The Organisation shall pay the interest together with the overdue amount.

## **5 Organisation's Obligations**

- 5.1 The Organisation shall not and shall ensure that its Authorised Users shall not:
  - (a) use the Services in any way so as to bring The Company or any other party into disrepute;
  - (b) use the Services in a manner which is unlawful, harmful, threatening, abusive, harassing, tortious, indecent, obscene, libellous or menacing;
  - (c) use the Services in a manner which infringes the Intellectual Property, proprietary or personal rights of any third party, including data subjects;
  - (d) misuse the Site or the Cloud Services by introducing viruses, trojans, worms, logic bombs or other material which is technologically harmful;
  - (e) attempt to gain unauthorised access to the Site or Cloud Services, the server on which the Site or Cloud Services are stored or any server, computer or database connected to the Site or Cloud Services;
  - (f) attack the Site or Cloud Services via a denial-of-service attack or a distributed or malicious denial-of service attack; or
  - (g) access the Software, Services or the Site in order to build a product or services which competes with the Software or Services; or
  - (h) use the Materials, or disclose them to third parties, except as authorised in writing by The Company or as permitted under this Agreement.
- 5.2 The Organisation shall keep, and shall ensure that its Authorised Users keep, their passwords and other access details for use with the Cloud Services confidential and restricted to those members of staff who need to know such details and shall ensure all such staff are aware of the confidential nature of such information and treat it accordingly. The Organisation shall notify The Company immediately if it believes that such information is no longer secret. The Organisation is solely responsible for all activities that occur using the Organisation's, and its Authorised Users', authentication credentials. The Organisation shall not permit any person to access the Cloud Services for any unauthorised purpose that would constitute a breach of this Agreement if such a breach was carried out by the Organisation, and remains responsible in full for any such unauthorised use.



5.3 The Organisation shall take all reasonable steps to ensure that nobody other than Authorised Users accesses the Cloud Services using Authorised User accounts. Authorised User accounts may not be shared between individuals.

## **6 Ownership & use of the Intellectual Property**

6.1 The Organisation acknowledges that The Company is (as between the Organisation and The Company) the owner of all the Intellectual Property in the Site, the Services and the Materials.

6.2 The Organisation, on behalf of itself and its Authorised Users, assigns to The Company all Intellectual Property rights in all suggestions or feedback given by any means to The Company in relation to the Site, Software, Services and Materials.

6.3 The Organisation grants to The Company a non-exclusive licence to use the Organisation Data for the purpose of providing the Services and complying with its obligations under this Agreement.

6.4 Subject to the Organisation's payment of the applicable Charges, The Company:

(a) grants to the Organisation a perpetual licence to use the Reports for its internal purposes; and

(b) grants to the Organisation a limited, personal, non-exclusive and non-transferable (save in accordance with clause 15.2) licence to use the Cloud Services and Materials for the duration of this Agreement strictly in accordance with its terms. The Organisation shall not be entitled to use the Services or Materials for any other purpose. In particular and without limitation, the Organisation shall have no right to copy, translate, reproduce, adapt, reverse engineer, decompile, disassemble, or create derivative works of the Software or the Materials except as permitted by applicable law. Further, the Organisation shall have no right to sell, rent, lease, transfer, assign, or sublicense the Services, the Materials or its rights under this Agreement without The Company's prior written consent.

6.5 If the Organisation becomes aware that any other person, firm or company alleges that the Intellectual Property in the Site, the Services and/or Materials is invalid or that use of such Intellectual Property and/or Materials infringes any Intellectual Property rights of another party the Organisation shall as soon as reasonably possible give The Company full particulars in writing thereof and shall make no comment or admission to any third party in respect thereof.

6.6 The Company shall have the conduct of all proceedings relating to the Intellectual Property in the Site, the Services and/or Materials and shall in its sole discretion decide what action if any to take in respect of any matter arising under clause 6.5 or any action to bring any infringement by a third party of such Intellectual Property to an end. Such action may include: (i) procuring the rights to use that portion of the Services alleged to be infringing; (ii) replacing the alleged infringing portion of the Services with a non-infringing alternative; (iii) modifying the alleged infringing portion of the Services to make it non-infringing; or (iv) terminating the allegedly infringing portion of the Services or this Agreement.

6.7 The Organisation shall reasonably assist The Company upon The Company's reasonable request in any proceedings brought by or against The Company. The Company agrees to reimburse the Organisation's reasonable expenses incurred in complying with this clause 6.7.

## **7 Confidentiality**

7.1 Each party shall keep the other party's Confidential Information confidential and shall not disclose it to any person except as permitted by clause 7.2.

