



COMPLIANCE BY DESIGN – TERMS OF USE

These **Terms of Use** govern the provision of the **Services** to the **User** by **Compliance By Design**.

Compliance By Design provides Digital Centres of Excellence for Regulatory themes and the User wishes to avail of the Services for personal educational purposes subject to the terms and conditions contained in these Terms of Use as part of the Freemium Model (for which no charge applies).

These terms of use relate to the use of the Compliance By Design website (www.compliancebydesign.io) and the use of Compliance By Design's Digital Centres of Excellence, which is hosted on the Elements.cloud app (<https://elements.cloud>).

The Compliance By Design Digital Centres of Excellence are made available for personal education purposes to enable a collaborative approach to education through an accessible, well structure and easy to understand definition of Regulatory requirements. It involves participation in a community of users.

By using the Services via the Freemium Model you agree to be bound by these Terms of Use. These Terms of Use includes, in particular, the data processing addendum, the limitations on liability in clause 13 and the Intellectual Property provisions in clauses 3, 4 and 9.

Compliance By Design means: Magnetite Change Management Limited, Co Dublin A94 D2Y4 with company number 572108 trading as Compliance By Design.

TERMS OF USE (2018)

1 DEFINITIONS

1.1 The definitions and rules of interpretation in this clause apply in these Terms of Use.

Terms of Use: these terms & conditions and any materials available on the Compliance By Design website or www.compliancebydesign.io by reference herein as well as any document referred to therein;

Business Days: any day which is not a Saturday, Sunday or public/bank holiday in Ireland;

Business Hours: 9:00am to 5:00pm, local Irish time, on Business Days;

Commercial Model: the premium version of the Services in which fees are charged to the User by Compliance By Design subject to the Commercial Terms;

Commercial Terms: the terms and conditions for the Commercial Model;

Confidential Information: information that is proprietary or confidential to either party and is either clearly labelled as such or identified as Confidential Information in accordance with Clauses 5.3 or 16;

Content: the content accessed electronically by the User as part of the Services, including all text, graphics, images, audio, video, information or other materials available through the Compliance By Design platform and/or website;

Data Protection Addendum: the addendum appended to these Terms of Use as described in Clause 8.5;

Compliance By Design Content: all of Compliance By Design' proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to the User by Compliance By Design in providing the Services, including the Content;

Freemium Model: the free version of the Services in which fees are not charged to the User by Compliance By Design subject to these Terms of Use.

Infringement Claim: any claim or action brought against the User alleging that the use of the Services, Content and/or Compliance By Design Content in accordance with the terms of these Terms of Use infringes the Irish Intellectual Property Rights of a third party;

Intellectual Property Rights: means all intellectual property of whatever nature anywhere in the world and the rights subsisting therein, including, without prejudice to the generality of the foregoing: discoveries; inventions; improvements; designs; processes; research; know-how; confidential and proprietary knowledge and information and any rights protecting same; works of authorship; computer software; databases; database rights; performances; trade or business names; domain names; patents, utility models and short term patents (and applications for same); trade marks and trade mark applications; rights (registered or unregistered and applications for same) in any design; copyright (including rights in computer software); business goodwill and reputation and rights protecting same; and all intellectual property rights and forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world;

Received Data: the data and content, including but not limited to files, images and text, inputted and/or provided by the User, or Compliance By Design on the User's behalf onto the Compliance By Design Content for the purposes of using the Services or facilitating the User's use of the Services;

Services: the subscription services, access to the Compliance By Design Content provided by Compliance By Design to the User under these Terms of Use via the Compliance By Design website or any other website notified to the User by Compliance By Design from time to time.

1.2 The headings contained in these Terms of Use are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of any of the terms, conditions or provisions of these Terms of Use.

1.3 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.5 References to a document include a reference to that document as amended.

1.6 Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.

1.7 Any phrase introduced by the terms including, include, in particular or any similar expression shall be

construed as illustrative and shall not limit the sense of the words preceding those terms.

2 SCOPE OF TERMS OF USE

2.1 In consideration of the User agreeing to be bound by and comply in full with these Terms of Use, Compliance By Design will provide the User with use of the Services, including a user interface and data transmission, access and storage.

2.2 In the event that additional services are required to be provided by Compliance By Design to the User (or if the User wishes to transfer to the Commercial Model), the provision of such services shall be governed separately under the terms of a separate agreement (or other similar agreement) to be entered into between Compliance By Design and the User.

