**DATA PROVIDER AGREEMENT**

**BETWEEN:**

1. **Ancestry Global Holdings Limited** with registered address Vision Exchange Building, Suite 23, Level 2, Territorials Street, Zone 1, Central Business District, Birkirkara CBD 1070, Malta ("**AGHL**"); and
2. [***insert name***], with registered office [***insert address***] ("**Provider**").

**WHEREAS**, Provider has rights with respect to a collection of records in original format,

**WHEREAS**, Provider is willing to grant Ancestry a licence to publish and distribute such materials in electronic format subject to the terms and conditions described in this Agreement.

**FURTHERMORE**, capitalised terms and phrases shall have the meanings described at Exhibit C of this Agreement.

**THEREFORE**, the parties agree as follows:

## PROVISION OF LICENSED MATERIALS

### Commencing on the Effective Date, or as soon as is possible thereafter but in any event within thirty (30) days of the Effective Date, Provider shall provide Ancestry with access to the best available, highest quality copy of the Licensed Materials to enable Ancestry to create the Digital Images.

### Access to the Licensed Materials shall be provided at a "scanning area" at Provider's premises at [***insert address***]. Throughout any time period when Ancestry's employees or sub-contractors are visiting Provider's premises Provider shall:

#### effect and maintain appropriate public liability insurance;

#### provide reasonable access to heat, lighting and power, as requested by Ancestry; and

#### comply with all applicable laws, including health and safety legislation to ensure the health and safety of all Ancestry employees and sub-contractors.

## LICENCE AND TERM

### Subject to section 2.2, Provider hereby grants a non-exclusive, irrevocable licence for Ancestry (or their sub-contractors) to perform any of the following activities for the full duration of any Intellectual Property Rights which do or may subsist in respect of the Licensed Materials and the Digital Images, throughout the world and in all languages, with the ability to sub-license the same:

#### to scan (or have scanned) the Licensed Materials so as to create the Digital Images;

#### to edit, adapt or reformat the Digital Images, as Ancestry deem necessary or appropriate, in order to improve their functionality, accuracy, and/or appearance;

#### to copy, reproduce, use, publish, republish, market, distribute, sub-license and sell the Digital Images (in whole or in part) through Permitted Media. For the avoidance of doubt, this right shall permit Ancestry or sub-licensees' to authorise end users to download and retain individual Digital Images for personal use and professional family history research;

#### to create and exploit New Products, this right shall permit the inclusion of parts of the Digital Images in a printed work by or for an end user;

#### to transcribe or extract data from the Licensed Materials and reformat and edit such data, in order to create Indexes; and

#### to create and retain copies of the Digital Images on Ancestry's servers to the extent necessary for the purposes of sections 2.1 (a) - (e) and for archive and back up purposes.

### Provider agrees that it will not licence or otherwise grant rights to access, copy, reproduce, publish, communicate, market, distribute or otherwise use, the Digital Images, to a third party for any commercial purpose during the period commencing on the Effective Date and ending five (5) years after first publication of the Digital Images on the Ancestry Sites. During such period Provider shall take all reasonable steps to ensure that it protects any Digital Images that it publishes on the Internet (or any other method of online or wireless publication or distribution) from any unauthorised access and/or use by third parties, including by means of webcrawling, screenscraping, automated download or other similar practices.

### This Agreement shall take effect on the Effective Date and continue without limit of time. For the avoidance of doubt, for any portion of the Licensed Materials or Digital Images that is in the Public Domain, the rights granted under section 2.1 shall continue without limit, as a licence from Provider is not required to exercise such rights.

## COMPENSATION

### Ancestry shall deposit with Provider a full set of copies of the Digital Images on hard drives or other agreed media within nine (9) months after first publication of the respective Digital Images on the Ancestry Sites.

### Ancestry shall grant Provider free Ancestry access for use by staff and visitors to specified locations agreed by Ancestry for a period of five (5) years. Ancestry shall activate the access within three (3) months of Provider providing all the information specified in Exhibit B, or as soon as practicable thereafter. Such access shall be subject to the usual terms and conditions for use of the relevant Ancestry Sites.