7.2 Each party may disclose the other party's Confidential Information:



- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's Confidential Information comply with this clause 7; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

7.3 No party shall use any other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

7.4 Clauses 7.1 and 7.3 shall not apply to Confidential Information that: (i) is or becomes publicly known other than through any act or omission of the receiving party, or (ii) was in the other party's lawful possession before the disclosure, (iii) is lawfully disclosed to the receiving party by a third party without restriction on disclosure, or (iv) is independently developed by the receiving party, which independent development can be shown by written evidence.

7.5 Subject to clause 6.3 and the following sentence, no party shall use the other party's trade marks or make any public announcement concerning this Agreement without the prior written consent of the other party. The Company may use the Organisation's name and logo for the limited purpose of identifying the Organisation as a customer of The Company.

7.6 This clause 7 shall survive the termination or expiry of this Agreement.

## **8 Data protection**

8.1 Schedule 1 (Data Protection) applies in respect of personal data that is processed in connection with this Agreement.

## **9 Warranties**

9.1 Each party shall comply with all laws and regulations applicable to it in connection with:

- (a) in the case of The Company, the operation of The Company's business as it relates to the Services; and
- (b) in the case of the Organisation, the Organisation Data and the Organisation's use of the Services.

9.2 The Company warrants that it will provide the Services with reasonable skill and care.

## **10 Indemnity**

10.1 The Organisation shall indemnify, keep indemnified and hold The Company harmless against any liabilities, costs, expenses, damages and losses (including reasonable legal fees, settlements, and judgments) incurred by The Company in connection with all third party claims that relate to (i) the Organisation's breach of this Agreement, or (ii) Organisation Data.

## **11 Disclaimer and Limitation of Liability**

11.1 Nothing in this Agreement limits or excludes the liability:

- (a) of either party, for death or personal injury caused by its negligence, for fraud or fraudulent misrepresentation, or for any other liability that cannot be limited or excluded under applicable law; or



- (b) of the Organisation, for its obligations under clause 4 (Charges & Payment) and clause 10 (Indemnity).
- 11.2 The Organisation acknowledges that the main purpose of the Services is to provide the Organisation with insights into the mental wellbeing and wellbeing of its App Users generally, through Reports based on aggregated, anonymous App User Information. The Services do not involve the provision of professional health advice in respect of App Users. Except as expressly and specifically provided in this Agreement:
- (a) the Organisation assumes sole responsibility for all conclusions it draws from its use of the Services, the Software, the Site, the Materials or any part of them, and for all acts or omissions it makes (or refrains to make) in connection with such use;
  - (b) The Company shall, subject to clause 11.1, have no liability for any acts or omissions taken (or not taken) by The Company at the Organisation's direction; and
  - (c) 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 this Agreement.
- 11.3 The Company accepts no liability for advice provided by any medical professionals.
- 11.4 Without limiting the effect of Clause 11.2(c), The Company does not warrant that:
- (a) the supply of the Cloud Services will be free from interruption;
  - (b) marketing, training or directory resources that The Company provides to the Organisation will be completely accurate and up to date; or
  - (c) using the Services will meet any statutory obligations of the Organisation.
- 11.5 Subject to clause 11.1:
- (a) neither party will be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation (whether innocent or negligent), restitution or otherwise for any (i) loss of profits, business, business opportunities, revenue, turnover, reputation or goodwill (ii) loss or corruption of data or information; (iii) loss of anticipated savings or wasted expenditure; or (iv) indirect, incidental, consequential, exemplary, punitive or special damages;
  - (b) each party's total liability under or in connection with this Agreement, whether in contract, tort (including negligence), misrepresentation, restitution, under statute or otherwise, shall in no event exceed the higher of (i) £100 or (ii) the total Charges paid by the Organisation to The Company under this Agreement during the 12 months before the liability arose.

## **12 Force Majeure**

- 12.1 Neither party shall be in breach of this Agreement or liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 30 days or more, either party may terminate this Agreement by giving 7 days' written notice to the other party. Notwithstanding the foregoing, this clause shall not affect the Organisation's payment obligations under clause 4.