3 INTELLECTUAL PROPERTY RIGHTS

3.1 The User acknowledges that any and all of the Intellectual Property Rights subsisting in or used in connection with the Compliance By Design Content and the Services including the manner in which it is comprised, compiled, presented or appears ("look and feel") and all information, documentation and manuals relating to such are (unless another owner is specified in or on those items, such party being referred to in this Section as the "Owner") the property of Compliance By Design or the Owner.

4 INTELLECTUAL PROPERTY RIGHTS RESTRICTIONS

4.1 Save as expressly set out in these Terms of Use, or otherwise permitted by law, the User shall not:

(a) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Services or the Compliance By Design Content in any way;

(b) copy, modify, duplicate, or make derivative works based upon the Services or the Compliance By Design Content;

(c) create Internet "links" to the Services or "frame" or "mirror" or reproduce any element of the Compliance By Design Content on any other server or wireless or Internet-based device;

(d) reverse engineer or access the Services or the Compliance By Design Content for any reason including in order to build a competitive product or service, build a product using similar ideas, features, functions or graphics of the Services, copy any ideas, features, functions or graphics of the Services;

(e) publish or distribute externally any results of any use of the Services for any form of benchmarking or software comparison purposes;

(f) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws;

(g) send or store infringing, obscene, threatening, libellous, or otherwise unlawful or tortious material, including material harmful to children or that violates any third party privacy rights;

(h) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs;

(i) during or after the expiry or termination of these Terms of Use, without the prior written consent of Compliance By Design or the Owner as the case may be or to the extent only permitted by applicable law, abuse or permit the abuse of the Intellectual Property Rights;

(j) shall not, other than as expressly permitted in these Terms of Use, extract or re-utilise the contents of the Compliance By Design Content (or any part thereof) for any commercial purpose including but not limited to trading, building commercial hosting systems, reselling or redistributing the Compliance By Design Content;

(k) interfere with or disrupt the integrity or performance of the Services or the data contained therein; or

(l) attempt to gain unauthorised access to the Services or its related systems or networks.

4.2 Compliance By Design reserves the right, without liability or prejudice to its other rights to the User, to disable the User's access to any material that breaches the provisions of this Clause 4.

5 USER'S OBLIGATIONS

5.1 Save as expressly set out in these Terms of Use or as otherwise permitted by law, the User may not make any communication, display or performance to the public of any element of the Compliance By Design Content or otherwise disseminate, sell, give away, hire, lease, offer or expose for sale or distribute any element of the Compliance By Design Content.

5.2 The User will be required to setup and maintain User Accounts with login and password details. These User Account will be used by the User to access and use the Services. On or after registration by the User on the Compliance By Design website (www.compliancebydesign.io), instructions on

how to access the Services, including instructions for the setup of User Accounts, will be sent by Compliance By Design to the User.

5.3 The User shall be responsible for all use of such login and password details and will ensure that all login and password details are kept secure and confidential at all times and will not disclose them to any third parties who are not authorised by Compliance By Design to use them.

5.4 The User shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Compliance By Design Content and, in the event of any such unauthorised access or use, promptly notify Compliance By Design.

5.5 The User shall ensure that its use of the Services and the Compliance By Design Content and the Received Data complies with all applicable laws and regulations.

5.6 The User shall ensure that the Services and the Compliance By Design Content are used always in accordance with the terms and conditions of these Terms of Use and shall be responsible for any breach of these Terms of Use.

5.7 Compliance By Design does not warrant or undertake that the Services or any other materials provided pursuant to these Terms of Use will meet the User's requirements or that they or their access or use will be uninterrupted, free from viruses, bug or error or completely secure. Except as expressly provided in these Terms of Use, the entire risk as to the products, the Services and any other materials provided by Compliance By Design is with the User, including for quality and performance and for accuracy or quality of any information transmitted, received or otherwise delivered via the Services.

5.8 All information provided to the User through the Services or the Compliance By Design Content is provided only as of the date published, and may be superseded by subsequent events or for other reasons.

5.9 Information provided through the Services or on the Compliance By Design website is subject to change. Compliance By Design may amend, update, suspend or delete any information in the content without notice at any time and at its sole discretion.

5.10 User acknowledges that access to the Services is dependent on the creation of a elements.cloud user account and acceptance of the elements.cloud Terms of Service available at <https://elements.cloud>.

