FROST GROUP LIMITED

DATA PROTECTION ACT 2018 POLICY AND PROCEDURE FOR TRADING BUSINESSES IN INSOLVENCY

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DATA PROTECTION ACT 2018 ("DPA18") POLICY AND PROCEDURE FOR TRADING BUSINESSES IN INSOLVENCY

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Purpose

DATA PROTECTION ACT 2018 POLICY AND PROCEDURE FOR TRADING INSOLVENCIES

The purpose of this document is to:-

1. To provide new members of staff information on how Frost Group Limited ("FGL") aims to comply with the Data Protection Act 2018 ("DPA18") when dealing with a trading insolvency.

2. To provide existing members of staff with information about how we aim to comply with DPA18 and GDPR where this is appropriate when dealing with a trading insolvency.

3. To provide the Compliance Officer and Officeholders with a framework within which to manage the risks to which the Officeholders are exposed to under DPA18/GDPR.

4. To ensure that our business partners involved in any trading insolvency are fully compliant with DPA18/GDPR.

5. Under the DPA18 Insolvency Practitioners are not considered to be Public Authorities.

6. This document must be read in conjunction with FGL's Policies and Procedures to enable compliance with the DPA18/GDPR.

1. Our Best Practice

1.1 FGL has high standards which all individual members of staff should look to achieve, and which as a team we must also aim to achieve.

1.2 This policy and procedure document should be read in conjunction with our Compliance Manual, in particular the Policies and Procedures to enable compliance with the DPA18.

1.3 It is part of your individual responsibility to ensure you are aware of these standards and how we, as a team, aim to achieve them. If you are at all uncertain, please speak to the Compliance Officer or any director.

2. Data Protection Act 2018

2.1 DPA18 apply to all data controllers and data processors. By legal definition a "data controller" means a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be processed "data processor", in relation to personal data, means any person (other than an employee of the data controller) who processes the data on behalf of the data controller. "processing", in relation to information or data means obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data, including— a) organisation, adaptation or alteration of the information or data, b) retrieval, consultation or use of the information or data, c) disclosure of the

information or data by transmission, dissemination or otherwise making available, or d) alignment, combination, blocking, erasure or destruction of the information or data.

2.2 By the nature of the work undertaken by FGL, we may hold the mantel of both data controller and data processor at the same time, as well as agent for the data controller and/or data processor at any one point in time.

2.3 It is important to understand that when appointed over any insolvent entity we will be processing personal data as a data controller in the form of the officeholders and potentially as agents for the insolvent entity, which is also the data controller.

2.4 When an insolvent entity has ceased to trade, it may be acceptable to treat all the personal data we hold as being processed by the officeholders as data controllers. However, when we are dealing with an insolvent entity which continues to trade, as with many other parts of trading an insolvent entity the officeholders and their staff act as agents for the data controller and/or data processor and it is important that we take this into account when processing personal data in this situation.

2.5 As an insolvency officeholder, in the main, we are required to process certain personal data for statutory purposes and what we do with that personal data and the length of time we hold that personal data will be dictated by the statutory requirements upon which we act. We may also process personal data for contractual purposes and care needs to be taken to ensure that such personal data is processed within the confines of the contractual requirements.

2.6 It is important to understand that when acting as agent of a trading insolvent entity we appreciate that we will be acting as a data processor and processing personal data on a contractual basis, as well as on a statutory basis. The nature the personal data concerned and the contractual and statutory terms upon which this personal data will be processed will be different on a case by case basis. It is essential that checks are made to properly establish how such data should be processed, stored and if required transferred within what is permitted under DPA18.

2.7 Above all, staff must recognise that DPA18 and when dealing with entities in the EU GDPR will apply to how we handle personal data on behalf of insolvency entities.

2.8 Where data subjects submit a Subject Access Request ("SAR") to a trading insolvent entity as data controller, as agents of the data controller it is advised that care is taken to properly comply with this request in line with the requirements of DPA18/GDPR and in line with both the trading insolvent data controller as well as FGL's own Policies and Procedures to enable compliance with DPA18.

2.9 When carrying out our work as officeholders of an insolvent trading data controller/processor it is often necessary to transfer personal data, including potentially sensitive personal data to different parties in order to both trade the underlying business as well as to sell all or part of the assets of the business. This may include but is not limited to:

- The transfer of employee details for payroll purposes;
- The transfer of customer databases with a view to achieving its sale;
- The transfer of marketing databases with a view to achieving its sale;
- The transfer of employee information in support of the sale of the business;
- The transfer of employee information in respect of tribunal claims;

The transfer of employee information in respect of insurance claims etc.