## **13 Term, Suspension & Termination**



- 13.1 This Agreement shall commence on the Start Date and shall continue, unless terminated earlier in accordance with this Agreement for the Initial Term and shall automatically extend for a further 12-month period (“**Renewal Term**”) at the end of the Initial Term and at the end of each Renewal Term. Either party may give written notice to the other party, not later than 1 month before the end of the Initial Term or the relevant Renewal Term, to terminate this Agreement at the end of the Initial Term or the relevant Renewal Term, as the case may be.
- 13.2 The Company may (in its discretion) terminate this Agreement or suspend the Organisation’s or any of its Authorised Users’ right to access or use any portion or all of the Services immediately if:
- (a) the Organisation’s or any of its Authorised Users’ use of the Cloud Services (i) poses a security risk to the Cloud Services or any third party, (ii) could adversely impact The Company’s systems, the Cloud Services or the systems or content of another The Company customer, (iii) could subject The Company, its affiliates, or any third party to liability, or (iv) could be fraudulent. In all such cases The Company shall provide such notice of termination or suspension as it is able to do so in the circumstances;
  - (b) on 14 days’ notice in writing if the Organisation or any of its Authorised Users are in breach of this Agreement and do not cure the breach within such 14 day period; or
  - (c) on 14 days’ notice in writing if the Organisation is in breach of its payment obligations under clause 4 and does not cure the breach within such 14 day period.
- 13.3 Either party may terminate this Agreement immediately by giving written notice to the other party if:
- (a) the other party commits any material breach of this Agreement and (if capable of remedy) fails to remedy the breach within 30 days after being required by written notice so to do;
  - (b) The Company discontinues the App Services; or
  - (c) the other party becomes insolvent or bankrupt, enters into an arrangement with creditors, has a receiver or administrator appointed or its directors or shareholders pass a resolution to suspend trading, wind up or dissolve that party other than for the purposes of amalgamation or reconstruction or it ceases, or threatens to cease, trading.
- 13.4 Any termination of this Agreement for any reason shall be without prejudice to any other rights or remedies a party may be entitled to at law or under this Agreement and shall not affect any accrued rights or liabilities of either party nor the coming into force or the continuance in force of any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.
- 13.5 The period during which The Company may suspend the Services in accordance with this Agreement will continue until the circumstances giving rise to The Company’s right to suspend the Services ceases to subsist or until this Agreement is terminated.
- 13.6 In the event that The Company suspends the provision of Services as permitted by clause 13.2 (up to the duration permitted by clause 13.5) the Organisation will continue to be obliged to pay any Charges owing or that arise during the period when the Service is suspended. The Company will end the suspension as soon as reasonably practicable once the cause of the suspension is rectified.
- 13.7 The Company reserves the right to terminate this Agreement with immediate effect if it deems the Organisation has built or is building a product or services which competes with the Software or Services provided by The Company.

## **14 Effects of Termination**

- 14.1 Upon termination of this Agreement for any reason:





- (a) there shall be no refund of any element of the Charges to the Organisation, save for refunds pro-rata where (i) the Organisation has terminated properly under clause 13.3, (ii) The Company has terminated under clause 4.3 or 6.6, or (iii) either party has terminated under clause 13.3(b);
- (b) all unpaid Charges shall become immediately due to The Company (in whole or in part on a pro rata basis where part of a periodic charge which is charged in arrears is due), save in instances where the Organisation has terminated properly under clause 13.3 or where The Company has terminated under clause 6.6, in which case only the Charges due in relation to the period and usage prior to the effective date of termination shall become payable under this subclause;
- (c) The Company will be under no obligation to the Organisation to retain any data (including Organisation Data);
- (d) the Organisation shall immediately cease using The Company's Intellectual Property and the Materials, except that this shall not limit the licence of Reports to the Organisation described in clause 6.4(a);
- (e) except for the licence of Reports to the Organisation described in clause 6.4(a), all licences granted to the Organisation under this Agreement shall immediately terminate; and
- (f) each party shall return or destroy (or erase from its computer systems) as notified to it in writing by the other party and make no further use of the data, the Materials or any Confidential Information then in its possession.

## **15 Transfer & Subcontracting**

- 15.1 The Company may assign, transfer or deal in any other manner with all or any of its rights under this Agreement or any part thereof to a third party. The Company may subcontract the Services or parts of them to third parties. The Company is responsible for breaches of this Agreement caused by its subcontractors.
- 15.2 Save as permitted by clause 15.1, neither party may assign, subcontract, sublicense or otherwise transfer any rights or obligations under this Agreement or any part thereof (except in connection with the sale or transfer of all, or substantially the whole, of its assets) without the prior consent in writing of the other party.

## **16 Communication & Notices**

- 16.1 All notices will be in writing and given when delivered to the address set forth in the Order Form. Where such notice is given by email to The Company it shall be sent to [info@Tellmi.help](mailto:info@Tellmi.help).

## **17 Governing Law and Jurisdiction**

- 17.1 This Agreement 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 English law.
- 17.2 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 Agreement or its subject matter or formation (including non-contractual disputes or claims).

## **18 Amendments to the Terms**



18.1 The Company may make changes to these Terms of Service on the commencement of each Renewal Term, in which case it shall provide the Organisation with at least 2 months' written notice prior to the start of the Renewal Term to which the changes will apply

18.2 Except for changes made by The Company pursuant to clause 18.1, no variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

## **19 General**

19.1 Except where otherwise expressly stated herein, this Agreement constitutes the entire agreement between the parties relating to the subject matter of this Agreement and supersedes any previous agreement or understanding whatsoever whether oral or written relating to the subject matter of this Agreement. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.

