

## **Data Recovery Engagement Contract**

### **The Engagement:**

By the Instrument of this Agreement; ....., hereinafter referred to as “Customer”, engages DataTrust Ltd. [ trading as DataRescue ] (“DataRescue”) and/or its suppliers to: inspect, evaluate, and identify the problem (if not already identified); and/or retrieve, or minimise the damage to, the equipment/data/media; and/or provide other services as may be requested by Customer from time to time.

### **Confidentiality:**

DataRescue will use any information contained in the data, media and/or equipment provided to DataRescue by Customer ("Customer Information") only for the purpose of fulfilling the Engagement, and will otherwise hold such Customer Information in the strictest confidence. Any Confidential Information disclosed by Customer under this agreement will remain the owner's sole property, and DataRescue shall employ reasonable measures to prevent the unauthorised use of Customer Information, which measures shall not be less than those measures employed by DataRescue in protecting its own confidential information. DataRescue will not disclose Confidential Information except to employees or consultants reasonably requiring such information (and who have secrecy obligations to DataRescue) and not to any other party except as required by law. DataRescue will employ appropriate technical and organisational measures to safeguard any Customer Information, including personal data, and will act only on the instruction of the Customer with respect to such information. In specific circumstances, DataRescue will sign a Non-Disclosure Agreement where required. DataRescue may be compelled to disclose by law or by authorised governmental regulatory or judicial authority provided that the customer is immediately notified of such a requirement and afforded a reasonable opportunity to seek relief therefrom.

### **Customer’s Representation and Indemnification:**

Customer warrants to DataRescue that it is the owner of, and/or has the right to be in possession of, all equipment/data/media furnished to DataRescue, and that its collection, possession, processing and transfer of such equipment/data/media is in compliance with data protection laws to which Customer is subject; and Customer will defend, at its expense, indemnify, and hold DataRescue harmless against any damages or expenses that may occur

(including reasonable legal fees), and pay any cost, damages, or legal fees awarded against DataRescue resulting from Customer's breach of this section.

**Consent:**

Any consent required of either party will be effective if provided in a commercially reasonable manner, which includes without limitation, verbal authorisation, written confirmation (letter/facsimile/email). DataRescue may not undertake chargeable work until written approval has been provided.

**Acknowledgment of Existing Conditions:**

Customer acknowledges that the equipment/data/media may be damaged prior to DataRescue receipt, and Customer further acknowledges that the efforts of DataRescue to complete the Engagement may result in the destruction of or further damage to the equipment/data/media. DataRescue regrets that it will not assume responsibility for additional damage that may occur to the Customer's equipment/data/media during DataRescue efforts to complete the Engagement.

**Terms of delivery**

The terms of delivery are always Ex Works: The Customer is responsible for costs and risks related to shipment and for insurance from door to door both ways. DataRescue is not under **any circumstances** liable for shipment, but will use its best effort to assist the Customer.

**Disclaimer of warranty and limitations of liability**

It is not to be construed, under any circumstances, that DataRescue, in entering into this engagement, is any way guaranteeing that any or full data recovery is possible. DataRescue is only obliged to use its best effort to identify the problem, estimate time of recovery work and costs for the data recovery. Data recovery is based upon the data that is physically readable on the storage media, which is not necessarily the full amount of data that originally was stored. DataRescue makes no warranties in terms of usability of recovered files, even though files seem to be 100% logically correct. The Customer is aware that any use of utilities or attempts of "self-repair" prior to the arrival at DataRescue may have caused damage to data that may affect the usability of recovered files. The Customer is liable for giving correct information to DataRescue. In no event will DataRescue be liable for loss of data, loss of profits, insurance related costs or any special, incidental or consequential damage or loss

arising from the engagement. The Customer is liable for the economic value of data and for damage relating to data/equipment caused by himself or any Third-Party. Both parties may be released from this Agreement if the compliance of this Agreement is made impossible due to unexpected occurrences, unavailability of hardware parts, software or technical information etc or if the other party in any way breaches the Agreement.

**Payment:**

Customer agrees to pay DataRescue all sums authorised from time to time by Customer, which will typically include charges for DataRescue's services, reasonable travel and per diem expenses for on-site work, shipping and insurance (both ways), and actual expenses, if any, for parts, media, and/or off-the-shelf software used in the Engagement.

Unless otherwise agreed to in advance by DataRescue, all such sums are due and payable in advance, by cash, pre-cleared company cheque or electronic funds transfer.

Customers seeking credit terms should note that their first three financial transactions are payable in advance, whereupon credit terms of up to 30 days may be offered at the discretion of DataRescue thereafter.

It is standard procedure for DataRescue to provide recovered data on password protected media. The password will be made available to the customer once payment terms have been fulfilled.

**Deletion of Data Images:**

The recovery process usually involves the production of one or more images of the data content of the storage device. Subsequent to despatch, the data image(s) are routinely and securely deleted from our systems. Upon request, DataRescue will provide certification of such deletion. A request for Certified Secure Deletion implies satisfaction on the customer's part that actual data recovered represents satisfactory performance of the engagement on the part of DataRescue.

**Jurisdiction:**

The parties agree that this Agreement shall be governed by the Law of the Republic of Ireland in every particular including formation and interpretation and shall be deemed to have been made in the Republic of Ireland. The parties agree that if any provision of this Agreement is held unenforceable, the validity of the remaining portions or provisions of the Agreement shall not be affected. Any revision or modification of this Agreement shall be

effective only if it refers to this Agreement, is in writing, and is signed by an authorised representative of each party. Facsimile signatures for this Agreement and any subsequent exhibits are effective to bind the signing party and admissible in any court and/or for any lawful purpose. This Agreement, together with any exhibits or other attachments, constitutes the entire Agreement between the parties in relation to this subject matter. No provisions in either party's purchase orders, or in any other standard business forms employed by either party will apply even if accepted by the other party.

**Drive Make\*:** .....

**Drive Model\*:** .....

**Drive Serial Number\*:** .....

**Signed on behalf of DataTrust Ltd:** .....

**Printed Name of DataTrust Signatory:** .....

**Signed on behalf of Customer:** .....

**Printed Name of Customer Signatory:** .....

**Date:** .....

\* A photocopy of the actual Hard Drive's Manufacturer's Label signed and dated by both of the above parties can be used instead of completing these three parts of the contract. Where this photocopy is herewith enclosed insert the term **Photocopy Included Herewith** in these three fields.