

Customer Order Form

Commonplace operates an online consultation platform for local community engagement via the website www.commonplace.is.

Customer wishes to appoint Commonplace to provide services and deliver its platform to provide local community engagement websites for local areas of interest to it. This Order Form sets out the local areas where Customer wishes to engage with local people to gather feedback and opinions using the functionality of the platform, the charges payable by Customer to Commonplace for services and use of the platform, and the other relevant commercial details.

For definitions of capitalized words and phrases, see clause 1 of the Terms and Conditions.

CUSTOMER DETAILS

"Customer"	London Borough of Ealing Perceval House, 14-16 Uxbridge Road, Ealing, London, W5 2HL
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ORDER DETAILS

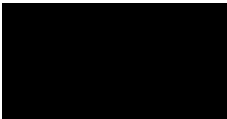
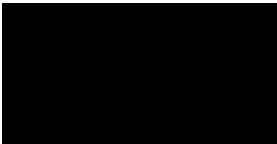
"Local Areas"	London Borough of Ealing
"Customer Commonplaces"	Community Heatmap & Design Feedback modules 12-month License
"Products"	The following core Commonplace products will be available to Customer: <ul style="list-style-type: none"> • Commonplace Community Heatmap • Commonplace Design Feedback • Set up assistance, training, hosting & support Details of the applicability of each of these products for different scales of project are provided in Appendix B.
"Project Services"	Further on-site training & Comms familiarization: TBC Sept 2020 (ASAP)
"Charges"	Community Heatmap & Design Feedback bundle: £14,895 (in each case above, costs are exclusive of VAT)
"Customer Properties"	Customer to provide URLs, map, routes, logos, team contact details, images, introductory texts, demographic questions and comment questions for the websites. Commonplace will support the client through the on-boarding
"Customer Deadlines"	Customer to supply required final content for each website as soon as is reasonably possible, given short timeframe

"Project Partners"	N/A
"Target Go Live Dates"	Sept 2020 - TBC
"Commonplace Contact"	Sales: [REDACTED] Customer Success: [REDACTED]
"Customer Contact"	[REDACTED] – Transport Planning Service Manager [REDACTED]@ealing.gov.uk

SIGNATURES

When the Order Form is signed by both Commonplace and Customer (but not before), the Order Form and the Terms and Conditions together form a legally binding contract between Commonplace and Customer ("**Services Agreement**").

We agree to the Services Agreement.

Signed for an on behalf of COMMONPLACE DIGITAL LTD	Signed for and on behalf of London Borough of Ealing
 Name: [REDACTED] Position: Sales Director Date: 10/09/20	 Name: [REDACTED] Position: Transport Planning Service Manager Date: 10/09/20

TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1. In the Services Agreement:

"Affiliate" means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with another entity.

"Applicable Law" means all applicable laws and regulations, as amended and in force from time to time.

"Business Day" means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

"Charges" means the charges set out in the Order Form (the Licence Fee, the Project Fee and any other charges set out in the Order Form).

"Closed" means in respect of a Customer Commonplace, that it has been closed to members of the public for comment and **"Closing"** shall be interpreted accordingly.

"Commonplace" means **Commonplace Digital Ltd** (company number 08575062) of 4th Floor, Aldgate Tower, 2 Leman Street, London E1 8FA.

"Commonplace Contact" means the person set out in the Order Form (or as updated by Commonplace from time to time).

"Commonplace Platform" means the platform which facilitates local community engagement, as made available by Commonplace from time to time, in accordance with its standard roadmap.

“Commonplace Privacy Policy” means the privacy policy of Commonplace from time to time an available here: [URL].

“Control” in respect of a company, the power of a person to directly or indirectly secure: (a) by means of the holding of shares or the possession of voting power in or in relation to that company or any other body corporate; or (b) by virtue of any powers conferred by the articles of association or other document regulating that company or any other body corporate, that the affairs of the company are conducted in accordance with the wishes or directions of that other person.

“Customer” means the customer identified in the Order Form.

“Customer Contact” means the person identified in the Order Form (or as updated by Customer from time to time).

“Customer Deadlines” means the deadlines which Customer must meet as set out in the Order Form.

“Customer Input” means any materials which Customer and/or Partners have provided to Commonplace, including Customer Properties.

“Customer Output” means any materials which Customer or anyone authorised by Customer has downloaded from the Commonplace Platform using the functionality made available by Commonplace to enable Customer to do so (but excludes any other materials extracted by anyone without Commonplace’s authorisation).

“Customer Properties” means the materials listed in the Order Form.

“Documentation” means the online user guides and help made available by Commonplace for its customers from time to time.

“Go Live Date” means the date upon which Commonplace notifies Customer [in writing] that Customer Commonplaces are live.

“Harmful Element” means any code which is designed to disrupt, disable, harm or otherwise impede in any manner, including aesthetic disruptions or distortions, the operation of any of any hardware, software, firmware, computer system or network on which it is installed or with which it interacts, or that would permit Customer or any other person to access systems to cause such disablement or impairment, or which contains any other similar harmful, malicious or hidden procedures, routines or mechanisms which would cause such programs to cease functioning or to damage or corrupt data, storage media, programs, equipment or communications, or otherwise interfere with operations including computer programs commonly referred to as worms or Trojan horses (whether or not specifically directed at Commonplace).

“Intellectual Property Rights” means all vested and future rights of copyright and related rights, design rights, database rights, patents, rights to inventions, trade marks and get-up (and goodwill attaching to those trade marks and that get up), domain names, applications for and the right to apply for any of the above, moral rights, goodwill (and the right to sue for passing off and unfair competition), rights in know-how, rights in confidential information, rights in computer software, and any other intellectual or industrial property rights or equivalent forms of protection, whether or not registered or capable of registration, and all renewals and extensions of such rights, whether now known or in future subsisting in any part of the world.