19.2 Unless otherwise stated, in the case of any conflict between the Order Form and these Terms of Service, the Order Form shall prevail.

19.3 In relation to the subject matter of this Agreement (including the Services), in the case of any conflict between this Agreement and any other agreement or understanding between the parties, this Agreement shall prevail.

19.4 Each party warrants to the other that they have the power and authority to enter into this Agreement and perform its obligations under this Agreement, and that entering into and performing its obligations under this Agreement will not cause it to breach any legal obligations.

19.5 This Agreement shall not be deemed to create any partnership or employment relationship between the parties.

19.6 A person who is not party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any term of this Agreement. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any other person.

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

19.8 The rights and remedies provided in this Agreement for The Company are cumulative and not exclusive of any rights and remedies provided by law.

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



## SCHEDULE 1: DATA PROTECTION

### 1. Definitions

1.1 In this Schedule:

- (a) The terms **controller, processor, data subject, personal data, personal data breach, processing** and **appropriate technical and organisational measures** have the meanings given to them in the Data Protection Legislation;
- (b) **“Data Protection Legislation”** means all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended;
- (c) **“Permitted Region”** means the region comprising the UK and the European Economic Area Member States; and
- (d) **“Protected Data”** means personal data which The Company processes, in the capacity of a processor on behalf of the Organisation, in connection with its provision of the Services. For the avoidance of doubt, App User Information does not fall within the definition of Protected Data. For details of how The Company processes and protects App User Information, please see The Company’s Privacy Policy (as made available on the Site) and the App Terms of Use that apply between The Company and App Users.

### 2. Data Protection

- 2.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Schedule is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 2.2 The parties acknowledge that for the purposes of the Data Protection Legislation, in relation to Protected Data, the Organisation is the Controller and The Company is the Processor. Paragraph 3 sets out the scope, nature and purpose of processing by The Company, the duration of the processing and the types of Protected Data and categories of data subject.
- 2.3 Without prejudice to the generality of paragraph 2.1, the Organisation will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Protected Data to The Company for the duration and purposes of this Agreement.
- 2.4 Without prejudice to the generality of paragraph 2.1, The Company shall, in relation to any Protected Data processed in connection with the performance by The Company of its obligations under this Agreement:
  - (a) process that Protected Data only on the documented written instructions of the Organisation unless The Company is required by applicable law to otherwise process that Protected Data. Where The Company is relying on applicable law as the basis for processing Protected Data, The Company shall promptly notify the Organisation of this before performing the processing required by the applicable law unless the applicable law prohibits The Company from so notifying the Organisation;
  - (b) put in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Protected Data and against accidental loss or destruction of, or damage to, Protected Data;
  - (c) ensure that all personnel who have access to and/or process Protected Data are obliged to keep the Protected Data confidential;



- (d) not transfer any Protected Data outside of the Permitted Region unless (i) the Organisation has provided its prior written consent to this, and (ii) the transfer out of the Permitted Region is effected by way of a legally enforceable safeguarding mechanism that is permitted under the Data Protection Legislation;
- (e) assist the Organisation, at the Organisation's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Organisation without undue delay on becoming aware of a personal data breach relating to Protected Data;
- (g) at the written direction of the Organisation, delete or return Protected Data and copies thereof to the Organisation on termination of this Agreement unless required by law to store the Protected Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this Schedule and allow for audits by the Organisation or the Organisation's designated auditor.

2.5 The Organisation consents to The Company appointing third party processors to process the Protected Data, provided that The Company:

- (a) informs the Organisation of any intended changes concerning the addition or replacement of third party processors, thereby giving the Organisation the opportunity to object to such changes;
- (b) confirms that it has entered into or (as the case may be) will enter into a written agreement with each third party processor incorporating terms which are substantially similar to those set out in this Schedule; and
- (c) remains responsible for the acts and omission of any such third party processors as if they were the acts and omissions of The Company.

### 3. Processing, Protected Data and Data Subjects

This paragraph includes details of the processing of Protected Data by The Company as required by Article 28(3) GDPR.

Subject matter of Protected Data	Personal data which The Company processes, in the capacity of a processor on behalf of the Organisation, in connection with its provision of the Services. For the avoidance of doubt, App User Information does not fall within the definition of Protected Data.
Duration of processing	For the duration of the Services.
Nature and purpose of processing	To enable The Company to provide the Services to the Organisation.
Types of personal data processed	Business contact details.
Categories of data subjects	<ul style="list-style-type: none"><li>● Authorised Users.</li><li>● The Organisation's mental health and wellbeing support staff (where the Organisation uploads their business contact details to its information portal for App Users).</li></ul>

