

## DATA SHARING AGREEMENT

### PARTIES

- (1) Wiltshire and Sons Farnham Limited incorporated and registered in England and Wales with company number 6505090 whose registered office is at Station House Connaught Road, Brookwood, Woking, Surrey, GU24 0ER

### BACKGROUND

- (A) This Agreement is intended to govern the use of Personal Data shared between the Parties.
- (B) The Parties agree to share and use the Personal Data solely on terms set out in the Agreement.
- (C) This Agreement shall take effect on the Commencement Date.

### AGREED TERMS

1. **INTERPRETATION:** The following definitions and rules of interpretation apply in this Agreement.

#### 1.1 Definitions:

**Agreed Purpose:** has the meaning given to it in clause 3.3 of this Agreement.

**Agreement:** means this Agreement.

**Commencement Date:** the date on which this Agreement is incorporated into the Dealer Agreement.

**Control:** a business entity shall be deemed to "control" another business entity if it owns, directly or indirectly, in excess of 50% of the outstanding voting securities or capital stock of such business entity or any other comparable equity or ownership interest with respect to a business entity other than a corporation.

**"Controller", "Processor", "Data Subject(s)", "Personal Data", "processing" and "Data Concerning Health"** shall have the meanings given to those terms in Data Protection Laws (and related terms such as "process" shall have corresponding meanings).

**Data Security Breach:** a breach of security leading to the accidental or unlawful damage, destruction, loss, alteration, misappropriation, unauthorised disclosure of, or access to or other compromise of the security, confidentiality, or integrity the Shared Personal Data.

**Data Protection Laws:** the Data Protection Act 1998, the Data Protection Directive (95/46/EC), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive)

Regulations 2003 (SI 2426/2003), the General Data Protection Regulation ((EU) 2016/679) (“GDPR”) and all applicable laws and regulations relating to the processing of the personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner’s Office or any other national data protection authority, and the equivalent of any of the foregoing in any relevant jurisdiction.

**Shared Personal Data:** the Personal Data to be shared between the Parties under clause 5 of this Agreement.

1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.

1.3 Unless the context otherwise requires:

- words in the singular shall include the plural and in the plural shall include the singular;
- a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- a reference to one gender shall include a reference to the other genders;
- any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.4 References to clauses and Schedules are to the clauses and Schedules of this Agreement.

1.5 The Schedule forms part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedule.

## **2. STATUS OF THE PARTIES**

2.1 The Parties agree that the factual relationship between them will determine whether each Party is a Processor or Controller.

2.2 Notwithstanding the above, the Parties anticipate and agree that they will each be Controllers (either solely or joint) in relation to the Agreed Purposes and do not anticipate any circumstances in which one Party will be held to be the other’s Processor. This Agreement sets out the framework for the sharing of Personal Data between the Parties as Controllers.

2.3 In circumstances where the parties act as joint Controllers, this Agreement shall determine each Party’s respective responsibilities for compliance under GDPR.

### **3. PURPOSE**

3.1 Personal Data is shared by both parties in support of these functions. For this reason the Parties consider this data sharing initiative necessary to allow the secure transfer of the Shared Personal Data.

3.2 This Agreement defines the principles and procedures that the Parties shall adhere to and the responsibilities the Parties owe to each other.

3.3 The Parties agree only to process Shared Personal Data, for the Agreed Purposes set out in Schedule 1.

3.4 The Parties acknowledge that in order to achieve the Agreed Purposes, it may be necessary for Shared Personal Data to be shared between the Dealer and Affiliates. The parties agree that the terms of this Agreement shall apply to such sharing shall be read and construed as a reference to the relevant Affiliate (and in such circumstances references to 'Party' or 'Parties' shall also be construed accordingly). For the avoidance of doubt, this will include the indemnity at clause 15.

3.5 The Parties shall not process Shared Personal Data in a way that is incompatible with the Agreed Purposes.

### **4. COMPLIANCE WITH DATA PROTECTION LAWS**

4.1 Each Party must ensure that it complies with the Data Protection Laws at all times during the term of this Agreement.