“Licence Fee” means the licence fee for the Products set out in the Order Form.

“Local Areas” means the local areas in relation to which Customer wishes to gather feedback and opinions as set out in the Order Form.

“Losses” means claims, demands, actions, awards, judgments, settlements, costs, expenses, liabilities, damages and losses (including all interest, fines, penalties, management time and legal and other professional costs and expenses).

“Order Form” means the order form between Commonplace and Customer to which these Terms and Conditions apply.

“Partners” means any third parties to whom Customer has given access to the Commonplace Platform, and shall include the Project Partners.

“Product(s)” means the products identified in the Order Form.

“Project Fee” means the fee for the Project Services set out as such in the Order Form.

“Project Partners” means the partners listed in the Order Form.

“Project Services” means the services described in the Order Form.

“Public Personal Data” means any personal data obtained (directly or indirectly) from members of the public using the Commonplace Platform (including those responding to any Customer Commonplaces).

“Service Levels” means the service levels set out.

“Services” means the services set out in the Order Form, including the Products and Project Services.

“Services Agreement” means together the Order Form and the Terms and Conditions, as varied, novated, supplemented, amended, or replaced from time to time in accordance with its terms.

“Start Date” means the date the Order Form is signed by both parties.

“Target Go Live Dates” means the target dates for Customer Commonplaces to go live as set out on the Order Form.

“Term” means the period beginning on the Start Date and ending 12 months after the [Go Live Date / Start Date [delete as applicable]].

“Terms and Conditions” means the then current terms and conditions of Commonplace.

1.2. In the Services Agreement the interpretation of general words shall not be restricted by words indicating a particular class or particular examples.

2. TERM

The Services Agreement begins on the Start Date and shall continue for the Term, unless terminated earlier in accordance with its terms.

3. SERVICES AND SERVICE LEVELS

3.1. Subject to payment of the Charges in accordance with clause 7, Commonplace shall provide the Services in accordance with the Services Agreement. Commonplace shall not be obliged to provide any element of the Services prior to payment of the applicable Charges.

- 3.2. Commonplace shall configure the Products for the Local Areas to make Customer Commonplaces available using the Commonplace Platform.
- 3.3. Commonplace shall provide the Project Services.
- 3.4. Commonplace shall use reasonable endeavours to meet the Target Go Live Date.
- 3.5. In performing its obligations under the Services Agreement, Commonplace shall apply such time, attention and skill as may be reasonable, taking into account the resources available to Commonplace, for the due and proper performance of the Services with the reasonable care and skill to be expected of a similar software as a service provider.
- 3.6. Commonplace shall, on a day to day basis, manage all activities under the Services Agreement via Customer Contact.
- 3.7. Commonplace shall use reasonable endeavours to remedy any failure to meet the Service Levels as soon as reasonably possible by taking all reasonable steps to ensure that such service failure does not recur.

4. CUSTOMER COMMONPLACES

- 4.1. Each Customer Commonplace will be open to accept comments from members of the public for 12 months from Go Live Date or such shorter period as instructed by Customer.
- 4.2. Comments from members of the public will be subject to the Commonplace Privacy Policy.
- 4.3. Once comments have been Closed, Commonplace shall continue to host Customer Commonplace for 12 months ("Closed Period").
- 4.4. During the Closed Period Customer may continue to access data using the Commonplace Platform, but not thereafter.

5. CUSTOMER RESPONSIBILITIES

- 5.1. Customer shall give Commonplace all reasonable and necessary assistance to enable Commonplace to provide the Services, including by: (a) providing Commonplace with Customer Properties; (b) using reasonable endeavours to meet Customer Deadlines and c) promoting the availability of the Customer Commonplaces to the public and stakeholders.
- 5.2. Customer shall ensure that all Customer Properties provided or made available in electronic form do not contain any Harmful Elements.
- 5.3. Customer shall, on a day to day basis, manage all activities under the Services Agreement via the Commonplace Contact.
- 5.4. Customer acknowledges and agrees that Commonplace cannot provide the Services in accordance with the Services Agreement without co-operation from both Customer and Partners. Commonplace shall keep Customer informed of any interference or delay to its ability to deliver the Services. Customer shall use its best endeavours to remove the interference of delay, including any caused by a Partner.
- 5.5. Customer shall, and shall procure that Partners shall, use the Services in accordance with the Service Agreement, including the Documentation.
- 5.6. Customer shall be responsible for all activities of Partners and all activities of persons given login credentials by or on behalf of Customer or a Project Partner.

- 5.7. If Customer believes that anyone has unauthorised access it shall notify Commonplace immediately so that the login can be revoked.

6. FEATURES, ROADMAP AND COLLABORATION

- 6.1. Commonplace provides services to its customers via the Commonplace Platform on a software as a service basis. Whilst retaining the overall nature of the Commonplace Platform, when taken as a whole, Commonplace reserves the right to change, update, upgrade or discontinue features of the Commonplace Platform in its absolute discretion at any time. Customer can view the current features of the Commonplace.
- 6.2. Commonplace may from time to time share its roadmap for its services, including plans to add/remove features, its functionality priorities and other information. Commonplace welcomes feedback from Customer and its partners on its roadmap.
- 6.3. Customer shall meet with Commonplace as reasonably requested by Commonplace to provide feedback on the Services for the purpose of planning the future roadmap.
- 6.4. If Customer provides any technical or other information to Commonplace, Commonplace has an unrestricted right to use such information for its business purposes, including for support and product/service development.