6 SERVICES AND NETWORK AVAILABILITY

6.1 Compliance By Design shall, during the Term, provide the Services to the User on and subject to the terms of these Terms of Use. The Services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. Compliance By Design is not responsible for any delays, delivery failures, or other damage resulting from such problems.

6.2 Emergency unplanned maintenance may need to occur where the Services may not be available (or may be limited) to the User for a period of time. Compliance By Design will endeavour to keep disruptions to the Services to a minimum but makes no guarantee as to the availability, functioning or accuracy of the Services..

6.3 Compliance By Design will also need to schedule maintenance periods and during such periods the Services will not be available to the User. Compliance By Design will endeavour or notify the User of such scheduled maintenance. Compliance By Design will provide the User with reasonable notice of any downtime due to non-routine maintenance and will use reasonable endeavours to ensure that any non-routine maintenance periods take place outside of Business Hours.

6.4 The Services may be subject to periodic maintenance. Compliance By Design will attempt not to materially affect its Services during this time, but Compliance By Design cannot guarantee that there will not be an occasional disruption as a result of any periodic maintenance to the Services.

6.5 Compliance By Design does not guarantee network availability between the User and the Compliance By Design hosting servers, as network availability can involve numerous third parties and is beyond the control of Compliance By Design. Compliance By Design will not be liable for any downtime caused by its internet provider nor for any downtime that the User experiences as a result of its own network connectivity issues.

6.6 The User shall:

(a) obtain and shall maintain all necessary licences, consents and permissions necessary for Compliance By Design, its contractors and agents to perform their obligations under these Terms of Use, including without limitation the Services and the provisions of the Data Protection Addendum, if applicable;

(b) ensure that its network, systems and supported web browser comply with the relevant

specifications as may be notified from Compliance By Design from time to time; and

(c) be solely responsible for procuring and maintaining its network connections, supported web browser and telecommunications links from its systems to the Services, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the User's network connections or telecommunications links or caused by the internet.

6.7 If the User experiences a service outage and is unable to use the Services, the User should contact Compliance By Design and notify Compliance By Design of the issue, providing all necessary information that may assist Compliance By Design in determining the cause of the issue.

6.8 As per clause 5.10 Compliance By Design accepts no responsibility for any functioning, limitations, delays, and other problems inherent with the elements.cloud platform, which is a separate platform run by an entity independent to Compliance By Design.

7 USER'S USE OF SERVICES

7.1 In the event that the User's use of the Services is deemed by Compliance By Design to constitute unfair use of the Services, Compliance By Design reserves the right to, in its sole discretion and without limiting its other rights or remedies, permanently or temporarily, discontinue provision of or access to the Services to the User.

8 ACCOUNT INFORMATION & RECEIVED DATA

8.1 The User shall own all right, title and interest in and to all the Received Data and shall have sole responsibility for and hereby warrants the accuracy, quality, integrity, legality, reliability, appropriateness, of all Received Data.

8.2 The User grants Compliance By Design a non-exclusive, royalty free licence to use the Received Data for the purposes of providing the Services (subject to the Data Protection Addendum).

8.3 Compliance By Design will rely on services provided by the sub-processors identified in Schedule 2 for the archiving of Received Data (unless agreed otherwise between the User and Compliance By Design). In the event of any loss or damage to Received Data, the User's sole and exclusive remedy shall be for Compliance By Design to use reasonable commercial endeavours to restore the lost or damaged Received Data from the latest back-up of such Received Data maintained by Compliance By Design sub processors.. Compliance By Design shall

not be responsible for any loss, destruction, alteration or disclosure of Received Data caused by any third party.

8.4 Compliance By Design shall, in providing the Services, comply with the Data Protection Addendum relating to the security of the Received Data, which may be amended from time to time by Compliance By Design in its sole discretion.

8.5 If Compliance By Design processes any personal data on the User's behalf when performing its obligations under these Terms of Use, such processing shall be carried out in accordance with the Data Protection Addendum.

9 INTELLECTUAL PROPERTY & INFRINGEMENT CLAIMS

9.1 The User acknowledges that all Intellectual Property Rights in the Services and Compliance By Design Content are and shall remain the sole property of Compliance By Design and/or its licensors. Nothing in these Terms of Use shall be construed as granting to the User any rights in any Intellectual Property Rights comprised in the Services and Compliance By Design Content other than the right to use it in accordance with the terms of these Terms of Use.

