

DATE: 26th September 2019

Software Services and Online Agreement for the TGS RETIREMENT SCHEME

BETWEEN:

EDWARD PEREGRINE BAILEY acting as Trustee of the TGS RETIREMENT SCHEME (where there are one or more persons are collectively, the "**Trustees**" and each of them a "**Trustee**"); and Practitioners Partnership LP operator of the Retirement Capital platform whose registered address is situate at 1st Floor, World Trade Centre, Bayside Road, GX11 1AA (the "**Supplier**").

WHEREAS:

- A. The Scheme is governed by a deed made between the Principal Employer and the Trustees.
- B. The Supplier provides services (the "**Services**") set out in this Agreement.
- C. The Trustees will appoint the Supplier to carry out the services as set out in this agreement to the Trustees
- D. Where the context herein requires, the singular number shall be deemed to include the plural, the masculine gender shall include the feminine and neuter genders, and vice versa.
- E. In consideration of the charges set out in Schedule 1 of this Agreement, the Trustees agree to appoint the Supplier to provide the Services with effect from the date of this Agreement:

THE SERVICES

1. Establishment of a Scheme

The Supplier will provide a draft trust deed and rules (the "**Scheme Deed**" and "**Scheme Rules**"), together with the associated documents necessary to establish the Scheme under trust, adopt the governing rules, appoint the Trustees and confirm membership for the initial members of the Scheme.

2. Takeover of a Scheme

- A. The Supplier will provide a draft trust deed of amendment together with the associated documents necessary to takeover the provision of certain services from a transferring provider. The Supplier will provide the necessary document to establish a scheme
- B. In the case of a Scheme Establishment or a Scheme Takeover, unless otherwise notified by the Trustees, a designated Trustee will be the Scheme Administrator for HM Revenue & Customs (HMRC) purposes.
- C. The designated Trustee who shall be the Scheme Administrator is: EDWARD PEREGRINE BAILEY

3. Online Requirements

A. The Trustees appoint The Supplier to undertake on behalf of the Trustees and Registered Administrator online registration with HMRC.

B. The Trustees as the Scheme Administrator, hereby authorises the Supplier to complete on their behalf; (i) the online registration of the Scheme with HMRC; and (ii) each Trustee's online registration as Scheme Administrator with HMRC including the following declarations:

- The Scheme meets all the criteria to be registered as a pension scheme under Finance Act 2004 and in particular, is established for the purpose of providing benefits in respect of persons listed at section 150 Finance Act 2004

Each of the Trustees further declares that:

- To the best of my knowledge and belief, the information given in this application to register the pension scheme for the purposes of tax relief is correct and complete and I understand that I am responsible for providing any further information and declarations reasonably required by HMRC in order to consider the application.

- The instruments or agreements by which this pension scheme is constituted do not directly or indirectly entitle any person to unauthorised payments. In addition the way in which the pension scheme is to be administered will not knowingly entitle any person to unauthorised payments.

- I understand that as Scheme Administrator I am responsible for discharging the functions conferred or imposed on the Scheme Administrator of the pension scheme by Finance Act 2004, and I intend to discharge those functions at all times, whether resident in the United Kingdom or another EU member state or non-member EEA state. I understand that I may be liable to a penalty and the pension scheme may be de-registered if I fail properly to discharge those functions. I understand that I may be liable to a penalty and the pension scheme may be de-registered if a false statement is made on this application, or in any information I provide in connection with this application, and that false statements may also lead to prosecution.

C. The Supplier is further authorised to make such necessary declarations on behalf of the Scheme Administrator and provide ongoing reporting requirements in order to maintain the tax integrity of the Scheme. The Supplier shall provide a copy of all declarations and submissions to the Scheme Administrator within 6 months of the filing date.

4. Operation of the Scheme

The Supplier will provide general guidance on the operation of the Scheme in accordance with the Scheme Rules as and when reasonably requested by the Trustees.

5. Technical updates

From time to time, the Supplier will provide updates regarding changes in pensions related legislation. The Supplier will only provide specific details on how such legislation and guidance might affect the Scheme Rules.

6. ICO Registration and Pensions Regulator Registration and maintenance

The Supplier is authorised by the Trustees to register and maintain registrations as may be required by the Pensions Regulator and the ICO to conform to relevant statutory requirements. The payment of levies shall be paid directly by the Trustees and or Principal Employer.

7. Calculation of Benefits

The Supplier will calculate and maintain the value of each Scheme member's interest in the Scheme assets in accordance with the Scheme Rules.