7. CHARGES AND PAYMENT

- 7.1. Customer shall pay Commonplace the Charges.
- 7.2. The Charges do not include value added tax or any locally applicable equivalent sales tax, which Customer shall pay, in addition to the Charges, without set-off or withholding (and if withholding is required by Applicable Law, Customer shall gross up its payment accordingly).
- 7.3. Commonplace shall invoice Customer the Charges as follows: (a) Licence Fee: upon signature of the Services Agreement and at least 30 days in advance of the relevant Renewal Term; and (b) Project Fee: as set out in the Order Form; and (c) any other charges as set out in the Order Form or otherwise agreed in writing between Commonplace and Customer.
- 7.4. Unless the subject of a genuine dispute, Customer shall pay all invoices within 30 days of the date of the invoice.
- 7.5. If a party fails to pay in full on the due date any sum payable by it under or in connection with the Services Agreement, interest on the outstanding amount shall accrue on a daily basis from the due date until the date of payment (whether before or after judgment) at the rate of 2% per annum above the base rate of Barclays Bank PLC from time to time.
- 7.6. If Customer does not pay on time Commonplace may suspend use of the Services (including Closing any live Customer Commonplaces) until payment is made.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1. Customer may only access and use the Commonplace Platform and Services for its own internal business purposes. Partners may only access and use the Commonplace Platform in support of Customer's use.
- 8.2. Customer acknowledges and agrees that Commonplace and/or its licensors own all Intellectual Property Rights in the Commonplace Platform and the Services. Customer's use of any such Intellectual Property Rights is limited to that required to receive and make use the Services as envisaged by the Services Agreement.
- 8.3. Unless permitted and necessary under Applicable Law, Customer may not copy, modify, adapt, redistribute, decompile, reverse engineer, disassemble, or create derivative works of any software or content made

available by Commonplace or any component of such software or content. Customer may not use any work around to seek to circumvent any technical limitations.

- 8.4. Customer hereby grants to Commonplace a worldwide, royalty-free right to ingest, adapt, copy, communicate to the public and otherwise use and exploit Customer Input for the purposes of delivering the Services and Commonplace's own internal business purposes.
- 8.5. Subject to clause 11.3, Commonplace hereby grants to Customer a worldwide, royalty-free right to access, download, ingest, adapt, copy, communicate to the public and otherwise use and exploit Customer Output.
- 8.6. Each party ("**Infringing Party**") shall on demand indemnify the other party from and against all Losses incurred by that party ("**Indemnified Party**"), its employees, officers, agents and contractors arising out of or in connection with any claim, demand or action alleging that the Infringing Party has infringed any Intellectual Property Rights of a third party.
- 8.7. Indemnified Party shall notify Infringing Party promptly in writing of any third party action, demand or claim under clause 8.6 ("**Claim**") of which it is aware and shall: (a) at its option, give Infringing Party express authority to conduct all negotiations and litigation, and settle all litigation, arising from the Claim; and (b) in relation to any claim which Infringing Party conducts, provide Infringing Party with all such available information and assistance as Infringing Party may reasonably require, at Infringing Party's expense.
- 8.8. If, within 30 days after Infringing Party's receipt of notice of any Claim, Infringing Party fails to take reasonable action to defend the same, and such Claim is not withdrawn, Indemnified Party may at Infringing Party's reasonable expense undertake the defence, compromise or settlement of the Claim. Upon the assumption of the defence of the Claim, Indemnified Party may defend, compromise or settle the Claim as it sees fit, provided that Indemnified Party agrees to take reasonable steps to monitor and mitigate the fees and costs associated with the same and to keep Infringing Party informed of any reasonable settlement proposals made by the claimant.
- 8.9. Infringing Party shall not use Indemnified Party's name in any action or claim without Indemnified Party's prior written consent.
- 8.10. Infringing Party shall not make any admission as to liability or agree to any settlement or compromise of any Claim without the prior written consent of Indemnified Party (not to be unreasonably withheld or delayed).

9. **THIRD PARTY DATA AND SERVICES**

- 9.1. Customer acknowledges that all third-party data and services which it or partners or users may access through use of Customer Commonplaces are the sole responsibility of the person from which they originated.
- 9.2. Customer acknowledges that use of third party data and services may be subject to separate terms between Customer and the relevant third party. In that case, the Services Agreement does not affect Customer's legal relationship with these third parties.

10. **WARRANTIES**

- 10.1. Except as expressly set out in the Services Agreement, neither Commonplace nor any of its suppliers, partners or investors make any specific promises about the Services.
- 10.2. Except as expressly set out in the Services Agreement, Commonplace does not warrant that any of the Services will be secure, accurate, uninterrupted or error free or

that they will meet Customer's or any third party's specific requirements.

- 10.3. Each party represents and warrants that it has the power and authority to enter into and perform its obligations under the Services Agreement, which constitutes valid and binding obligations on it in accordance with its terms.
- 10.4. Commonplace represents and warrants that: (a) the provision of the Services by Commonplace to Customer shall not infringe the Intellectual Property Rights of a third party in the United Kingdom; and (b) in performing its obligations under the Services Agreement it shall comply with all Applicable Law.
- 10.5. Customer represents and warrants that: (a) it has in place all necessary licences and permissions to deliver Customer Input and to receive the Services; (b) in performing its obligations under the Services Agreement it shall comply with all Applicable Law (including relating to Intellectual Property Rights); and (c) it is not entering into the Services Agreement so as to gain access to confidential information or intellectual property with the intention of developing a service the same as or similar to the Commonplace Platform.

