

ALE-IMS-01-FIN-FOR-005 GDPR DATA PROCESSOR CLAUSES

ALE UK HOLDINGS LIMITED, ABNORMAL LOAD ENGINEERING LIMITED AND ALE GROUP OF COMPANIES

1. DATA PROTECTION

1.1 For the purposes of this clause the following terms will have the following meanings:

Agreement:	this agreement to which this clause relates.
Agreement Data:	any Personal Data which may be collected, stored or Processed by the Data Processor in connection with this Agreement.
ALE Group Company:	any company with the same ultimate owner as A.L.E. UK Holdings Limited.
Consents:	the consent of a Data Subject to certain Processing of its Personal Data, as so defined in the DPA or GDPR, that is required under Data Protection Law or which the Data Controller may require the Data Processor from time to time to obtain.
Data Breach:	the actual, threatened or anticipated unauthorised or unlawful Processing and against accidental loss, destruction or damage to Agreement Data or any other Personal Data being processed by the Data Processor.
Data Controller:	A.L.E. UK Holdings Limited, Abnormal Load Engineering Limited and ALE Group of Companies or where the context permits otherwise, any person who falls under the definition of “data controller” in the DPA and any person who falls under the definition of “controller” in the GDPR.
Data Processor:	any person who falls under the definition of “data processor” in the DPA and any person who falls under the definition of “data processor” in the GDPR.

Data Protection Law:

- (a) the DPA, the GDPR and any other applicable law concerning data protection, privacy or confidentiality and any subordinate or related legislation;
- (b) any guidance, codes of practice or instruction issued by the UK Information Commissioner's Office (or any other relevant supervisory authority) from time to time; and
- (c) any replacement to, or amendment of, any of the foregoing; and
- (d) any other laws concerning data protection, confidentiality or privacy which may come into force from time to time.

Data Subject:

any person who falls under the definition of "data subject" in the DPA or the GDPR.

DPA:

the Data Protection Act 1998 (as amended).

GDPR:

Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016, otherwise known as the General Data Protection Regulation.

Personal Data:

data which falls under the definition of "personal data" in the DPA or GDPR.

Process/Processing:

obtaining, recording or holding Agreement Data, or carrying out any operation or set of operations on the Agreement Data, including:

- Organisation, adaptation or alteration;
- Retrieval, consultation or use;
- Disclosure by transmission, dissemination or otherwise making available; and
- Alignment, combination, blocking, erasure or destruction.

- 1.2 Both the Data Controller and the Data Processor will each be acting as separate Data Controllers and Data Processors in respect of the Agreement Data. Whether acting as a Data

Controller or as Data Processor, the Data Processor will comply with the provisions of Data Protection Law, and in particular the GDPR in the collection, storage and Processing of the Agreement Data.

- 1.3 Without prejudice to the general obligation in 1.2 above, the Data Processor represents, warrants and undertakes that it will:
- (a) only use the Agreement Data for the purposes of fulfilling its obligations under the Agreement, and only to the minimum extent required for the specific purpose;
 - (b) ensure that all Consents are validly obtained and are regularly reviewed and updated (if necessary);
 - (c) ensure that the Agreement Data remains up-to-date and accurate, and keep the Agreement Data under regular review;
 - (d) put in place appropriate technical and organisational measures to ensure the security of the Agreement Data against a Data Breach;
 - (e) if the Data Processor receives any complaint or communication which relates directly or indirectly to the Processing of Agreement Data or to either party's compliance in connection with this Agreement or the Data Protection Law or the data protection principles set out therein, it will provide the Data Controller with full cooperation in relation to such complaint communication;
 - (f) notify the Data Controller without delay, and in any event within 36 hours, if The Data Processor suffers, or are made aware of, a Data Breach. The Data Processor will restore lost, destroyed, damaged, corrupted or unusable Agreement Data at The Data Processor's expense;
 - (g) at the Data Controller's request, promptly provide the Data Controller with a copy of all Agreement Data in the format specified by the data Controller;
 - (h) register (if required) with the UK Information Commissioner's Office or such other relevant supervisory authority;
 - (i) promptly upon the Data Controller's request, assist the Data Controller in the fulfilment of any obligation arising out of, or in connection with, the exercise by a Data Subject of its rights under Data Protection Law;
 - (j) ensure that all persons who have access to the Agreement Data and/or Process the Agreement Data are suitably trained in their and the Data Processor's obligations under Data Protection Law and obliged to keep the Agreement Data confidential;
 - (k) assist the Data Controller (at the Data Processor's cost) in ensuring compliance with the Data Controller's obligations under Data Protection Law and will not perform the Data Processor's obligations under this Agreement in a way that causes (or is likely to cause) the Data Controller to breach any of the Data Controller's obligations under Data Protection Law;