## WARRANTIES

### Provider represents, warrants and undertakes to Ancestry and its sub-licensees that:

#### Provider has the right to grant the licences set out in this Agreement and to perform all of its obligations hereunder;

#### use of the Licensed Materials, the Indexes and the Digital Images by Ancestry, or the end users of Ancestry or its sub-licensees and their end users will not infringe upon or violate any Intellectual Property Rights or other rights of any third party;

#### if any Intellectual Property Rights in any of the Licensed Materials are owned by any person or entity other than Provider, Provider has fully disclosed the interest of such third party, and Provider further represents and warrants that it has obtained such third party's written permission to use all such Licensed Materials and to grant the licence under section 2.1 and Provider is and shall be solely responsible for any and all payments owed to any such third party for the same;

#### it has procured all waivers and consents in relation to any Moral Rights to the Licensed Materials to ensure that Ancestry is at all times entitled to modify, adapt, copy, reproduce, use, publish, republish, market, distribute, sub-license and exploit the Licensed Materials in any way in accordance with this agreement, including to the extent that such acts are inconsistent with such party's Moral Rights;

#### the Licensed Materials contain and will contain no libelous or unlawful material and no content that may cause harm or injury;

#### the Licensed Materials will conform to Exhibit A of this Agreement and any other description and specifications agreed by the parties in writing; and

#### the Licensed Materials, the Indexes and the Digital Images, and Ancestry or the end users of Ancestry or its sub-licensees and their end users' use of the Licensed Materials, the Indexes and the Digital Images will not violate any terms of the Data Protection Legislation or any other applicable privacy legislation or regulations.

### Compliance with each representation and warranty set out in section 4.1 shall be a condition of this Agreement.

## INTELLECTUAL PROPERTY

### Ancestry shall not acquire any Intellectual Property Rights in the Licensed Materials, except as expressly granted under this Agreement.

### All Intellectual Property Rights arising in the Digital Images shall vest in the Provider.

### All Intellectual Property Rights arising in the Indexes and the New Products shall vest in AGHL.

### Provider shall protect its rights in the Licensed Materials and Ancestry's rights under the licence granted in section 2.1, including taking steps to prevent and/or stop any unauthorised use or distribution of the Licensed Materials, and Provider will provide all assistance requested by Ancestry in protecting their rights granted under this Agreement.

### Provider will indemnify and keep indemnified Ancestry and its sub-licensees from and against any and all losses, damages, costs, liabilities and expenses (including legal fees) arising out of or in connection with any third party demand, claim or action alleging that the Licensed Materials, or Ancestry’s, ' or its sub-licensees' use of the Licensed Materials under this Agreement, infringes any Intellectual Property Right belonging to a third party.

### Ancestry shall notify Provider without delay (and in any event within thirty (30) days) upon becoming aware of any claim that the Licensed Materials infringe the Intellectual Property Rights or other rights of any third party. If within sixty (60) days after Ancestry has given notice of any claim, Provider fails to take action to defend the same, Ancestry may at Provider's expense undertake the defence, compromise or settlement of the claim. Upon the assumption of the defence of the claim, Ancestry may defend, compromise or settle the claim as it sees fit.

### Ancestry shall have the right to use Provider's name and trade marks in connection with the marketing, publication and distribution of the Digital Images and Indexes, subject to any reasonable guidelines provided to Ancestry by the Provider before the Effective Date, or agreed between the parties. Ancestry may acknowledge the Provider as the source of the Licensed Materials on the Ancestry Sites.

## CONFIDENTIAL INFORMATION [AND FREEDOM OF INFORMATION]

### Each party undertakes to maintain the confidentiality of the Confidential Information at all times and to keep all Confidential Information secure and protected against loss or unauthorised access. Confidential Information shall not be disclosed to a third party without the prior consent of the other party save (i) where the disclosing party is required to do so for legal or regulatory purposes and in those circumstances the disclosing party will give written notice to the other party, save where legally restricted from doing so; (ii) to officers, employees, agents, contractors and professional advisors to whom such disclosure is necessary for the purposes contemplated under this Agreement provided that the disclosing party procures that such third parties are made aware of and observe the confidentiality obligations set out in this Agreement; or (iii) in the case of AHGL where it is disclosed to its Associates. Neither party shall use the other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

###  [Ancestry recognises that Provider may be subject to the obligations under the ATIP and wishes to co-operate with Provider in its discharging of those obligations. Provider acknowledges that materials or information requested under ATIP may be covered by exemptions from disclosure under the ATIP, including the exemptions for information provided in confidence, trade secrets and commercially sensitive information. Provider acknowledges that Ancestry considers the terms of this Agreement and any ATIP Exempt Information, which is passed from Ancestry to the Provider, to be exempt from disclosure under the ATIP.]