8. Payment of Pensions

The Supplier shall operate a payroll facility for the payment of pensions and shall, where instructed by the Trustees pay the taxes due on those payments when such payments become due. The Trustees shall be responsible for ensuring that the scheme bank account has sufficient funds to pay pensions and shall also be responsible for the payment of any taxes and interest on sums due to the relevant tax offices.

9. Online Platform

A. The Supplier grants to each member who is a Trustee of the Scheme the following non-exclusive, non-transferable licence for the duration of this Agreement to access the Platform and its applications and use it subject to the terms and conditions of this Agreement.

B. The Trustees shall use the Platform and the information contained therein for the stated purposes only set out in the Schedules 2.

C. If the Trustees believe that their data has been accessed by a third party they should inform the Supplier immediately whereupon the Trustees username and password will be revoked and the Trustees will be issued with a new username and password.

D. The Platform, its design and its applications shall be the intellectual property of the Rights Holder and the Trustees shall not replicate, copy or transfer to themselves or a third party for commercial use.

E. Neither Party to this Agreement shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

F. The Supplier has made every reasonable effort to ensure the accuracy and completeness of the Platform, however no warranty, express or implied is given as to the accuracy and completeness of the Platform.

G. With the exception of death or personal injury caused by the negligence of the Supplier, the Supplier shall not be liable for any loss, damage or injury suffered by the Supplier howsoever arising from its use of the Platform.

10. Fees, and Charges

A. It is hereby agreed that the Trustees shall be responsible for the payment of all professional fees, charges and costs charged or incurred by The Supplier in the performance of the Services (the "Fees") from the Scheme unless it has been otherwise previously agreed by all parties that such Fees be met from other sources.

B. The Fees payable by the Scheme are set out in the Schedule 1 and form part of this Agreement. The Fees may be varied by The Supplier giving a minimum notice period of 30 days.

11. Scheme Bank Account

The Trustees may open one or more bank accounts for, and in the name of, the Scheme with one or more banks of their choosing or the Trustees can jointly appoint a third party to provide this service.

12. Data Protection

A. In the course of providing its Services, The Supplier receives information from the Trustees and about the Trustees, and so will act as a data processor under the Data Protection Regulations. In accordance with Data Protection legislation, the Supplier processes this information lawfully and fairly, to which the Trustees consent, and the Supplier maintains procedures to protect it.

B. The Supplier and the Trustees agree to be bound by the GDPR Policy set out in Schedule 2.

C. This Agreement shall only come into force on the acceptance and execution of a separate agreement between the Supplier and the Trustees detailing each party's GDPR responsibilities and duties.

13. Novation, Amendment and Termination

A. This Agreement shall come into force at the date of this Agreement and shall be automatically renewed on each anniversary, being the date of this agreement. It may be terminated by the Supplier or the Trustees jointly on giving written notice to the other parties in accordance with the terms of this Agreement.

B. The terms and conditions of this Agreement may be amended by The Supplier at any time provided that any such amendment is made with 14 days' notice by electronic mail.

C. The Supplier may novate as a party to this Agreement any part or the whole of this Agreement on giving 1 month's electronic notice of the novation to the Trustees and/or Principal Employer.

D. If the Scheme is to be wound up for any reason this Agreement will terminate automatically on completion of that winding up.

E. Termination of this Agreement for any reason shall be without prejudice to any accrued rights, existing commitments or any contractual provision intended to survive termination, including the Fees accrued and due to The Supplier.

F. If this Agreement is terminated, each of the parties shall provide all reasonable assistance to the others to facilitate the orderly transfer of all relevant documentation to new administrators or other advisers in accordance with the instructions of the Trustees. The reasonable costs incurred by The Supplier in facilitating the transfer shall be met by the Scheme Funds or by the Trustees.

14. Liability

A. The Supplier shall exercise reasonable skill and care in the performance of the Services subject to legislation applying to the Scheme.

B. The Supplier will not be liable for any losses, costs, liabilities or expenses incurred by the Trustees in connection with this Agreement save for such losses, costs, liabilities and expenses resulting directly from the negligence, wilful default or fraud of The Supplier in the performance of the Services.

C. Any losses incurred under 15.b shall be limited to the professional indemnity insurance policy in force from time to time maintained by the Supplier

D. The Trustees shall indemnify The Supplier against (i) any breach by the Trustees of this Agreement and (ii) all claims and demands made by persons entitled or purporting to be entitled to the Scheme Funds or any part thereof and against all costs and expenses in relation thereto, except to the extent that any such claim or demand is attributable to any matter for which The Supplier is liable under this Agreement.

