**Appendix 1**

**PERSONAL DATA PROCESSING AGREEMENT**

Between

**Derby City Council (‘The Council’)**

and

**[Full name of company] (‘Data Processor’)**

**Compliance with the Data Protection Act 1998**

Paragraphs 11 and 12 of Part II of Schedule 1 of the Data Protection Act 1998 (“the Act”) place obligations upon a Data Controller to make sure that any Data Processor it engages provides sufficient assurances that the processing of the data carried out on its behalf is secure. In practice this means that the data processor engaged must provide sufficient guarantees in respect of the technical and organisational security measures governing the processing to be carried out and must take reasonable steps to ensure compliance with those measures.

This Agreement exists to make sure that both the Data Controller and Data Processor comply with the eight Data Protection Principles contained in the Act and all other terms within the Act .

Under the terms of an agreement between The Council and the Data Processor dated [date], the Data Processor provides asset valuationswhich will involve the processing of personal data that are under the Council’s control. The personal data to be transferred under this Agreement is as follows:

**The details of Tenants and Occupiers**

The law does not permit the Council to allow the Data Processor to process this personal data unless the Council complies, and can demonstrate that the Council complies, with certain requirements as set out in the Data Protection Act. Therefore, this agreement is in place in order to make sure that the Council and the Data Processor discharge their respective obligations under the Act.

**1**. **Privacy Impact Assessment**

* 1. The data processor will ensure that they complete a privacy impact assessment so

that they can assess the risks to individuals and take steps to mitigate against those risks.

**2 Security**

2.1 The Data Processor will take appropriate technical and organisational measures against unlawful and unauthorised processing of the personal data and against accidental loss, destruction of and damage to the personal data. In particular, the Data Processor is required to:

* keep the personal data confidential
* minimise disclosure of the personal data to any other organisation
* allow access to the personal data strictly on a ‘need to know’ basis and use appropriate access controls to make sure this requirement is satisfied
* make sure that any recipients of the personal data are subject to a binding duty of confidentiality in relation to the use and/or reuse of the data
* provide a copy of their Information Security Policy and Data Protection Act Policy to the Council upon commencement of this agreement
* keep the Council up to date of changes to either of these policies.
* Be ready and prepared to respond to any breach of security swiftly and

 effectively.

* Make sure any data breach is reported to the data controller swiftly and

at the latest within 24 hours so that they can report the breach to the ICO.

* Make sure you have the right physical and technical security in

place.

* Maintain a record of personal data and processing activities.

**3 Personnel**

3.1 The Data Processor shall make sure that sufficient processes are in place to check the reliability of all its personnel (whether employees or contractors) that may have access to the personal data and to make sure that they are adequately trained in their responsibilities under the Act and in good handling of personal data.

**4 Purposes**

4.1 The Data Processor will act only in accordance with the Council’s instructions in relation to the personal data and will not use the personal data for any purpose other than to provide the services under this Agreement. The purpose(s) for which the Data Processor may use the personal data are as follows:

**Valuation Purposes**

The data should not be used for any other purpose that is incompatible with the original purpose/s stated above.

**5** **Adequacy and accuracy**

5.1 The data processor will ensure that they will only process personal data they need for the required purpose/s and ensure that any personal data they

 process and hold is kept up to date and accurate.

**6 Subcontractors**

6.1 The Data Processor is not permitted to subcontract any activity that will involve a third party processing the personal data without the Council’s prior written consent.

**7 Transferring personal data outside the European Economic Area**

7.1 The Data Processor will not transfer or permit the transfer of personal data to any territory outside the European Economic Area without the Council’s prior written consent.

**8 Providing assistance**

8.1 The Data Processor will assist the Council promptly with all subject access requests which may be received from individuals whose personal data the Data Processor processes or may have cause to process on behalf of the Council. In order to ensure that the Data Processor can comply with this they must ensure that they have effective record management processes and policies in place.

8.2 The Data Processor will promptly amend, transfer or delete any personal data that the Data Processor processes or may have cause to process on behalf of the Council, when instructed to do so.

8.3 The Data Processor will notify the Council immediately of all communications the Data Processor receives from any person relating to actual or perceived non-compliance with the Act. The Council reserves the right to make the decision to investigate any notified breaches.

8.4 The Data Processor will provide the Council with a copy of the personal data the subject of the communication within 7 working days.

8.5 The Data Processor will immediately inform the Council of any other breach or suspected breach of the Act involving the Council’s personal data.

**9 Audit**

9.1 The Data Processor will permit the Council to monitor compliance with the terms of this Agreement, which may involve the Council or its nominated representative visiting and accessing any premises where the personal data are being processed without notice.

**10 Termination of the Agreement**

10.1 This Agreement shall cease to be in force immediately upon termination or expiry of the Data Processor's obligations in relation to the Services. On termination of this Agreement the Data Processor shall, within 30 days, securely deliver to the Council or destroy, at the Council’s sole option, all the Council’s Data in its possession or under its control and in non-proprietary file formats that can be read by readily available office productivity software.

10.2 The Data Processor is required to provide a certificate of destruction within 7 working days.

10.3 The Council shall be entitled to terminate this Agreement forthwith by notice in writing to the Data Processor if:-

1. the Data Processor commits a material or persistent breach of this Agreement which, in the case of a breach capable of remedy, shall not have been remedied within fourteen (14) days from the date of receipt by the Data Processor of a notice from the Council identifying the breach and requiring its remedy; or
2. the Data Processor becomes insolvent, has a receiver, administrator, or administrative receiver appointed over the whole or any part of its assets, enters into any compound with creditors, or has an order made or resolution passed for it to be wound up (otherwise than in furtherance of a scheme for solvent amalgamation or reconstruction).

**11 Transferring this arrangement**

11.1 This arrangement is personal to the Data Processor and may not be assigned, nor have any of the rights or obligations contained within it transferred without the Council’s written consent.

**12 Data Retention Policy**

12.1 The Data Processor shall comply with the Data Retention Guidelines as issued by the Council and amended from time to time. This may require certain data to be identified for retention and made available to the Council in electronic form by the Data Processor. The Data Processor will also only retain data for as long as is necessary for the relevant purpose/s and be securely deleted when no longer needed unless there is a legal requirement to keep the data for longer.

 **13 Indemnity**

 13.1 The Data Processor agrees to indemnify the Data Controller against any loss, damages, costs, compensation, fines, penalty or awards made against the Data Controller as a result of the Data Processor's breach of the Agreement.

 **14 Law**

 14.1 This agreement is governed by and will be interpreted in accordance with English law. In the event of a dispute between the parties, it is agreed that the English courts will have exclusive jurisdiction to hear the case.

 **15 Third party rights**

 15.1 The Council and the Data Processor are entering into this Agreement for the benefit of the parties and the individuals whose personal data the Data Processor will process, each of whom will be entitled to enforce it. Other than that, no other person will have any enforceable rights under this Agreement and the Contracts (Rights of Third Parties) Act 1999 will not apply.

Signed for and on behalf of the Data Processor:

Signature: …...........................................................…

Print name: ….............................................................

Position: ………………………………………………………………….

Date: …...........................................................……….