## GENERAL PROVISIONS

### Any notice to be given under this Agreement shall be in writing, signed by or on behalf of the authorised representative for each party giving it and may be served by delivering by hand or sending it by a recorded delivery service to the address and for the attention of the party specified below (or as otherwise notified from time to time): Ancestry; Erik Gannon, Vice President, Legal, Ancestry Ireland Unlimited Company, 52/55 Sir John Rogerson's Quay, Dublin 2, Ireland; and Provider: [***insert name of contact role***] the address as specified at the start of this Agreement. Any such notice shall be deemed to have been served: (i) if delivered by hand, at the time and date of delivery; and (ii) if sent by recorded delivery service, at the expiration of two (2) Working Days after the notice was delivered into the custody of the delivery service provider provided that where, in the case of delivery by hand such delivery occurs after 6pm on a Working Day or on a day which is not a Working Day, service shall be deemed to occur at 9am on the next following Working Day.

### This Agreement constitutes the entire agreement between the parties in relation to its subject matter, and supersedes and replaces all prior agreements, promises, assurances and understandings between them whether oral or written, in relation to such subject matter. To the extent permitted by law, each party acknowledges that in entering into this Agreement it does not rely on, any statement, representation, assurance or warranty howsoever made that is not set out in this Agreement. The parties agree that the licence granted by section 2.1 is irrevocable and accordingly that all contractual and common law rights of termination are excluded.

### Provider shall indemnify and keep indemnified Ancestry and its sub-licensees harmless from and against any and all claims, actions, losses, liabilities, damages, costs, and expenses (including legal fees) awarded against, or incurred or paid by Ancestry or its sub-licensees arising directly or indirectly out of or in connection with any actual or alleged breach by Provider of any of Provider's warranties or representations under this Agreement except to the extent caused or contributed to by Ancestry.

### Either party's failure to insist on strict performance of any provision of this Agreement shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other party from performing any subsequent obligation strictly in accordance with the terms of this Agreement. No waiver shall be effective unless it is in writing and signed by the party against whom enforcement is sought.

###  Ancestry shall be entitled to set off any liability of Ancestry to Provider against any liability of Provider to Ancestry howsoever arising and whether any such liability is present or future, liquidated or unliquidated. Any exercise by Ancestry of its rights under this section 7.5 shall be without prejudice to any other rights or remedies available to Ancestry under this Agreement or otherwise. Without prejudice to any other right or remedy that Ancestry may have, if Provider is in breach of any of the warranties and undertakings set out in section 4.1, Ancestry may withhold payment of any sum due under this Agreement until the breach of warranty and/or undertaking is remedied to Ancestry's reasonable satisfaction.

### No section, provision or term of this Agreement is to be enforceable by any third party SAVE that the Associates shall be entitled to enforce any term. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any other person.

### No supplement, modification, or amendment of this Agreement shall be binding unless made in writing and executed by an authorised representative by both parties.

### If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. The parties shall negotiate in good faith to agree a replacement for any provision of part provision deleted pursuant to this section 7.8, which, to the greatest extent possible, achieves the intended commercial result of the original provision.

### This Agreement may be executed in counterparts, each of which will be deemed an original and which collectively will constitute one and the same agreement.

### Each of AGHL and the Associates may freely assign, novate, sell, transfer, delegate or otherwise dispose of this Agreement or any rights or obligations under it to an Associate, provided that as the relevant Associate is reasonably able to perform the obligations set out in this Agreement.

### This Agreement and all non-contractual obligations arising out of this Agreement shall be governed by and construed according to the laws of the Province of Ontario and the federal laws of Canada applicable therein.

### The parties each irrevocably submit to the exclusive jurisdiction of the courts of Ontario to settle any matters arising in connection with this Agreement.

**IN WITNESS OF THE FOREGOING**, the parties have signed this Agreement on the date written above.

|  |  |  |
| --- | --- | --- |
| **ANCESTRY GLOBAL HOLDINGS LIMITED** |  | **PROVIDER** |
|  |  |  |  |  |
|  |  |  |  |  |
| By: |  |  | By: |  |
| Name: |  |  | Name: |  |
| Title: |  |  | Title: |  |
| Date: |  |  | Date: |  |

**Exhibit A
Licensed Materials**

The Licensed Materials comprise:

|  |  |  |  |
| --- | --- | --- | --- |
| Licensed Material | Format to be provided to Ancestry | Date range | Number of records |
| [e.g Parish records relating to x] | [original/digital/microfilm] |  | [include at least estimated number of volumes] |