E. The Supplier is authorised to act on the instructions of the Trustees individually or jointly which shall be binding on all and be jointly and severally responsible for all duties, obligations and liabilities attaching to either of them under this Agreement.

15. General

A. The Trustees understand and accept that The Supplier is not providing investment advice in relation to any transaction or service carried out under this Agreement and the Trustees agree that all orders, requests, demands and instructions given to The Supplier under this Agreement are given in reliance of their own judgement.

B. This Agreement (or any of the arrangements contemplated hereby) shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in this Agreement. None of the parties shall have, nor represent that it has, any authority to make any commitments on the other party's behalf.

C. The Supplier is authorised to act on the instructions of the Trustees individually or jointly which shall be binding on all, unless otherwise stated in this Agreement, be jointly and severally responsible for all duties, obligations and liabilities attaching to either of them under this Agreement.

D. The parties to this Agreement will at all times maintain the confidentiality of all information acquired in consequence of it, except for information which they are bound to disclose under compulsion of law or regulatory authority or requested by their professional advisers.

E. Any notice or other communication to be given under this Agreement shall be in writing in English and signed by or on behalf of the party giving it (or its representative) and in accordance with any other requirements of this Agreement and shall be delivered by hand, sent by prepaid recorded delivery or registered post, to the address set out below.

F. Any notice or other communication given by The Supplier to any one of the Trustees shall for the purposes of this Agreement be deemed to be given to all.

G. Electronic signatures adopted in accordance with Electronic Signatures Regulation 2002 (SI 2002 No. 318), whether digital or encrypted, by any and all the parties included in this document are intended to authenticate this document and shall have the same force and effect as manual signatures.

H. Delivery of a copy of this document contemplated hereby bearing an original or electronic signature by electronic mail in portable document format (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

Signed by the Trustee:

EDWARD PEREGRINE BAILEY

Signature: 

Signed for and on behalf of the Supplier:

Signature:

For Retirement Capital

Schedule 1 - Fees

£880.00 scheme set up fee.

£880.00 p.a. online administration services from the date of scheme tax registration or association of scheme administrator with online services.

**Schedule 2 - GDPR Policy governing the obligations imposed by the Regulation (EU)
2016/679 (the 'Policy')**

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BACKGROUND

(A) The Trustees (the "Controller") determine the purpose and means of the processing of personal data as detailed in the Services Agreement signed between the Trustees and the Supplier.

(B) The Supplier (the "Processor") processes personal data on behalf of the Controller as detailed in the Services Agreement signed between the Controller and the Processor and as required by the Regulatory Authorities (HMRC and TPR).

(C) The Controller has engaged the services of the Processor to process personal data on its behalf.

(D) Article 28 of the Regulation 2016/679 provides that the Controller uses only Processors that provide sufficient guarantees to implement appropriate and necessary measures of processing that meet the requirements of the Regulation and ensure the protection of the rights of the data subjects.

(E) Article 28 (a) of the Regulation 2016/679 provides that where processing is carried out by a processor on behalf of a controller, such processing is governed by a contract binding the processor to the controller stipulating that the processor shall act only on instructions from the controller, from the appropriate industry regulators and ensures that appropriate technical and organisational measures required under the governing law are implemented by the processor to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access and against all other unlawful forms of processing.

(F) In compliance with the above-mentioned provisions of the Regulation 2016/679 the Controller and Processor wish to enter into this security Agreement.

(G) This Policy forms part of the Services Agreement between the Trustees and the Supplier, and acceptance of the Services Agreement.

1. DEFINITIONS AND INTERPRETATION

1.1 In this agreement the following words and phrases shall have the following meanings, unless inconsistent with the context or as otherwise specified:

"GDPR" (General Data Protection Regulation) shall mean Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regards to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

"national law" shall mean the law of the Member State in which the Processor is established;

"personal information" shall mean any information relating to an identifiable natural person ('data subject'); an identifiable person is one that can be identified, directly or indirectly, in particular by reference to an identifier such as name, an identification number, location data, online identifier or to one or more factors specific to his physical, physiological, genetic, mental, economic cultural or social identity of that person;

"processing personal data" shall mean obtaining, recording, or holding the information or data or carrying out any operation or set of operations on the information or data. This

includes data manipulation of forms of organising and retrieving data; adaptation, alteration, or modification of the data; use of the information or data; transmitting the data and making data available; destroying, blocking, or erasing data.