9.2 This Clause 9 states that the User's sole and exclusive rights and remedies, and Compliance By Design' (including Compliance By Design' employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

10 THIRD PARTY PROVIDERS

The User acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. Compliance By Design makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website. Compliance By Design recommends that the User refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Compliance By Design does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

11 LIMITED WARRANTY

Each Party represents and warrants that it has the legal power and authority to enter into these Terms of Use.

12 DISCLAIMER OF WARRANTIES

12.1 Save as otherwise provided in these Terms of Use, the Services and the Compliance By Design Content are provided to the User strictly on an "as is" basis. Save for the provisions otherwise expressly specified in these Terms of Use, all conditions, representations and warranties, whether express, implied, statutory or otherwise, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose, or non-infringement of third party rights, are hereby disclaimed to the maximum extent permitted by applicable law by Compliance By Design and its licensors.

13 LIMITATION OF LIABILITY

13.1 Compliance By Design shall have no liability to the User, whether in contract, tort or otherwise and whether in connection with these Terms of Use or any collateral contract.

13.2 In no event shall either Party and/or its licensors be liable in contract, tort (including negligence) or for breach of statutory duty in any other way for: loss of data, loss of revenue, loss of profits, use or other economic advantage, or for any indirect, special or consequential, in any case, whether or not such losses were within the contemplation of the parties at the date of these Terms of Use, or were suffered or incurred by the User arising out of or in connection with any matter arising under these Terms of Use.

13.3 Except as expressly and specifically provided in these Terms of Use, the User assumes sole responsibility for results obtained from the use of the Services and/or the Compliance By Design Content by the User, and for conclusions drawn from such use. Compliance By Design shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Compliance By Design by the User in connection with the Services and/or any Consultancy Services, or any actions taken by Compliance By Design at the User's direction.

13.4 If Compliance By Design' delivery of the Services under these Terms of Use is prevented or delayed by any breach of these Terms of Use or negligent act or omission of the User, Compliance By Design shall not be liable for any costs, charges or losses sustained or incurred by the User that arise directly or indirectly from such prevention or delay.

14 INDEMNITY

14.1 The User shall indemnify and hold Compliance By Design, its licensors and its Affiliates, officers, directors, employees, attorneys and agents

harmless from and against any third party costs and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with:

- (a) a claim alleging that use of the Received Data infringes the rights of, or has caused harm to, the party that supplied the Received Data or a third party;
- (b) a claim, which if true, would constitute a violation by the User of its representations and warranties; or
- (c) a claim arising from the breach by the User of these Terms of Use, provided in any such case that Compliance By Design:
 - (i) gives written notice of the claim promptly to the User;
 - (ii) gives the User sole control of the defence and settlement of the claim (provided that the User may not settle or defend any claim unless the User unconditionally releases Compliance By Design of all liability and such settlement does not affect Compliance By Design' business or Service);
 - (iii) provides to the User all available information and assistance; and
 - (iv) has not compromised or settled such claim.

15 TERM AND TERMINATION

15.1 These Terms of Use shall commence when the user begins using the Services ("**Effective Date**") and shall run for 12 (twelve) weeks from the Effective Date (the "**Term**"). Thereafter these Terms of Use shall be automatically renewed for successive monthly periods unless terminated by either Party after the Term.

15.2 Either Party may terminate these Terms of Use at any time without cause.

15.3 On termination of these Terms of Use for any reason:

- (a) the User shall cease all activities authorised by these Terms of Use; and
- (b) the accrued rights of the Parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

16 CONFIDENTIALITY

16.1 Each Party may be given access to Confidential Information from the other Party in order to perform its obligations under these Terms of Use. A Party's Confidential Information shall not be deemed to include information that:

- (a) is or becomes publicly known other than through any act or omission of the receiving Party and information shall not be deemed to be in the public domain merely because it may be derived from one or more items which are publicly known;
- (b) was in the other Party's lawful possession before the disclosure;
- (c) is lawfully disclosed to the receiving Party by a third Party without restriction on disclosure;
- (d) is independently developed by the receiving Party, which independent development can be shown by written evidence;
- (e) the Parties agree in writing is not confidential or may be disclosed; or
- (f) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

16.2 Each Party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of these Terms of Use.

16.3 Each Party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of these Terms of Use.

16.4 Neither Party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

16.5 The User acknowledges that details of the Services constitute Compliance By Design' Confidential Information.

16.6 This Clause 16 shall survive termination of these Terms of Use, however arising.

17 ASSIGNMENT

17.1 These Terms of Use may not be assigned by the User without the prior written approval of

Compliance By Design but may be assigned without the User's consent by Compliance By Design.