**Exhibit B
Ancestry access information**

Completed table to be returned to Ancestry in order to activate access

|  |  |
| --- | --- |
| **Institution Name(s)** |  |
| **Contact details** |  |
| **# of terminals** |  |
| **IP Range** |  |

**Exhibit C

Definitions and Interpretation**

The following definitions and rules of interpretation apply in this Agreement:

"**Agreement**" means this Data Provider Agreement entered into by the Provider and AGHL;

**“Ancestry”** means AGHL and its Associates;

"**Ancestry Sites**" means any and all other websites and platforms owned and/or operated from time to time by Ancestry or any third party websites or platforms to which Ancestry provides white label services (as such term is commonly understood in the industry) but shall exclude www.ancestry.com/dna, www.ancestry.com.au/dna and any and all other DNA related websites and/or platforms;

"**Associates**" means any and all entities controlling, controlled by or under common control with AGHL from time to time where "control" means ownership, directly or indirectly of at least fifty percent (50%) of the voting rights in such entity, and "controlling" and "controlled" shall have the corresponding meaning;

"**ATIP**" means applicable access to information and privacy legislation, including the Access to Information Act (R.S., 1985, c. A-1), Privacy Act (R.S.C., 1985, c. P-21), Personal Information Protection and Electronic Documents Act (S.C. 2000, c. 5), or any equivalent legislation applicable to organizations or other levels of government having generally similar access to information or freedom of information obligations;

"**ATIP Exempt Information**" means information constituting, forming part of, or relating to: (i) trade secrets; (ii) financial, commercial, scientific, or technical information of, or about, a third party; (iii) information that is supplied, implicitly or explicitly, in confidence; (iv) information the disclosure of which could reasonably be expected to result in material financial loss or gain to a third party; and (v) information the disclosure of which could reasonably expected to prejudice, or interfere with, contractual or other negotiations of a third party. "Confidential Information" all information disclosed by the other party in connection with this Agreement of whatever nature and however recorded or preserved including , the terms of this Agreement, all trade secrets, business plans for products or services, customer lists, technical information, price lists and pricing structures, marketing plans, production schedules, financial documents, processes and designs of the other party any document marked "confidential" or any information which the other party has been informed is confidential or which it might reasonably expect would be regarded as confidential;

"**Confidential Information**" all information disclosed by the other party in connection with this Agreement of whatever nature and however recorded or preserved including , the terms of this Agreement, all trade secrets, business plans for products or services, customer lists, technical information, price lists and pricing structures, marketing plans, production schedules, financial documents, processes and designs of the other party any document marked "confidential" or any information which the other party has been informed is confidential or which it might reasonably expect would be regarded as confidential;

The "**Data Protection Legislation**" means the Privacy Act (R.S.C., 1985, c. P-21) and the Personal Information Protection and Electronic Documents Act (S.C. 2000, c. 5) and any equivalent legislation in any applicable jurisdiction;

"**Digital Images**" means digital images in machine readable form created from the Licensed Materials;

"**Effective Date**" means the date that the last of the parties executes the Agreement;

"**Indexes**" means the indexes created in accordance with section 2.1(e);

"**Intellectual Property Right(s)**" shall means: (i) copyright, patents, database rights and rights in trade marks, designs, know how and confidential information (whether registered or unregistered); (ii) all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world; and (iii) applications for registration, and the right to apply for registration, for any of the rights described in (i) or (ii).

"**Licensed Materials**" means the materials described in the Exhibit A in their entirety or any part thereof and any copy of the same, in any format, which is provided to Ancestry;

"**Moral Rights**" means all rights described in Canadian Copyright Act (R.S.C., 1985, c. C-42) and any similar rights of authors anywhere in the world;

"**New Products**" new derivative products incorporating the Digital Images for distribution through Permitted Media;

"**Permitted Media**" means all delivery and streaming systems, distribution methods and media, whether existing now or developed in the future, including printed media, audio, video, CD-ROM, DVD, USB stick, mobile devices, applications, wireless technology and the Internet;

"**Public Domain**" means no longer protected by Intellectual Property Rights or other rights that restrict material from being used by third parties;

"**Working Day**" means a day, other than a Saturday, Sunday or public holiday in Province of Ontario, when banks in Toronto are open for business.

1. Headings shall not affect the interpretation of this Agreement.
2. The Exhibits form part of this Agreement and shall have effect as if set out in full in the body of this Agreement.
3. References to sections and Exhibits are to the sections and Exhibits of this Agreement.
4. 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 a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
5. 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.