4.2 Each Party will provide to the other Party, upon request, all reasonable information necessary to demonstrate compliance with the Data Protection Laws, insofar as such compliance relates to the Shared Personal Data.

4.3 Each Party will notify the other Party upon suspecting or becoming aware of irregularities or infringements of the Data Protection Laws insofar as such irregularities or infringements relate to the Shared Personal Data.

### **5. SHARED PERSONAL DATA**

5.1 The following categories of Personal Data will be shared between the Parties during the term of this Agreement:

- Name and title;
- Job title;

- Home address and phone number;
- Work address and phone number;
- Mobile telephone number;
- Email address;
- Date of birth;
- Gender;
- Marital status;
- Vehicle registration details;
- Details of products and services purchased;
- Driving licence details
- Financial data;
- Employer's name, contact details;
- Marketing preferences.

5.2 Personal Data will be shared between the Parties for the following categories of Data Subject during the term of this Agreement:

- Customers who have purchased a vehicle, part, product, service or policy, or representatives acting on their behalf;
- Prospective customers who may purchase a vehicle, part, product, service or policy, or representatives acting on their behalf;
- Employees of the Dealer
- Consultants and the employees of suppliers to the Dealer
- Professional advisors of the Dealer
- The guests of the Dealer, or their consultants or suppliers, who are invited by the Dealer to attend hospitality events.

5.3 The only special category of Personal Data (as described at Article 9 of the GDPR) which will be shared between the Parties during the term of this

Agreement is Data Concerning Health. No data relating to criminal convictions and offences will be shared between the parties.

5.4 Where it is necessary for the Dealer to collect Data Concerning Health from a Data Subject and to share that Personal Data in order to achieve an Agreed Purpose, the Dealer will, when obtaining such Personal Data (or if Data Concerning Health has already been obtained from a Data Subject prior to the date of this Agreement, before such Personal Data is provided):

- notify to the Data Subject of the Agreed Purpose for which the Data Concerning Health is required;
- obtain the explicit consent of the Data Subject to the processing of that Personal Data by the Dealer for that Agreed Purpose;
- provide a copy of the Data Subject's consent at the same time as the Dealer provides the Data Concerning Health.

5.5 The Shared Personal Data must not be irrelevant or excessive with regard to the Agreed Purposes.

## **6 FAIR AND LAWFUL PROCESSING**

6.1 Each Party shall ensure that it processes the Shared Personal Data fairly and lawfully in accordance with clause 6.2 during the term of this Agreement.

6.2 Each Party shall ensure that it processes Shared Personal Data on the basis of one or more of the legal grounds set out in the relevant Data Protection Laws in force at the time of processing.

6.3 Each Party shall, in respect of Shared Personal Data, ensure that its privacy notices are clear and provide sufficient information to Data Subjects for them to understand what Personal Data of the Data Subject each Party is sharing with the other Party including the circumstances in which it will be shared, the purposes for the data 7 sharing and either the identity of the other party or a description of the type of organisation that will receive the Personal Data. In the case of the Dealer's privacy notice(s), the Dealer shall ensure that the privacy notices make it clear that Shared Personal Data may also be shared with Affiliates for the Agreed Purposes.

6.4 In order to comply with its information provision obligations under the Data Protection Laws in relation to the processing of any Shared Personal Data, the

Dealer agrees that from 25 May 2018, it will provide the Dealer Privacy Notice to any Data Subject when the following conditions are met:

- the Personal Data of that Data Subject is collected or held by the Dealer;
- that Personal Data is to be provided to the Dealer, either manually or through any automated system.

## **7. DATA SUBJECTS' RIGHTS**

7.1 The Parties will provide to each other all reasonable assistance to enable them to:

- comply with a Data Subject's request to access information;
- to respond to any other queries or complaints from Data Subjects.

## **8. DATA RETENTION AND DELETION**

8.1 Neither Party shall retain or process Shared Personal Data for longer than is necessary to carry out the Agreed Purposes save that the Parties may continue to retain Shared Personal Data in accordance with any statutory or other retention periods applicable in their respective businesses.