11. **DATA PROTECTION**

- 11.1. Each party shall comply with the Data Processing Addendum set out in Schedule 1..

12. **CONFIDENTIALITY AND ANNOUNCEMENTS**

- 12.1. "**Confidential Information**" means all information of a confidential nature in the disclosing party's possession or control, whether created before or after the date of the Services Agreement, whatever its format, and whether or not marked "confidential"; and terms of the Services Agreement, but not including information which is or comes into the public domain through no fault of the other party, was already lawfully in the other party's possession or comes into the other party's possession without breach of any third party's confidentiality obligation to the disclosing party, or is independently developed by or on behalf of the other party.
- 12.2. Each party shall safeguard the other party's Confidential Information as it would its own confidential information, and shall use, copy and disclose that Confidential Information only in connection with the proper performance of the Services Agreement.
- 12.3. Nothing in the Services Agreement shall be construed so as to prevent one party from disclosing the other's Confidential Information where required to do so by a court or other competent authority, provided that, unless prevented by Applicable Law, the first party promptly notifies the other party in advance and discloses only that part of the other party's Confidential Information that it is compelled to disclose.
- 12.4. Commonplace may publicly use Customer's name and logo, and references to Customer Commonplaces, to refer to Customer as a customer of Commonplace. Commonplace will follow any applicable brand usage guidelines provided by Customer.

13. **LIMITATIONS ON LIABILITY**

- 13.1. Subject to clauses 13.2, 13.3 and 13.4, the total liability of each party to the other in connection with the Services Agreement, whether arising from contract, negligence or otherwise, shall be limited to 125% of the applicable Charges paid by Customer to Commonplace.
- 13.2. Subject to clause 13.4, neither party shall be liable for any indirect or consequential loss.

13.3. The limitation of liability for the indemnity in clause 8.6 shall be limited to the amount recoverable under the Indemnifying Party's insurance.

13.4. The exclusions and limitation of liability set out in clause 13 do not apply to: (a) liability arising from death or injury to persons caused by negligence; (b) Customer's obligation to pay the Charges; (c) liability arising as a result of fraud; and (d) anything else which cannot be excluded or limited by Applicable Law, to which no limit applies.

14. INSURANCE

Commonplace shall maintain in force at its own expense all insurances required by Applicable Law with a reputable insurer.

15. TERMINATION

15.1. Either party may terminate the Services Agreement with immediate effect by giving written notice to the other party if: (a) the other party commits a material breach of the Services Agreement which is not capable of remedy (or is capable of remedy, but which the other party fails to remedy within 30 days of receiving notice specifying the breach and requiring the breach to be remedied); or (b) the other party repeatedly breaches any of the terms of the Services Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Services Agreement.

15.2. Commonplace may terminate the Services Agreement if Customer commits a breach of clause 7 and Customer does not remedy the relevant breach within 10 Business Days of receipt of written notice of the breach being given by Commonplace.

15.3. Either party may terminate the Services Agreement with immediate effect by giving the other party notice if: (a) such other party becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (as amended); (b) such other party ceases or threatens to cease to carry on the whole or a substantial part of its business; (c) any distress or execution shall be levied upon such other party's property or assets; (d) such other party shall make or offer to make any voluntary arrangement or composition with its creditors; (e) any resolution to wind up such other party (other than for the purpose of a *bona fide* reconstruction or amalgamation without insolvency) shall be passed, any petition to wind up such other party shall be presented and not withdrawn or dismissed within seven days or an order is made for the winding up of such other party; (f) such other party is the subject of a notice of intention to appoint an administrator, is the subject of a notice of appointment of an administrator, is the subject of an administration application, becomes subject to an administration order, or has an administrator appointed over it; (g) a receiver or administrative receiver is appointed over all or any of such other party's undertaking property or assets; (h) any bankruptcy petition is presented or a bankruptcy order is made against such other party; (i) an application is made for a debt relief order, or a debt relief order is made in relation to such other party; (j) such other party is dissolved or otherwise ceases to exist; or (k) the equivalent of any of the events described in (a) to (j) occurs in relation to such other party under the laws of any jurisdiction.

15.4. For the purposes of clause 15, a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance.

15.5. Termination or expiry of the Services Agreement (howsoever occurring) shall not affect either of the parties' accrued rights or liabilities, or the coming into

force or the continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after termination or expiry.

16. TERMINATION ASSISTANCE

Immediately after receipt (or service) of notice to terminate the Services Agreement under clause 15, each party shall provide all reasonable assistance and information to the other to ensure an orderly end to the relationship.

17. FORCE MAJEURE

Neither party shall be liable for any breach of the Services Agreement directly or indirectly caused by circumstances beyond the reasonable control of that party and which prevent that party from performing its obligations to the other, provided that a lack of funds shall not be regarded as a circumstance beyond that party's reasonable control.

18. ANTI-CORRUPTION

18.1. Each party warrants that it is not aware of any financial or other advantage being given to any other person working for or engaged by that party in connection with the Services Agreement which is or may be in breach of the Bribery Act 2010 ("**BA**").

18.2. Each party shall, if requested by the other party, provided reasonable assistance to the other party (at requesting party's expense), to enable that party to perform any activity required by any government or agency to comply with the BA.

19. FREEDOM ON INFORMATION

19.1. If Customer is a public authority for the purposes of the Freedom of Information Act 2000 ("**FOIA**"), Commonplace shall reasonably assist and co-operate (at Customer's expense) to enable Customer to comply with any relevant and lawful request for information under FOIA.