“sub-contract” and “sub-contracting” shall mean the process by which either party arranges for a third party to carry out its obligations under this Agreement and “Sub Contractor” shall mean the party to whom the obligations are subcontracted;

“technical and organisational security measures” shall mean measures to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access and against all other unlawful forms of processing; and

“DPIA” (Data Protection Impact Assessment) shall mean an assessment aimed at identifying risks to personal information.

“DPO” Data Protection officer.

2. CONSIDERATION

2.1 in consideration to the Controller engaging the services of the Processors to process personal data on its behalf the Processors shall comply with the security, confidentiality and other obligations imposed under this Policy.

3. SUBJECT MATTER AND DURATION OF THE PROCESSING

3.1 The Controller provides the Processor only the data that is necessary for the carrying out the duties listed within this Services Agreement and subsequent duties that arise from that agreement in relation to governing legislation and regulatory requirements. This data includes Trustee personal information and in some cases may include special categories data, such as details about the Trustee’s health and other sensitive data. Art. 9 GDPR.

3.2 The Processor will ensure that the data is used to carry out contractual duties in relation to administration of the Pension Scheme in the manner specified within the Services Agreement and is kept in a secure manner accessible by staff members authorised to process the data.

3.3 In the event of special category data is processed in order to carry out the contractual and legal obligations by the Processors, specific consent is requested from the data subject prior processing and necessary measures are implemented in order to keep the data safe, including restricted access to such data, based on staff clearance levels.

3.4 The Controller and the Processor have the obligation to keep the data for the period of the contract and a further six years from the termination of the contract. In the event of Agreement where special categories data is being processed, depending on the specific nature of the special categories data, this period will be longer and can be up to 10 years after the data subject’s death.

4. NATURE AND PURPOSE OF THE PROCESSING

4.1 The data processing is for the purpose of carrying out the duties of the Supplier as detailed in the Services Agreement and the Trust Deed and Scheme Rules and in accordance to the applicable laws; which include sharing elements of data with the HMRC and The Pensions Regulator.

5. THE TYPE AND CATEGORIES OF PERSONAL DATA BEING PROCESSED

5.1 The type and categories of data being processed in fulfilling the obligations of the Processor is:

- a) Identification details of the scheme members - name, address, date of birth and national insurance number.
- b) Proof of identification with a photo ID and proof of address.
- c) Earnings, savings, inheritance and tax information relating to the scheme members.
- d) Personal details relating to dependents, marriages, divorces and deaths.

5.2 The Processor does not carry out automated profiling of clients.

6. THE OBLIGATIONS AND RIGHTS OF THE DATA CONTROLLER

6.1 The Data Controller determines the purpose and the manner of the data processing as detailed in the Trust Deed and Scheme Rules and Administration Agreement and the Scheme GDPR Agreement.

6.2 The Data Controller exercises the overall control over the data processing activities.

6.3 The Data Controller holds final accountability in the event of a Data Breach or for being found to be non-compliant with the GDPR.

6.4 The Data Controller is responsible for:

- a) Complying with the principles;
- b) Honouring Data Subjects rights;
- c) Ensuring the processing of the data is lawful;
- d) Appointing a DPO;
- e) Demonstrating compliance;
- f) Managing a Joint Controller relationships;
- g) Managing Data Processors;
- h) Record keeping;
- i) Co-operation with the Supervisory Authorities;
- j) Keeping personal information secure;
- k) Ensuring transparency about Data Breaches;
- l) Ensuring the Data Subject is notified with the relevant safeguards that are in place if the data is transferred into a third country.

7. THE OBLIGATIONS OF THE DATA PROCESSOR

7.1 The Data Processor will perform processing defined by the Data Controller and legal requirements to carry out the tasks as required by the Trust Deed and Scheme Rules, this Services Agreement.

7.2 The Data Processor may decide within the terms of the Agreements with the Data Controller what IT systems and methods are required to collect and store the data; the security methods it applies to safeguard the data; the means used to transfer the data from one organisation to another; the means to retrieve personal data; the method of ensuring retention schedule is adhered to; the method of data minimisation process it applies; and the means it uses to delete the data at the end of the required period.

7.3 The Data Processor is responsible for:

- a) Complying with the principles;
- b) Honouring Data Subjects rights;
- c) Appointing a DPO if necessary;
- d) Performing only the processing as per agreements with the Data Controller;
- e) Updating the Data Controller;
- f) Sub-Processor appointment and agreements;
- g) Keeping personal information confidential;
- h) Record keeping;
- i) Co-operating with the Supervisory Authorities;
- j) Keeping data secure;
- k) Notifying the Data Controller of Data Breaches.