8.2 The Parties shall ensure that any Shared Personal Data are returned to the other Party or are deleted or securely disposed of as required by the Party originally responsible for providing the information in the following circumstances:

- on termination of the Dealer Agreement, unless the receiving Party has a lawful basis under the Data Protection Laws to continue to process such Personal Data;
- once processing of the Shared Personal Data is no longer necessary for the relevant Agreed Purpose.

The obligations set out in this clause 8.2 shall be carried out by the relevant Party as soon as reasonably practicable.

8.3 Following any deletion or secure disposal of Shared Personal Data in accordance with clause 8.2, the relevant Party shall notify the other in writing that the Shared Personal Data in question has been deleted (with no further back up) or otherwise securely disposed of including the method of disposal.

## **9. TRANSFERS**

9.1 For the purposes of this clause, transfers of Personal Data shall mean any sharing of Personal Data by either Party with a third party, and shall include, but is not limited to, the following:

- storing Shared Personal Data on servers outside the European Economic Area (“EEA”);
- subcontracting the processing of Shared Personal Data to data processors located outside the EEA;
- granting third parties located outside the EEA access rights to the Shared Personal Data.

9.2 Neither Party shall disclose or transfer the Shared Personal Data to a third party located outside the EEA unless the disclosing Party complies with the Data Protection Laws.

## **10. SECURITY AND TRAINING**

10.1 The Parties shall only provide the Shared Personal Data to each other by using secure methods.

10.2 Having regard to the state of technological development and the cost of implementing such measures, the Parties shall implement and maintain appropriate technical and organisational measures in order to:

- prevent:
  - unauthorised or unlawful processing of the Shared Personal Data;
  - the accidental loss, alternation or destruction of, or damage to, the Shared Personal Data;
- ensure a level of security appropriate to:
  - the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage;
  - the nature of the Shared Personal Data to be protected.

10.3 It is the responsibility of each Party to ensure that its employees and any contractors are appropriately trained to handle and process the Shared Personal

Data in accordance with the technical and organisational measures set out above and in accordance with the Data Protection Laws.

10.4 The level, content and regularity of training referred to in clause 10.3 shall be proportionate to the staff member's role, responsibility and frequency with respect to their handling and processing of the Shared Personal Data.

## **11. DATA SECURITY BREACHES AND REPORTING PROCEDURES**

11.1 Having considered the Data Protection Laws, the Parties must have in place their own guidance that must be followed in the event of a Data Security Breach.

11.2 Parties are under a strict obligation to notify any potential, suspected or actual Data Security Breaches to each other as soon as possible and, in any event, within two (2) working day of identification of any potential, suspected or actual loss to enable the Parties to consider what action is required in order to resolve the issue in accordance with the Data Protection Laws.

11.3 Clause 11.2 also applies to any breaches of security which may compromise the security of the Shared Personal Data.

11.4 The Parties agree to provide all reasonable assistance as is necessary to each other to facilitate the handling of any Data Security Breach in an expeditious and compliant manner.

## **12. REVIEW AND TERMINATION OF AGREEMENT**

12.1 The Parties shall review the effectiveness of this Agreement every 12 months, having consideration to the aims and purposes set out in clause 3. If, following review, any changes to this Agreement are deemed to be necessary, such changes will be made as soon as reasonably practicable.

12.2 The review of the effectiveness of the Agreement will involve:

- Assessing whether the purposes for which the Shared Personal Data is being processed are still as set out in this Agreement;
- Assessing whether the Shared Personal Data is still as set out in this Agreement;
- Assessing whether the legal framework governing data quality, retention, and Data Subjects' rights is being complied with;



- Assessing whether Personal Data breaches involving the Shared Personal Data have been handled in accordance with this Agreement and the applicable legal framework.

12.3 This Agreement will terminate automatically if the Dealer Agreement is terminated but clauses 12.5 and 15 shall survive termination. Subject to clause 12.4, the obligations 10 contained in this Agreement shall continue in force and effect until all Shared Personal Data has been securely destroyed or returned to the other Party in accordance with clause 8.2.

12.4 If a Party continues to process any Personal Data on the basis of the exemption at 8.2(a), such processing shall be the sole responsibility and liability of that processing Party.

12.5 Termination of this Agreement shall not affect the rights of a Party which have accrued prior to the date of termination.