19.2. Customer shall comply with all of Commonplace's reasonable requests to exempt and/or redact information subject to Applicable Law.

20. GENERAL

20.1. Commonplace shall not, without the written consent of Customer (which shall not be unreasonably withheld or delayed) assign, transfer, grant any security interest over or hold on trust any of its rights or obligations under the Services Agreement or any interest in them. Nothing in this clause 20.1 shall prevent Commonplace from entering into any agreement or arrangement in relation to any fundraising or public offering.

20.2. Customer shall not, without the written consent of Commonplace (which shall not be unreasonably withheld or delayed) assign or transfer any of its rights or obligations under the Services Agreement to any third party who is not an Affiliate of Customer.

20.3. Nothing in the Services Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the parties. No party shall have the authority to bind the other party or to contract in the name of, or create a liability against, the other party in any way or for any purpose.

20.4. The parties do not intend any third party to have the right to enforce any provision of the Services Agreement under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

20.5. The Services Agreement is the entire agreement between the parties, and replaces all previous

agreements and understandings between them, relating to its subject matter.

- 20.6. No variation of the Services Agreement shall be effective unless it is in writing and signed by or on behalf of each party.
- 20.7. The rights and remedies expressly conferred by the Services Agreement are cumulative and additional to any other rights or remedies a party may have.
- 20.8. Notices under clause 15 shall be in writing and delivered by hand or sent by recorded delivery post to the relevant party at its address as set out in the Services Agreement. Without evidence of earlier receipt, notices are deemed received: (a) if delivered by hand, at the time of delivery; (b) if sent by recorded delivery, at 9.00 am on the second Business Day after posting; and (c) in the case of post it shall be sufficient to prove that the notice was properly addressed and posted or transmitted. Any other notices and communications under the Services Agreement may be delivered in writing and/or electronically.
- 20.9. The Services Agreement and any non-contractual obligations arising in connection with it are governed by and construed in accordance with English law, and the English courts have exclusive jurisdiction to determine any dispute arising in connection with the Services Agreement, including disputes relating to any non-contractual obligations.

Schedule 1: Data Processing Addendum

The purpose of this Data Processing Addendum (“**DPA**”) is to set out each party's obligations relating to the personal data processed by the parties pursuant to the **Services Agreement** entered into between them and into which this DPA is incorporated.

1. DEFINITIONS

Defined terms in the Services Agreement have the same meaning where used in this DPA unless otherwise defined below.

Appropriate Safeguards	means such legally enforceable mechanism(s) for transfers of Personal Data as may be permitted under Data Protection Laws from time to time currently (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 GDPR; (iii) Binding corporate rules are in place; or (iv) one of the derogations for specific situations in Article 49 GDPR applies to the transfer;
Applicable Law	means as applicable and binding on Customer, Commonplace and/or the Services: (i) any law, statute, regulation, by-law or subordinate legislation in force from time to time to which a party is subject; (ii) any court order, judgment or decree; or (iii) any direction, policy, rule or order that is made or given by any regulatory body having jurisdiction over a party;
Controller	means the entity which determines the purposes and means of the Processing of Personal Data;
Data Protection Laws	means as applicable and binding on Commonplace and the Customer in relation to the Services: (i) in the United Kingdom the Data Protection Act 2018; and (ii) in member states of the European Union the GDPR and all relevant member state laws or regulations transposing or giving effect to or corresponding with GDPR.
Data Subject	means the identified or identifiable person to whom Personal Data relates;
Data Subject Request	means a request made by a Data Subject to exercise any rights of Data Subjects under Data Protection Laws;
Data Protection Losses	means all losses and liabilities, including all: <ul style="list-style-type: none"> (i) costs (including legal costs), claims, demands, actions, settlements, interest, charges, expenses, losses and damages; and (ii) administrative fines, penalties, sanctions, liabilities or other remedies imposed by a Supervisory Authority; and (iii) compensation which is ordered by a Supervisory Authority to be paid to a Data Subject; and (iv) the reasonable costs of compliance with investigations by a Supervisory Authority; (v) costs of investigation including forensic investigation; (vi) cost of breach notification including notifications to the Data Subjects; and (vii) cost of complaints handling including providing Data Subjects with credit reference checks, setting up contact centres (e.g. call centres), producing end customer communication materials, provision of insurance to end customers (e.g. identity theft), and reimbursement of costs incurred by end customers (e.g. changing locks);
GDPR	means the General Data Protection Regulation (EU) 2016/679;
International Recipient	has the meaning given to that term in clause 8.1;
Personal Data	means any information relating to (i) an identified or identifiable natural person and, (ii) an identified or identifiable legal entity (where such information is protected similarly as personal data or personally identifiable information under applicable Data Protection Laws.
Personal Data Breach	means any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, any Protected Data;
Processor	means the entity which Processes Personal Data on behalf of the Controller;
processing	means any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction (and related terms such as process have corresponding meanings);

Processing Instructions	has the meaning given to that term in clause 3.2;
Protected Data	means Personal Data provided to Commonplace by the Customer, or otherwise received by Commonplace in connection with the provision of the Services (including responses from and information about community users on the Commonplace Platform), pursuant to the Agreement;
Services	means the services provided to Customer by Commonplace pursuant to the Agreement;
Shared Personal Data	has the meaning given in clause 2.3.
Sub-Processor	means another Processor engaged by Commonplace for carrying out processing activities in respect of the Protected Data on behalf of Commonplace;
Supervisory Authority	means any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Data Protection Laws;
Working Day	means Monday to Friday inclusive excluding bank and public holidays in the UK.

