

Data Processing Clause - Agree

“Data Protection Legislation”

means all applicable legislation in relation to data protection and privacy including the General Data Protection Regulation, the law of England and Wales, Scotland and the European Union (Withdrawal) Act 2018 (and regulations made thereunder); and the Privacy and Electronic

the United Kingdom applicable to the retained EU law version of the (UK GDPR”), as it forms part of the law by virtue of section 3 of the European Union (Withdrawal) Act 2018 (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 as amended.

1. Data Processing

1.1 In this Clause X, “data controller”, “data processor”, and “personal data” shall have the meaning defined in Article 4 of the UK GDPR.

“data controller”, “data processor”, “data subject”, “data controller”, “data processor” shall have the meaning defined in

1.2 [All personal data to be processed by the Service Provider”>> “the Client”>> under the terms of the Data Processing Agreement entered into by the Parties on <<insert date>> [purpose of processing].]

“data controller party name e.g. “the Data Controller” and “data processor party name e.g. “the Data Processor”>> processed in accordance with the Data Processing Agreement entered into by the Parties on <<insert date>> [purpose of processing].]

OR

1.2 [The Parties hereby agree that the Data Processor shall not relieve the Data Controller of its obligations under the Data Protection Legislation and does not intend to do so.]

both comply with all applicable data protection requirements under the Data Protection Legislation. This Clause does not intend to relieve either Party of any of those obligations.

1.3 For the purposes of this Clause X, <<insert controller party name>> is the “Data Controller” and <<insert processor party name>> is the “Data Processor”.

<<insert controller party name e.g. “the Data Controller”>> is the “Data Controller” and <<insert processor party name e.g. “the Data Processor”>> is the “Data Processor”.

1.4 The type(s) of personal data to be processed, and the purpose(s) of the processing, are set out in Schedule X.

the type, nature and purpose of the processing are set out in Schedule X.

1.5 The Data Controller shall ensure that it has in place all necessary consents and notices required by the Data Protection Legislation for the processing of personal data by the Data Processor for the purposes set out in Schedule X.

the Data Controller shall ensure that it has in place all necessary consents and notices required by the Data Protection Legislation for the transfer of personal data to the Data Processor for the purposes set out in Schedule X.

1.6 The Data Processor shall ensure that it has in place all necessary consents and notices required by the Data Protection Legislation for the processing of personal data by it in relation to its performance of the obligations set out in Schedule X.

the Data Processor shall ensure that it has in place all necessary consents and notices required by the Data Protection Legislation for the processing of personal data processed by it in relation to its performance of the obligations under this Agreement:

1.6.1 Process the personal data in accordance with the written instructions of the Data Controller unless it is otherwise required to process the personal data by law;

the Data Processor shall ensure that it has in place all necessary consents and notices required by the Data Protection Legislation for the processing of personal data in accordance with the written instructions of the Data Controller unless it is otherwise required to process the personal data by law;

1.6.2 Ensure that appropriate technical and organisational measures (a) are in place to protect the personal data from unauthorised access, disclosure, damage or destruction, and (b) are proportionate to the potential harm that may be caused by such events, taking into account the nature of the personal data and the cost of implementing those measures; and

the Data Processor shall ensure that it has in place all necessary consents and notices required by the Data Protection Legislation for the processing of personal data in accordance with the written instructions of the Data Controller unless it is otherwise required to process the personal data by law; and (b) are proportionate to the potential harm that may be caused by such events, taking into account the nature of the personal data and the cost of implementing those measures; and

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1.6.3 Ensure that (whether or not they are contractually obliged to keep records of the processing) are contractually obliged to keep records of the processing of personal data.

1.6.4 Not transfer personal data to a third party outside of the UK without the prior written consent of the Data Controller and only if the following conditions are met:

1.6.4.1 The third party is a Data Processor and the Data Processor has/have provided adequate guarantees for the transfer of personal data;

1.6.4.2 Affected individuals have given their enforceable rights and effective consent;

1.6.4.3 The Data Processor complies with its obligations under the Data Protection Legislation, including providing an adequate level of protection for personal data so transferred; and

1.6.4.4 The Data Processor complies with all reasonable instructions given by the Data Controller with respect to the processing of personal data.

1.6.5 Assist the Data Controller, at the Data Controller's cost, in responding to any and all requests from data subjects and in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities (including, but not limited to, the Information Commissioner's Office);

1.6.6 Notify the Data Controller of any undue delay of a personal data breach;

1.6.7 On the Data Controller's instruction, delete (or otherwise dispose of) personal data and any and all copies thereof to which this Agreement applies unless it is required to retain such data by law; and

1.6.8 Maintain complete and accurate records of all processing activities and technical and organizational measures implemented necessary to ensure compliance with Clause X and to allow for audits by the Data Controller or any other person designated by the Data Controller.

1.7 [The Data Processor shall comply with any of its obligations with respect to the processing of personal data under Clause X.]

OR

1.7 [The Data Processor shall not transfer any of its obligations to a sub-contractor with respect to the processing of personal data under this Clause X without the prior written consent of the Data Controller (such consent not to be unreasonably withheld). If the Data Processor appoints a sub-contractor, the Data Controller shall be notified of such appointment.

1.7.1 Enter into a written agreement with the sub-contractor, which shall impose upon the sub-contractor the same obligations as are imposed upon the Data Processor under Clause X and which shall permit both the Data Controller and the sub-contractor to enforce those obligations; and

1.7.2 Ensure that the sub-contractor complies fully with its obligations under the Data Protection Legislation.]

1.8 Either Party may, at any time, terminate this Agreement by giving the other Party written notice of at least <<insert period, e.g. 30 calendar days>>.

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days'>> notice, alternative processing clauses or certification scheme. Such terms shall be included in this Agreement.]

including it with any applicable data protection requirements as part of an applicable certification scheme. This Clause X by attachment to

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1. Data Processing

Scope

<<Insert description of the scope of data processing to be carried out>>.

Nature

<<Insert description of the nature of data processing to be carried out>>.

Purpose

<<Insert description of the purpose of data processing to be carried out>>.

Duration

<<Insert details of the duration of data processing>>.

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2. Types of Personal Data

<<List the types of personal data to be processed>>.

3. Categories of Data Subject

<<List the categories of data subject to be processed>>.

4. Organisational and Technical Measures

<<Describe the organisational and technical measures implemented as referenced in Clause X.6.2>>.

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2.7.2 Ensure that...
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2.8 Either Party may, at...
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