### **13. RESOLUTION OF DISPUTES WITH DATA SUBJECTS OR THE INFORMATION COMMISSIONER'S OFFICE**

13.1 In the event of a dispute or claim brought by a Data Subject or the Information Commissioner's Office concerning the processing of Shared Personal Data against either or both Parties, the Parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.

13.2 The Parties agree to respond to any generally available non-binding mediation procedure initiated by a Data Subject or by the Information Commissioner's Office. If they do participate in the proceedings, the Parties may elect to do so remotely (such as by telephone or other electronic means). The Parties also agree to consider participating in any other arbitration, mediation or other dispute resolution proceedings developed for data protection disputes.

13.3 Each Party shall abide by a decision of a competent court or of the Information Commissioner's Office which is final and against which no further appeal is possible.

### **14. WARRANTIES**

14.1 Each Party warrants and undertakes that it will:

- Process the Shared Personal Data in compliance with the Data Protection Laws.

- Respond within a reasonable time to enquiries from the Information Commissioner's Office in relation to the Shared Personal Data having first notified the other Party of the nature of the enquiry.
- Respond in a reasonable time, and in any event within the time limits stipulated in the Data Protection Laws, to any Data Subject who makes a request to access information or assert any right under the Data Protection Laws.
- Take all appropriate steps to ensure compliance with the security measures set out in clause 10 above.

14.2 The Parties each warrant and undertake that they will ensure that the Shared Personal Data are accurate. Upon becoming aware that any Shared Personal Data is or has become inaccurate, the Parties will notify the other Parties of the required update or correction.

14.3 Except as expressly stated in this Agreement, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.

## **15. INDEMNITY**

15.1 The Dealer undertake to indemnify each other and hold each other harmless from any cost (including legal costs), charge, damages, expense or loss which they cause each other as a result of their breach of any of the provisions of this Agreement, except to the extent that any such liability is excluded under clause 17.2.

15.2 Indemnification hereunder is contingent upon:

- the Party to be indemnified (the indemnified Party) promptly notifying the other Party (the indemnifying Party) of a claim,
- the indemnifying Party having sole control of the defence and settlement of any such claim,
- the indemnified Party providing reasonable cooperation and assistance to the indemnifying Party in defence of such claim.

## **16. ALLOCATION OF COST**

16.1 Each Party shall perform its obligations under this Agreement at its own cost.

## **17. LIMITATION OF LIABILITY**

17.1 Neither Party excludes or limits liability to the other Party for:

- fraud or fraudulent misrepresentation;
- death or personal injury caused by negligence;
- any matter for which it would be unlawful for the Parties to exclude liability.

17.2 Subject to clause 17.1, neither Party shall in any circumstances be liable whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for:

- any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;
- loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time);
- any loss or liability (whether direct or indirect) under or in relation to any other contract.

17.3 Clause 17.2 shall not prevent claims, for:

- direct financial loss that are not excluded under any of the categories set out in clause 17.2(a);
- tangible property or physical damage.

## **18. CHANGES TO THE APPLICABLE LAW**

18.1 In case the applicable data protection and ancillary laws change in a way that the Agreement is no longer adequate for the purpose of governing lawful data sharing exercises, the Parties will negotiate in good faith to review the Agreement in light of the new legislation.

## **19. REMEDIES**

19.1 Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

## **Schedule 1**

The parties agree that the Shared Data shall be used for the following Agreed Purposes:

- Managing and reporting on requests, leads, enquiries and complaints from customers and prospective customers.
- Proposing and processing applications for finance, vehicle leasing and hire purchase.
- Managing and reporting on the sales of Mitsubishi vehicles, parts, products, services and policies.
- Managing relationships with customers and prospective customers.
- Ongoing support and maintenance of vehicles, parts, products, services and policies, including for the purposes of recall campaigns, technical service requests and finance products.
- Providing benefits as gestures of goodwill to dealers and customers and prospective customers.
- Administering, providing and monitoring staff training.
- Carrying out surveys including customer satisfaction surveys and dealer satisfaction surveys.
- Entry, participation and administration of events, offers, prize draws, competitions and giveaways.
- Processing and settlement of claims, including for warranty, service plan or insurance policy purposes.
- Complying with legal and regulatory obligations and bringing and defending legal claims.