- (l) keep full records of all Consents, all Processing instructions, all policies concerning data protection and/or information security, internal training and audits undertaken, and all other documentation that may evidence the Data Processor's compliance with this Agreement;
 - (m) when acting as Data Processor to the Data Controller, only Process the Agreement Data in accordance with the Data Controller's written instructions, unless Data Protection Law allows otherwise;
 - (n) ensure that, if engaging a third party Data Processor (**Third Party Data Processor**), that such Third Party Data Processor is required to comply with written obligations that are at least equivalent to those contained in this Agreement and are not amended or modified without the Data Controller's prior approval. Where that Third Party Data Processor fails to fulfil its data protection obligations, the Data Processor will remain fully liable to the Data Controller for that Third Party Data Processor's obligations ;
 - (o) when acting as Data Processor to the Data Controller, not engage a Third Party Data Processor without the Data Controller's prior written consent;
- 1.4 The Data Processor will not transfer any Agreement Data outside of the European Economic Area without the Data Controller's written consent. Such consent will be subject to such conditions as the Data Controller may consider appropriate including, without limitation:
- (a) that appropriate safeguards in relation to the transfer have been taken;
 - (b) an assurance that the relevant Data Subject has enforceable rights and effective legal remedies; and
 - (c) evidence of the consent of the relevant Data Subject to the transfer.
- 1.5 Unless a renewal agreement has been agreed, on termination of the Agreement the Data Processor will immediately cease all Processing of the Agreement Data and will, at the Data Controller's option, delete, archive or return to the Data Controller all Agreement Data on termination, and delete all copies of the Agreement Data (or any part of it) unless Data Protection Law requires further storage of the Agreement Data.
- 1.6 The Data Processor will make available to the Data Controller all information necessary to demonstrate the Data Processor's compliance with Data Protection Law and this Agreement, and the Data Processor will allow for and contribute to audits, including inspections, conducted by the Data Controller or the Data Controller's agent.
- 1.7 The Data Controller and the Data Processor acknowledge and agree that under Data Protection Law this Agreement must set out the subject matter and duration of the processing, the nature and purpose of the processing, the type of Agreement Data and categories of Data Subject and the obligations and the Data Controller's rights ("the Data Processing

Particulars”). Where the Data Processing Particulars are not apparent from this Agreement then the Data Controller may, from time to time, by written notice to the Data Processor, set out the Data Processing Particulars and such document shall be incorporated into this Agreement.

- 1.8 The Data Processor shall indemnify the Data Controller in respect of all loss, and damage, cost, expense (including legal fees), administrative sanction, fine, penalty, action or other liability that the Data Controller incurs as a result of any breach of this Agreement and/or Data Protection Law and in particular, without limiting the foregoing, the Data Processor shall indemnify the Data Controller in respect of all any loss and, damage, cost, expense (including legal fees), administrative sanction, fine, penalty, action or other liability incurred as a result of:
- (a) enquiry or complaint by a Data Subject;
 - (b) enquiry or investigation by the Information Commissioners Office or such other organisation carrying out the same or similar functions as in place at the relevant time; or
 - (c) claim or action brought by any third party against the Data Controller,
- in respect of Processing under the Agreement.
- 1.9 The indemnity in clause 1.8 shall be separate, distinct from and not subject to any exclusions and limitations on liability in the Agreement
- 1.10 Without affecting any other right or remedy available to it, the Data Controller may terminate the Agreement with immediate effect by giving written notice to the Data Processor if the Data Controller becomes aware of a Data Breach.
- 1.11 A Data Breach shall not constitute a Force Majeure Event and shall not give the Data Processor any right to terminate the Agreement.