17.2 Any purported assignment in violation of this Clause 17 shall be void. Any actual or proposed change in control of the User shall entitle Compliance By Design to terminate these Terms of Use for cause immediately upon written notice.

18 FORCE MAJEURE

Compliance By Design shall have no liability to the User under these Terms of Use if it is prevented from or delayed in performing its obligations under these Terms of Use, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Compliance By Design or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the User is notified of such an event and its expected duration.

19 GENERAL

19.1 **Notices:** Any notice or other communication whether required or permitted to be given under these Terms of Use shall be given in writing and shall be deemed to have been duly given by Compliance By Design if delivered to info@compliancebydesign.io or in the case of the User if delivered to the email address registered by the User on the Compliance By Design website (www.compliancebydesign.io).

19.2 **Severability:** If any provision in these Terms of Use is deemed to be, or becomes invalid, illegal, void or unenforceable under applicable laws, such provision will be deemed amended to conform to applicable laws so as to be valid and enforceable, or if it cannot be so amended without materially altering the intention of the Parties, it will be deleted, but the validity, legality and enforceability of the remaining provisions of these Terms of Use shall not be impaired or affected in any way.

19.3 **Parties Bound:** These Terms of Use shall be binding upon and run for the benefit of the Parties, their successors and permitted assigns.

19.4 **Entire Agreement:** These Terms of Use constitutes the entire agreement and understanding between the Parties with respect to its subject matter, and except as expressly provided, supersedes all prior representations, writings, negotiations or understandings with respect to that subject matter.

19.5 **Further Assurance:** Each Party shall do and execute, or arrange for the doing and executing of, each necessary act, document and thing reasonably within its power to implement these Terms of Use.

19.6 **Conflict:** If there is an inconsistency between any of the provisions in the main body of these Terms of Use or any other document referred to in these Terms of Use, the provisions in the main body of these Terms of Use shall prevail (unless related to data protection, in which the Data Protection addendum shall prevail).

19.7 **Counterparts:** These Terms of Use may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute these Terms of Use.

19.8 **No Partnership or Agency:** Nothing in these Terms of Use is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

19.9 **Publicity and Announcements:** Without Compliance By Design' prior written consent, the User shall not issue nor cause the issuance of any public statement in any way concerning Compliance By Design or the Services. Compliance By Design shall have the right to identify the User as a User to which it is providing the Services.

19.10 **Waivers or Variations:** A failure to exercise or delay in exercising a right or remedy provided by these Terms of Use or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by these Terms of Use or by law prevents further exercise of the right or remedy or the exercise of another right or remedy. No variation of these Terms of Use shall be effective unless it is made in writing and signed by each of the Parties.

19.11 **Governing Law and Jurisdiction:** These Terms of Use shall be governed by and construed in accordance with the laws of Ireland, and the Parties irrevocably agree that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms of Use or its subject matter or formation (including non-contractual disputes or claims).

Compliance By Design Data Protection Addendum

In accordance with the Data Protection Legislation (as defined below), the User and Compliance By Design have entered into this Data Protection Addendum ("DPA").

AGREED TERMS

1. Definitions and Interpretation

- (a) The definitions and rules of interpretation in this Clause apply in this DPA (unless the context requires otherwise).

- (b) For the purposes of this DPA:

"User Personal Data", means personal data received by Compliance By Design from or on behalf of the User in connection with the performance of the Services including the personal data set out in DPA Schedule 1;

"Data Protection Legislation" means the Data Protection Acts 1988 to 2018 (as may be amended from time to time), and as of 25 May 2018, the General Data Protection Regulation (EU) 2016/679 (the **"GDPR"**);

"Security Breach" the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the User Data;

"Services" has the meaning ascribed to it in the Terms of Use or, in the absence of any defined term in the Terms of Use, shall mean the services provided by Compliance By Design to the User in the manner contemplated by and in accordance with the terms of the Terms of Use;