2. ROLES AND OBLIGATIONS

- 2.1 The parties agree that, for the Protected Data, Customer shall be the Controller and Commonplace shall be the Processor.
- 2.2 Commonplace shall process the Protected Data in compliance with:
 - (a) the obligations of Processors under Data Protection Laws and so as not to place Customer in breach of Customer's obligations as a Controller of that Protected Data in the country where the processing takes place; and
 - (b) the terms of this DPA.
- 2.3 The parties acknowledge that Commonplace also uses some of the Protected Data collected via the Commonplace Platform for its own purposes. This is considered to be "Shared Personal Data" of which the parties are Controllers in common. The categories of Shared Personal Data are set out in Appendix 2 together with the parties agreement on how to handle with Shared Personal Data.

3. CUSTOMER OBLIGATIONS

- 3.1 Customer shall, in its use of the Services, Process Protected Data in accordance with the requirements of Data Protection Laws. Customer shall ensure all Protected Data it provides to Commonplace for use in connection with the Services, or that it requests Commonplace to collect via the Services, shall be collected and/or transferred to Commonplace in accordance with Data Protection Laws.
- 3.2 It shall be Customer's responsibility to: (i) ensure the terms of use it supplies to the Data Subjects of the Protected Data comply with Data Protection Laws including in particular any fair processing information requirements relating to the processing of the Protected Data by Commonplace and (ii) ensure it has a legal basis for the processing of the Protected Data by Commonplace. To that end Customer shall ensure that it provides copies of its privacy policy and other fair processing notices for Commonplace to post on the Customer initiated the Commonplace Platform and Customer shall ensure that where it requires Special Category Data to be collected that it has: (i) identified the purpose for which such processing is necessary; (ii) checked that the processing of the special category data is necessary for that purpose and that it has identified and is satisfied there is no other reasonable and less intrusive way to achieve that purpose; and (iv) identified an Article 6 GDPR lawful basis and an appropriate Article 9 GDPR condition, for processing the special category data.

4. INSTRUCTIONS

- 4.1 Customer's instructions for the Processing of Protected Data shall comply with Data Protection Laws.
- 4.2 Commonplace:
 - (a) shall (and shall ensure each person acting under its authority shall) process the Protected Data only on and in accordance with Customer's documented lawful instructions from time to time and as permitted within the parameters of the Services; and
 - (b) in accordance with Appendix 1 (Data Processing Particulars), as updated from time to time by written agreement of the parties or as otherwise detailed in the Agreement ("**Processing Instructions**"); and
 - (c) shall inform Customer if Commonplace is aware of a Processing Instruction that, in its opinion, infringes Data Protection Laws

5. TECHNICAL AND ORGANISATIONAL MEASURES

- 5.1 Commonplace shall implement and maintain:
 - (a) the technical and organisational measures prescribed by Data Protection Laws; and
 - (b) taking into account the nature of the processing, the technical and organisational measures necessary to assist Customer insofar as is reasonably possible in the fulfilment of Customer's obligations to respond to Data Subject Requests relating to Protected Data.

6. SUB PROCESSORS AND STAFF

- 6.1 Commonplace has appointed those Sub-Processor(s) listed in Exhibit 1 to this DPA under a written contract containing materially equivalent obligations to those in this Data Processing Agreement. Commonplace shall provide Customer with a copy of the agreements with Sub-Processors if requested to do so by Customer. Commonplace may redact commercial terms from such agreements before disclosing them to Customer.
- 6.2 Commonplace shall ensure that all of its personnel and contractors processing Protected Data are subject to a binding written contractual obligation with Commonplace or under professional obligation to keep the Protected Data confidential (except where disclosure is required in accordance with Applicable Law, in which case Commonplace shall, where practicable and not prohibited by Applicable Law, notify Customer of any such requirement before such disclosure).
- 6.3 Commonplace may not change or add new Sub-Processors without first notifying the Customer and giving the Customer ten days (from date of receipt of the notice) to object to the change or addition in Sub-Processor on reasonable and objectively justifiable grounds.

7. DATA SUBJECT REQUEST ASSISTANCE

- 7.1 Commonplace shall promptly refer all Data Subject Requests it receives to Customer (wherever practicable within two Working Days of receipt of the request).
- 7.2 Commonplace shall provide such assistance to Customer as Customer reasonably requires (taking into account the nature of processing and the information available to Commonplace) to ensure compliance with each party's obligations under Data Protection Laws with respect to:
 - (a) Data Subject Requests;
 - (b) security of processing;
 - (c) data protection impact assessments (as such term is defined in Data Protection Laws);
 - (d) prior consultation with a Supervisory Authority regarding high risk processing; and
 - (e) notifications to the Supervisory Authority and/or communications to Data Subjects by Customer in response to any Personal Data Breach and for the avoidance of doubt Commonplace must promptly notify Customer in writing of any communications received by it from Data Subjects or Supervisory Authorities relating to the Protected Data without responding to either of the same unless it has been expressly authorised to do so by Customer.

8. OVERSEAS TRANSFERS

- 8.1 The parties agree that Commonplace may only transfer Protected Data to any overseas recipients (an "**International Recipient**") provided all transfers by Commonplace of Protected Data to an International Recipient (and any onward transfer) shall (to the extent required under Data Protection Laws) be effected by way of Appropriate Safeguards and in accordance with Data Protection Laws. Commonplace will provide to the Customer a list of all International Recipients which shall include detail of their identity, locations and of their processing activities.