2.10 It is essential that staff ensure that all third parties receiving personal data of any kind either from the officeholders as the actual data controller/processor as well as the officeholders as agents of the actual data controller/processor are qualified under DPA18 to receive such personal data. This includes that the entities concerned are within the EU or failing this a county outside the EU which has been approved by the EU to receive personal data in line with GDPR, those countries are Andorra, Argentina, Canada (where PIDEDA applies), Switzerland, Faero Islands, Guernsey, Israel, Isle of Man, Jersey, Eastern Republic of Uruguay and New Zealand. The EU has also approved a Privacy Shield deal whereby from 1 August 2016 US organisations may self-certify to standards required. If the entity requiring the personal data in question is neither based in the EU nor an EU approved country then steps must be taken to ensure that there are contractual arrangements in place to ensure that the same level of care will be taken by the third party with the personal data concerned to comply with all requirements of GDPR. Independent legal advice must be taken by the officeholders to ensure that this is achieved. It is the responsibility of all staff to ensure that such advice is obtained.

3. Risk Management

3.1 The management of risk is fundamental to all work undertaken within FGL. Risk Management also relates to the staff at all levels.

3.2 This document aims to deal with the day to day management of the risks FGL is exposed to under DPA18. This document will be subject to annual review or more often if changes in underlying DPA18 necessitate it.

3.3 Risk management relates to staff in respect of their levels of experience. As we have Team Leaders, the supervision of staff will need to be undertaken with reference to the competencies framework within which FGL works. All staff are required to have a working knowledge of the DPA18/GDPR and it is the responsibility of each individual staff member to seek guidance from either the Compliance Officer or a director in respect of any areas where they are uncertain or if they require formal training.

3.4 FGL is a private limited liability company operating a business within the UK. As part of this business, FGL is required to contain various pieces of data in respect of individuals including but not restricted to employees, contractors, suppliers, debtors, professional advisers etc. All such data is covered by DPA18 and this document is designed to manage the safe and compliant storage of all such data.

4. Storage and processing of personal data

4.1 As discussed in the Compliance Manual, the office has various forms of communication which contain personal data. The Office Procedures Manual details how staff should store data on IPS, Docusoft, the Y:Drive as well as the HR application available to employees. It is mandatory for all staff to follow the procedures set out in these two documents.

4.2 When acting an agent of an insolvent data controller/processor which continues to trade it is important to establish how and where personal data is held. It is likely that the insolvent trading data processor will continue to hold personal data it holds within its own systems. A review should be undertaken to establish the insolvent trading data processors DPA18 policies and procedures,

the nature of the personal data held, how and why it is being processed, the nature of the relevant contracts and legislation and how such data should be transferred if required.

4.3 It is important to ensure that when transferring personal data from the insolvent trading data controller/processor to the office holders this is done within the confines of DPA18.

4.4 It is recommended that when dealing with an insolvent trading data controller/processor the opening strategy document discusses how DPA18 will apply and when and how personal data required by the office holders will transfer from the insolvent trading data controller/processor.

5. Logging and tracking of incoming personal data

5.1 The inflow of personal data into FGL is controlled within the Office Procedures manual. It is essential under DPA18 that all personal data received is logged and its storage tracked and its destruction recorded.

5.2 When an insolvent data controller/processor is traded, during the period of trading by the office holders, personal data should be retained by the insolvent data controller/processor where possible, for as long as possible. No attempts should be made to remove any such personal data unless required for purposes, including but not restricted to:

To meet statutory requirements;
To facilitate the trading of the insolvent data controller/processor;
To facilitate the sale of whole or part of the business;
To facilitate the processing of data subjects' claims to the Employment Tribunal, an insurer, the Redundancy Payments Service or another third party.

5.3 It is essential to distinguish between the office holder as a data controller/processor and the officeholder as an agent for an insolvent data controller/processor. Personal data being transferred between the two entities must be properly transferred in accordance with DPA18 and this includes properly logging and tracking of such personal data in line with FGL's Office Procedures manual.

5.4 Where personal data has been held by an insolvent data controller/processor which is not required by the office holder to fulfil any statutory or contractual purpose it should not be transferred from the insolvent data controller/processor but should instead remain part of the insolvent data controller/processor's own records which, in line with FGL's current Storage and Destruction Policy will be held for the duration of the appointment and destroyed 12 months after the officeholders have obtained their release. All such data will be held in line with the requirements of DPA18 and will only be transferred if required under the DPA18/GDPR in line with independent legal advice being received and adhered if transferring personal data outside the EU or an EU approved country.

13 March 2020