## **GETTING IN TOUCH**

If you have any requests or queries regarding our use of your personal data, please contact our Data Protection Officer by e-mail at [barry.w@justevs.com](mailto:barry.w@justevs.com) or by writing to Data Protection Officer, Wiltshire and Sons, Unit 10 Farnham Trading Estate, Farnham, Surrey, GU9 9NN.

## **PERSONAL DATA**

Personal Data means any information about an individual from which that person is or can be identified.

## **WHY WE COLLECT PERSONAL DATA**

Personal data collection is essential to supporting our dealers in supplying you with cars, parts and associated products and services. We limit the collection strictly to the information we need for this and never collect unnecessary or irrelevant data. We have a data sharing agreement with our Affiliates which stipulates and limits what personal data we share.

## **WHAT WE COLLECT**

We collect the following personal data as a dealer:

- a) Name and title;
- b) Job title;
- c) Home address and phone number;
- d) Work address and phone number;
- e) Mobile telephone number;
- f) Email address;
- g) Date of birth;
- h) Gender;
- i) Marital status;
- j) Vehicle registration details;
- k) Details of products and services purchased;

- l) Driving licence details;
- m) Financial data;
- n) Employer's name, contact details;
- o) Marketing preferences.

We do not collect all of these details for every customer; only what is necessary in the circumstances.

### **HOW WE COLLECT PERSONAL DATA**

We collect personal data about you from our dealers in a number of ways. This will include information provided through IT applications that support the products and services we provide and through written and telephone correspondence with our dealers. We will also collect further personal data from you when you correspond with us or visit our website.

### **HOW WE USE YOUR PERSONAL DATA**

We use your personal data for the following purposes

- Selling and supporting the sale of vehicles, parts, products, services and policies.
- Processing finance, vehicle leasing and hire purchase applications.
- Organising the servicing and repair of vehicles and parts
- Administering events, offers, prize draws, competitions and giveaways.
- Carrying out surveys including customer satisfaction surveys and dealer satisfaction surveys.
- Processing and settlement of warranty, service plan or insurance policy claims.
- Providing information about (i) products and services you have purchased or have qualified to receive from us; or (ii) products, services events, offers, prize draws, competitions and giveaways that may be of interest to you.
- Dealing with questions, comments, complaints or problems connected with products, services, advertising or quality of service delivered by our dealership.
- Complying with legal and regulatory obligations and bringing and defending legal claims.

## **MARKETING**

We strive to provide you with choices regarding certain personal data uses, particularly around marketing and advertising and ensure that we only send information which we think will be of interest to you.

## **THIRD PARTIES**

We will never sell or pass your personal data to organisations not connected with our business. We have business partners and third party suppliers who may need to process personal data on our behalf and details of all of these are given in our full privacy policy.

We also use aggregated information, which does not contain information that allows an individual to be identified. This aggregated information is used for monitoring the traffic on our websites, providing business management statistics and helping to improve our advertising and customer communications.

## **DATA SECURITY**

We have appropriate security measures to prevent your personal data from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. In addition, we limit access to your personal data to those employees, agents, contractors and other third parties who have a business need to know. Your personal data will only be processed according to our instructions and by people who have signed a confidentiality agreement.

## **YOUR RIGHTS**

If you have provided your consent to us to process your personal data and change your mind, you can withdraw your consent at any time.

Under certain circumstances, you have rights under data protection laws in relation to your personal data, which include:

- The right to request access to your personal data.
- The right to request correction of your personal data.
- The right to request erasure of your personal data.
- The right to object to processing of your personal data.
- The right to request restriction of processing your personal data.

- The right to request transfer of your personal data.
- The right to right to withdraw consent.

For more information on these rights please see our full privacy notice. If you wish to exercise any of these rights please contact our DPO, at the address above.

### **CHANGES TO THIS POLICY**

This policy is effective from 25 May 2018. From time to time we may make changes to this privacy policy statement to reflect any changes to our privacy practices in accordance with changes to legislation or best practice.