8. CONDITIONS FOR CONSENT

8.1 The Legal basis of the processing under this Policy is the Services Agreement between the Data Controller and the Data Processors; however there are specific areas that require a clear indication of consent, from the Trustee(s) who are the Data Subject(s) under this Agreement, found on the signature page of this Agreement.

9. SUBJECT ACCESS REQUEST

9.1 The Data Processors must respond to Subject Access Requests from the Data Subjects within one month and provide information about:

- a) the purpose of processing;
- b) the categories of personal data held;
- c) the recipients to whom the personal data has been disclosed;
- d) the period for which the personal data will be kept and the criteria used in determining the period;
- e) notification that the Data Subject has the right to request rectification of data kept;
- f) notification that the Data Subject has the right to place a restriction to the processing of data subject to lawful restrictions;
- g) notification that the Data Subject has the right for the data to be deleted, subject to any lawful restrictions;
- h) the source of data, in the event that the data was not collected from the Data Subject.

9.2 The Information requested must be provided in a simple and easily accessible format.

9.3 If further copies are requested, an administrative cost can be applied to the request to cover the cost of producing such copies.

9.4 The Subject Access Request must not have a negative effect on the rights and freedoms of others.

10. RECORDS OF PROCESSING ACTIVITIES

10.1 Both the Data Controller and Data Processor shall maintain a record of processing activities under its responsibility.

The Controller and Processors need to keep the following records:

- a) The details of the Controller, Processors, Representatives and the DPO;
- b) The processing activities carried out;
- c) Information relating to cross-border data transfers;
- d) A description of security measures put in place to protect the data.

10.2 The records must be written and in electronic format where possible.

10.3 The records must be available for audit by the supervisory authority on request.

11. DATA PROTECTION IMPACT ASSESSMENTS

11.1 The Data Processors ensures that in the event of implementation of a new system or process that may have and adverse affect or carry a risk to personal data, a DPIA is carried out and a record of it is provided to the Data Controller.

12. APPOINTING A DPO

12.1 The UK Data Protection Bill 2018 Chapter 4. Chapter 69 puts further responsibilities on the UK based Data Controllers by requiring the appointment of a data protection officer as opposed to GDPR where the requirement is conditional.

12.2 The Data Protection officer is responsible for:

- a) Providing information and advice in relation to GDPR processes and compliance;
- b) Liaising with the Supervisory Authority;
- c) Providing the Controller, Processor and their employees who are actively involved with processing the personal data with advice regarding how to implement and adhere to their obligations in the context of GDPR;
- d) Monitor compliance with the GDPR, including raising awareness, assigning responsibilities and training staff involved with processing and related audits;
- e) Provide advice in relation to DPIAs and monitor its performance pursuant to Art.33.

13. CONFIDENTIALITY

13.1 The Processors agree that they shall maintain the personal data processed on behalf of the Controller in confidence. In particular, the Processors agree that, unless there

is a prior written consent of the Controller, they shall not disclose any personal data supplied to the Processors by, for, or on behalf of, the Controller to any third party.

13.2 The Processors shall not make any use of any personal data supplied to it by the Controller otherwise than in connection with the provision of services to the Controller.

13.3 The obligations in clauses 13.1 and 13.2 above shall continue for a period specified in the Administration Agreement and for the time period required by law for the retention of the information subject to the nature of information held.

13.4 Nothing in this agreement shall prevent either party from complying with any legal obligation imposed by a regulator or court. Both parties shall however, where possible, discuss together the appropriate response to any request from a regulator or court for disclosure of information.

14. NOTIFYING OF PERSONAL DATA BREACH

14.1 Obligation to notify under GDPR:

- a) The Data processor must notify the Data Controller;
- b) The Data Controller must notify the Supervisory Authority;
- c) The Data Controller must make the Data Subjects aware of the breach.

14.2 The obligation to notify exists if:

- a) The breach is likely to effect the rights and freedoms of data subjects;
- b) There is a reputational risk, financial implication, loss of confidentiality, risk of discrimination, social and economic disadvantage that may fall on the data subject as a result of the breach;

14.3 Data breaches must be notified within 72 hours of the breach being discovered by downloading a form from the ICO website and sending it back to them.

14.4 Data Controller shall keep record of all data breaches containing the details and effects of the breach and action taken to rectify it.

15. SUB-CONTRACTING

15.1 The Processor shall not undertake any sub-contracting without the written consent from the Controller.

15.2 If written consent is given, the same rules shall apply to the sub-processor as found in this Policy.