- (c) **"controller"**, **"data subject"**, **"personal data"**, **"processing"**, **"processor"** and **"supervisory authority"** shall have the meanings given to those terms in the GDPR.
- (d) A reference to this DPA includes its schedules.
- (e) Words in the singular include the plural and vice versa.
- (f) Any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed without limitation.
- (g) Clause, schedule or other headings in this DPA are included for convenience only and shall have no effect on the interpretation of this DPA.
- (h) A reference to any statute, statutory provision, rule, regulation or any requirement shall be construed as including references to it as modified, consolidated, re-enacted or superseded from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.
- (i) A reference to any regulator or regulatory board shall include a reference to any replacement or successor bodies from time to time.
- (j) In the case of conflict or ambiguity between the terms of this DPA and the Terms of Use as to the subject matter of this DPA, the terms of this DPA shall prevail.

2. Status

In respect of any User Data processed by Compliance By Design under this DPA, the Parties acknowledge that the User shall be the controller and Compliance By Design shall be a processor.

3. User Obligations

- (a) User, as the controller or primary processor (as applicable), is solely responsible for establishing the lawful basis for the processing of User Personal Data by Compliance By Design under this DPA and will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the User Personal Data to Compliance By Design for the duration and purposes of this DPA.
- (b) User, as the controller, is further solely responsible for the accuracy and quality of the User Personal Data.

4. Compliance By Design Obligations

- (a) To the extent that Compliance By Design processes User Personal Data pursuant to this DPA, Compliance By Design shall:
 - (a) process the User Personal Data only on instructions from the User (unless Compliance By Design is required to process the User Personal Data by applicable European Union or European Member State law in which case Compliance By Design shall notify the User of that legal requirement before such transfer or access occurs or is permitted, unless that law prohibits such notification on important grounds of public interest);
 - (b) ensure that all personnel authorized to process the User Personal Data are party to confidentiality obligations in respect of the User Personal Data;
 - (c) cooperate as reasonably requested by the User (at the User's sole expense):
 - (i) to enable the User to comply with any exercise of rights by a data subject under the Data Protection Legislation in respect of User Personal Data; and
 - (ii) where the User conducts a data protection impact assessment;
 - (d) notify the User if Compliance By Design receives a request from a data subject to have access to that data subject's personal data. Compliance By Design shall not respond directly to such data subject unless it is instructed to do so by the User; and
 - (e) implement and at all times maintain appropriate technical and organizational measures in place to ensure the security of the User Personal Data taking into account: (i) the state of the art; (ii) the costs of implementation; (iii) the nature, scope, context and purposes of the processing; and (iv) the inherent risk of the processing activities to data subjects;
 - (f) notify the User without undue delay of any Security Breach; and
 - (g) cooperate with the Office of the Data Protection Commissioner (or, to the extent required by the User, any other supervisory authority) in the performance of its tasks where required.

5. International Transfers

- (a) The User hereby agrees to the transfer of User Personal Data processed under this DPA outside of the EU PROVIDED that in effecting any international transfer of User Personal Data, Compliance By Design shall ensure that:
- (a) it has provided appropriate safeguards in relation to the transfer which may include Privacy Shield certification (in the case of US transferees) or EU standard contractual clauses. The User hereby appoints Compliance By Design as its agent for the purpose of entering into any EU standard contractual clauses in the context of providing the Services; and
 - (b) data subjects continue to have enforceable rights and effective legal remedies following the transfer.

6. Sub-Processors

- (a) The User hereby authorises Compliance By Design to use third parties ("**sub-processors**") to provide the Services provided:
- (a) Compliance By Design shall notify the User in advance of any proposed use of a sub-processor, and any replacement or addition to them and the User shall have the right to object on reasonable grounds to the use of or change to any sub-processor within 14 (fourteen) days of Compliance By Design notifying the User of the change. In the event of the User raising such an objection, Compliance By Design may terminate part or all of the Terms of Use on 14 (fourteen) days' notice;
 - (b) in engaging any sub-processor Compliance By Design agrees adequate data protection arrangements that are in all materials respects similar to those set out in this DPA; and
 - (c) Compliance By Design shall at all times remain liable for the acts and omissions of any sub-processor as if such acts and omissions were those of Compliance By Design.
- (b) For the purpose of this DPA, the User consents to the use of the sub-processors listed at Schedule 2.