9. RECORDS AND AUDITS

- 9.1 Commonplace shall maintain written records of all categories of processing activities carried out on behalf of Customer.
- 9.2 Commonplace shall make available to Customer such information as is reasonably necessary to demonstrate its compliance with the obligations of Processors under Data Protection Laws, and shall allow for and contribute to audits, including inspections, by Customer (or another auditor mandated by Customer) for this purpose, subject to Customer:
 - (a) Not requesting an audit or inspection more than once in each twelve month period (unless there has been an actual or suspected Personal Data Breach);
 - (b) giving Commonplace at least 30 days' advance notice of such information request, audit and/or inspection being required; and
 - (c) Customer and Commonplace mutually agreeing the scope, timing, and duration of the audit and any reimbursement of Commonplace's costs in facilitating audits and inspections; and
 - (d) ensuring that all information obtained or generated by Customer or its auditor(s) in connection with such information requests, inspections and audits is kept strictly confidential (save for disclosure to the Supervisory Authority or as otherwise required by Applicable Law). Customer shall provide a copy of such information and audit reports to Commonplace following an inspection or audit pursuant to this clause 9.

10. BREACH NOTIFICATION

- 10.1 In respect of any Personal Data Breach involving Protected Data, Commonplace shall without undue delay of becoming aware of the Personal Data Breach:
 - (a) notify Customer of the Personal Data Breach; and
 - (b) so far as possible without prejudicing the continued security of the Protected Data or any investigation into the Personal Data Breach, provide Customer with details of the Personal Data Breach.

11. DELETION OR RETURN OF DATA

- 11.1 Without prejudice to clauses 11.2 and subject to the provisions of Appendix 2 in relation to Shared Personal Data, Commonplace shall either delete or return all the Protected Data to Customer in accordance with the provisions of the Agreement, or if none in the Agreement then, in such form as Customer requests within 30 days after the earlier of:
 - (a) the end of the provision of the relevant Services related to processing of that data; or
 - (b) once processing by Commonplace of any Protected Data is no longer required for the purpose of Commonplace's performance of its obligations under the Agreement,

unless storage of any data is required by Applicable Law and, if so, Commonplace shall inform Customer of any such requirement and the period during which it is required to be stored.

- 11.2 Customer agrees that Commonplace may anonymise a copy of Protected Data (to the extent it has not already been anonymised prior to termination) and Commonplace may use such anonymised Protected Data for its own business purposes including making improvements to its Services generally and for improving engagement with communities and other customers.

12. INDEMNITY AND LIABILITY

- 12.1 Each party ("Indemnifying Party") shall indemnify and keep indemnified the other ("Indemnified Party") in respect of all Data Protection Losses suffered or incurred by, awarded against or agreed to be paid by, the Indemnified Party arising from or in connection with any:

- (a) non-compliance by the Indemnifying Party with the Data Protection Laws; and
- (b) breach by the Indemnifying Party of any of its obligations under this DPA.

- 12.2 If a party receives a compensation claim from a person (including but not limited to a Data Subject) relating to processing of Protected Data processed by Commonplace under this Agreement, it shall promptly provide the other party with notice and full details of such claim. Commonplace shall make no admission of liability nor agree to any settlement or compromise of the relevant claim without the prior written consent of Customer.

- 12.3 This clause 12 does not affect the liability of Commonplace to any Data Subject or Supervisory Authority pursuant to a claim made directly against Commonplace by either of them.

- 12.4 As between Commonplace and the Customer liability for all Data Protection Losses arising out of any breach of this Data Processing Addendum including for any loss or damage arising out of a Personal Data Breach, shall be subject to the limits of liability set out in the Agreement.

13. CHANGE IN LAW

Notwithstanding anything to the contrary in this DPA, in the event: (i) of a change in any law or regulation or (ii) a regulator issues a binding instruction, order or requirement which changes the basis on which the Protected Data can be processed, transferred or stored pursuant to this DPA, the parties agree to negotiate in good faith to agree an amendment to this DPA and that Agreement (to the extent necessary) to address change in law or regulation or to comply a binding instruction, order or requirement as applicable.

**SCHEDULE 1: APPENDIX 1
DATA PROCESSING PARTICULARS**

[Detail to be reviewed and updated for each customer]

Subject-matter of processing:

Collecting and analysing feedback from communities on projects planned in the community.

1. Duration of the processing:

Subject to Clause 10 of this DPA, Commonplace will Process Protected Data for the duration of the provision of the Services, unless otherwise agreed upon in writing.

2. Nature and purpose of the processing:

To use the Protected Data for the purpose of providing the Services and as otherwise detailed in the Agreement, and as further instructed by Customer in its use of the Services.

3. Type of Personal Data:

Using the configuration options on the Commonplace Platform the Customer determines and controls the type of Protected Data to be collected via the Commonplace Platform for its (and its Project Partners') purposes which may include, but is not limited to the following categories of Personal Data:

- First and last name
- Contact information (email, physical address)
- Professional life data
- Personal life data
- Connection data (e.g. IP address)
- Localisation data
- Demographic data (e.g. post code)

Special Category Data:

- race;
- ethnic origin;
- politics;
- religion;
- health;

4. Categories of Data Subjects:

Using the configuration options on the Commonplace Platform the Customer determines and controls the categories of Data Subjects from which Protected Data is collected via the Commonplace Platform for its (and its Project Partners') purposes:

Individuals in a community that engage in the Commonplace Platform.

5. Processing Instructions

Using the configuration and set up options on the Commonplace Platform, the Customer determines and controls how the Protected Data is collected and processed via the Commonplace Platform.