7. Audit

- (a) Compliance By Design shall make available all information reasonably requested by the User to satisfy itself that Compliance By Design is complying with its data protection obligations under this DPA.
- (b) User (and its third-party representatives) shall be permitted to audit Compliance By Design' premises, systems, and facilities during Business Hours PROVIDED THAT:
- (i) User shall provide at least 14 (fourteen) days prior written notice of its intention to carry out an audit;
 - (ii) all expenses incurred by Compliance By Design shall be promptly discharged by User;
 - (iii) Compliance By Design may request that any third party representative performing an audit on behalf of User shall provide written confidentiality undertakings to the reasonable satisfaction of Compliance By Design and Compliance By Design shall be entitled to refuse access to any of its premises or records until such time as it has received such undertakings; and

- (iv) nothing in this DPA shall entitle the User to access or inspect any records which contain information relating to any other User of Compliance By Design and Compliance By Design shall be entitled to restrict or prevent access to any part of its premises which it considers in its sole discretion could compromise the security of any information or data relating to such other Users.
- (c) Compliance By Design will inform User if it comes to its attention that any instructions received in respect of this clause (a) infringe the provisions of any applicable EU or EU Member State data protection law. Notwithstanding the foregoing, Compliance By Design shall have no obligation to review the lawfulness of any instruction received from User.

8. Term and Termination

- (a) This DPA shall be effective as and from the Effective Date and shall remain in force until such time as the Terms of Use are terminated.
- (b) On termination of this DPA, Compliance By Design shall, at the written direction of the User, delete or return User Personal Data and copies thereof to the User on termination of the Terms of Use save to the extent that Compliance By Design is required by applicable law to retain the User Personal Data.

9. General

- (a) Any notice or other communication required to be given to a party under or in connection with this DPA shall be in writing and shall be delivered by email only to Compliance By Design using the email address privacy@compliancebydesign.io. Any notice or communication shall be deemed to have been received the first working day after the time of transmission.
- (b) The parties' respective aggregate liability whether in contract, tort (including negligence), breach of statutory duty, or otherwise for any and all claims arising out of or in connection with this DPA shall be as set out in the Terms of Use.
- (c) User shall not assign or deal in any other manner with any of its rights and obligations under this DPA without the prior written consent of the Compliance By Design (which is not to be unreasonably withheld or delayed).
- (d) No failure or delay by a party to exercise any right or remedy provided under this DPA or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (e) This DPA, together with the Terms of Use, represents the entire agreement between the parties with respect to its subject matter. Each party confirms that it has not relied upon any representations not recorded in this document inducing it to enter into this DPA.
- (f) No variation of this DPA shall be effective unless it is in writing and provided that 14 days prior notice is given by Compliance By Design to the User (or their authorised representatives).
- (g) If any provision or part-provision of this DPA is or becomes invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision. If such amendment is not possible, the relevant provision or part-provision shall be deemed deleted. Any amendment to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this DPA.

- (h) Nothing in this DPA is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor authorise any party to make or enter into any commitments for or on behalf of any other party except as expressly provided herein.
- (i) This DPA and all disputes arising from this DPA whether contractual or non-contractual in nature shall be governed by and construed in accordance with the laws of Ireland. The parties irrevocably submit to the exclusive jurisdiction of the Irish courts in relation to all matters arising out of or in connection with this DPA

SCHEDULE 1-Personal Data Processed**Description of processing of personal data**

This schedule provides information about the use of personal data by Compliance By Design:

Categories of data subjects:	Users
Types of personal data:	User Contact details (name, phone number and email address)
Nature of processing:	Functioning and processing relating to delivery of the services.
Purpose of processing:	To ensure Compliance By Design services are delivered to Users.

SCHEDULE 2– SUB-PROCESSORS

This schedule provides information about the sub-processors used by Compliance By Design:

Sub-Processor	Description
Wix (www.wix.com)	Website Hosting, eCommerce and Customer Relationship Management software solutions used by Compliance By Design.
elements.cloud (https://elements.cloud/)	Enterprise Business Process Architecture software solution used by Compliance By Design to build Digital Centres of Excellences and to deliver the Compliance By Design service.
Stripe (www.stripe.com)	Payment software solution used by Compliance By Design as part of the eCommerce functionality delivered through Wix.
Microsoft Office 365 (www.office365.com)	Business Solutions Software used by Compliance By Design for business administration purposes.