Commonplace is generally instructed to use the Protected Data for the purpose of providing the Services as configured by the Customer and as otherwise detailed in the Agreement.

6. Sub-Processors

Name	Location	Processing Activity
Amazon Web Services (AWS)	UK	Hosting of Commonplace Platforms
Mixpanel	US	Site analytics
Helpscout	US	Support system
Hubspot	US	Marketing website and associated tools
LogMeIn	US	Video / Voice conferencing software
MongoDB	UK	Database provider (also hosted on AWS)

Sendgrid	US	email verification
Google		Gmail and GDrive

SCHEDULE 1: APPENDIX 2

Controllers in Common Terms

[Detail to be reviewed and updated for each customer]

1. Categories of Shared Personal Data

The following are categories of Shared Personal Data and the identified purposes for which each party uses the Shared Personal Data ("Agreed Purposes").

Category of Data	Customer Purpose	Commonplace Purpose
Information provided by community users on a Commonplace Platform, for example email address.	To ensure that feedback is obtained from real people	To contact community users with updates and about other Commonplaces that might be of interest to them.
Information provided by community users by filling in the About you page as part of responding to a Commonplace. Depending on the individual Commonplace this might include:		
Community User Postcode	For each Commonplace, this information helps the Customer identify which roads/estates have and haven't responded. On rare occasions, this is also required in order to prove that a community user lives in the area – this is usually for statutory consultations.	To identify if there is another Commonplace or upcoming project in the same area which may impact a community user or in which Commonplace thinks a community user might be interested and for other reasons which Commonplace will usually inform community users about on the "Stay Informed" page of a Commonplace, and for the purpose of building up an aggregate understanding of a community's needs across many individual projects to better articulate these for future projects.
Community User Age Range	For each Commonplace, this information helps identify how many residents have been reached in a particular age group.	So that Commonplace can inform only the age range of individuals that it thinks may be impacted by another project that Commonplace knows about and thinks they might be interested in, and for the purpose of building up an aggregate understanding of a community's needs across many individual projects to better articulate these for future projects.
Community User Gender	For each Commonplace, it helps ensure that it has reached a balanced group of people. It is not mandatory for individuals to provide this information.	Commonplaces use this data to join up conversations in an area, it also helps Commonplace to know if it has a representative sample of people across these joined up conversations, and for the purpose of building up an aggregate understanding of a community's needs across many individual projects to better articulate these for future projects.
Information about a community user's connection to the area	Knowing whether are a resident or visitor, or if they work in the area helps the Customer to understand the context of their comments.	To work out which other Commonplaces to notify a community user about, and for the purpose of building up an aggregate understanding of a community's needs across many individual projects to better articulate these for future projects
Other information about how a community uses an area: for example whether a community	To help inform the Customer of projects that are improving mobility, connectivity or public space.	To build up an aggregate understanding of a community's needs across many individual projects to better articulate these for future projects.

member tends to walk, drive or take public transport		
Generally, information that you provide by filling in questions on a Commonplace or a paper questionnaire that is recorded on a Commonplace – some of this information is mandatory and some voluntary. The screens or pages will always make it clear which is which and why.	To enable initiators to confirm that your feedback is genuine.	
The content of any agreements and comments you make on a Commonplace.	To gain insight into a community's requirements and reactions in relation to the initiator's project.	To build up an aggregate understanding of a community's needs across many individual projects to better articulate these for future projects.

2. Particular obligations relating to Shared Personal Data.

Each party shall:

- (a) ensure that it has all necessary notices and consents in place to enable lawful collection and use and transfer of the Shared Personal Data to Permitted Recipients (as defined in sub-clause 2(d) below for the Agreed Purposes;
- (b) give full information to any data subject whose personal data may be processed under this agreement of the nature such processing. This includes giving notice that, on the termination of this agreement, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the parties, their successors and assignees;
- (c) process the Shared Personal Data only for the Agreed Purposes;
- (d) not disclose or allow access to the Shared Personal Data to anyone other than the parties to this agreement, the employees of each party, any third parties engaged to perform obligations in connection with the Agreement, the Customer Project Partners ("**Permitted Recipients**");
- (e) ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this DPA;
- (f) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- (g) not transfer any Shared Personal Data outside the EEA unless the party doing so:
- (h) ensures that Appropriate Safeguards are in place;
- (i) only retain Shared Personal Data for so long as necessary to fulfil the Agreed Purpose and applying the criteria for determining retention as set out in any privacy notice or other information notice given to data subjects of such Shared Personal Data.

3. Mutual assistance.

Each party shall assist the other in complying with all applicable requirements of the Data Protection Laws. In particular, each party shall:

- (a) consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;
- (b) promptly inform the other party about the receipt of any data subject access request;
- (c) provide the other party with reasonable assistance in complying with any data subject access request;
- (d) not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party wherever possible;
- (e) assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Laws with respect to security, Personal Data Breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the other party without undue delay on becoming aware of any breach of the Data Protection Laws;
- (g) use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy (i) maintain complete and accurate records and information to demonstrate its compliance with this clause 3(g) [and allow for audits by the other party or the other party's designated auditor in accordance with the terms of clause 9 of the DPA which shall apply mutatis mutandi to the Customer for the purposes of Shared Personal Data; and
- (h) provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Laws, including the joint training of relevant staff, the procedures to be followed in the event of a Personal Data Breach, and the regular review of the parties' compliance with the Data Protection Laws.

4. Indemnity.

Each party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of this Appendix 2 affecting Shared Personal Data, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it. The liability of the indemnifying party under this clause shall be subject to the limits of liability set out in the Agreement.