

DATA PROCESSING AGREEMENT

PARTIES

- (1) _____
customer

address (Customer);
- and
- (2) **OpusCapita** _____
supplier (OpusCapita-Company)

address (Supplier);

(1) – (2) together the **Parties** and individually a **Party**.

BACKGROUND AND PURPOSE

- (A) This Data Processing Agreement (**the “DPA”**) is a part of, and an appendix to, the Services Agreement (**“Agreement”**) pursuant to which Supplier shall provide services to Customer.
- (B) This DPA sets out the terms and conditions for the processing of Personal Data by Supplier on behalf of Customer under the Agreement.
- (C) Supplier acts as **Data Processor** and Customer acts as **Data Controller**, the concepts of which are further defined in the Data Protection Regulation.

1 DEFINITIONS

Data Protection Laws means the EU Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data ("GDPR");

Personal Data Breach means a breach of security attributable to the Processor leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed by the Processor;

Standard Contractual Clauses of EU mean the contractual clauses issued by the European Commission by the decision 2010/87/EU for international transfers of Personal Data, or any subsequent legal instrument permitting the lawful transfer of Personal Data to international organisations and countries not part of the European Economic Area or European Union;

Supervisory Authorities Mean any competent authorities under the Data Protection Laws.

Any terms not defined herein shall be given the meaning specified in the Agreement, or in Data Protection Laws. Further details and terms governing processing in conjunction with the actual Services are set out in the Agreement.

2 RIGHTS AND RESPONSIBILITIES OF DATA CONTROLLER

- 2.1 Customer as Data Controller undertakes to instruct Data Processor to process Personal Data in a manner compliant with the Data Protection Laws. Data Controller shall process the Personal Data in compliance with the Data Protection Laws and good data processing practice.
- 2.2 Customer shall provide and maintain through Data Processor's customer service portal (OpusFlow) the name and contact details of the person(s) to be contacted with respect to any incidents and Personal Data Breaches under this DPA, including the name and contact details of Customer's Data Protection Officer, if any.

3 RIGHTS AND RESPONSIBILITIES OF DATA PROCESSOR

3.1 General principles applying to the processing of Personal Data

- 3.1.1 Data Processor shall process Personal Data with due care and skill, diligence and prudence in compliance with the requirements of applicable Data Protection Laws, and in particular, **Article 28(3)** of the Data Protection Regulation.
- 3.1.2 To the extent that Data Processor cannot comply with Data Controller's request or a change to Data Controller's documented instructions without incurring significant additional costs or burden, Supplier shall inform Data Controller thereof. Any such changes shall be handled through an appropriate change control procedure.
- 3.1.3 Where Data Processor believes that Data Controller's documented instruction would be in breach of applicable law, Data Processor shall notify Data Controller of such belief without undue delay. Data Processor shall be entitled to suspending performance on such instruction until Data Controller confirms or modifies such instruction.

3.2 Categories of Personal Data and Data Subjects

- 3.2.1 Customer may submit Personal Data to be processed by Supplier in connection with the Services specified in the Agreement, which may include, depending on the Services, Personal Data relating to the following data subjects and categories:
- a) Data subjects - employees and other individuals associated with Customer or its clients, suppliers or other business partners;
 - b) Categories of data - name, title, office address, telephone and mobile numbers, email address, date of birth, and other identifiers, service use history and details, bank account and payment details, customer interview details and service call recordings, IT equipment or application management details including technical identifiers, user name, location, contact details, technical events related to the services provided including system and application logs and email and communication data and metadata, Security and Service management details such as security log information, facility and system surveillance information, security incident information, service incident alerts and reports, User data or other voluntarily provided details such as user generated content and associated metadata and site activity information.

3.3 Data security

- 3.3.1 Data Processor shall implement technical, physical and organisational measures to ensure appropriate level of security in Data Processor's processing of Personal Data and to protect Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration, or disclosure. Customer is familiar with these technical and organisational measures, and it shall be Data Controller's responsibility that such measures ensure a level of security appropriate to the risk.
- 3.3.2 Due to the requirement of cost-efficiency in the provision of Services, Supplier implements appropriate technical and organizational measures in its Services in a uniform manner across the customer base, considering any mandatory requirements of specific customer groups

deriving from the Data Protection Regulation. Supplier reserves the right to modify the measures and safeguards implemented, provided, however, that the level of security shall not be less protective than initially agreed upon.

- 3.3.3 Data Processor shall ensure that any person acting under the authority of Data Processor who has access to Personal Data shall not process them except in accordance with this DPA and such person commits to confidentiality at least on the level agreed in this DPA.

3.4 Notification obligation

- 3.4.1 In case the Data Subjects or the Supervisory Authority make a request concerning Personal Data, Data Processor shall, promptly inform Data Controller on all such requests prior to any response or other action concerning Personal Data, or afterwards as soon as reasonably possible in case Data Protection Laws prescribe an immediate response.

- 3.4.2 In the event of a Personal Data Breach, Data Processor shall without undue delay after becoming aware of it, notify Data Controller.

- 3.4.3 The Personal Data Breach notification shall contain at least the information stipulated in **Article 33(3)** of the Data Protection Regulation.

- 3.4.4 Data Processor shall take all the necessary steps to protect the Personal Data after having become aware of the Personal Data Breach and take appropriate measures to secure the Personal Data and limit any possible detrimental effect to the Data Subjects. Data Processor will cooperate with Data Controller to respond to the Personal Data Breach.

3.5 Return or destruction of Personal Data

- 3.5.1 Upon termination of the Agreement, or upon Data Controller's written request, Data Processor shall either destroy or return, to Data Controller all Personal Data, unless otherwise stipulated in the Agreement or required by Data Protection Laws.

4 TRANSFERS OF PERSONAL DATA

- 4.1 Data Processor shall not engage a sub-processor other than the subcontractors agreed in writing by the Parties in conjunction with the Agreement. Data Processor shall inform Data Controller of any intended changes concerning sub-processors, thereby giving Data Controller the opportunity to object to such changes. If Data Controller objects to the change, Data Processor may give written notice of a price change to correspond with any change in the costs of processing of data as may result from Customer's rejection of the change of a sub-processor. If Customer has not terminated the Agreement before sixty (60) days have passed from the date Data Processor informed Customer about the change of sub-processor, Customer shall be deemed to have accepted the change. Supplier maintains a consolidated list of its sub-processors and provides notice of any changes to its sub-processors in the customer service portal, on its website, or otherwise electronically, and Customer's contact person for the Services or other representative is provided notice thereof and has access to such notices.

- 4.2 Where Data Controller requires or consents to a transfer of Personal Data outside the borders of European Union and European Economic Area, Data Controller authorizes Data Processor to enter into a contract with the relevant third party in the name and on behalf of Data Controller

("Data Transfer Agreement"). Such a Data Transfer Agreement shall include the Standard Contractual Clauses of EU (as defined in the preamble of this DPA).

4.3 Regardless of Section 4.1 above, Data Processor may engage companies belonging to the same group of companies as sub-processors and Data Controller consents to the Data Processing group companies as sub-processors.

5 AUDITS

5.1 Where audits or inspections by Data Controller or an auditor appointed by Data Controller are necessary, such audits and inspections will be conducted during regular business hours, and without interfering with Supplier's operations, upon reasonable prior written notice. Supplier may also determine that such audits and inspections are subject to the execution of a confidentiality undertaking protecting the data of other customers and the confidentiality of the technical and organisational measures and safeguards implemented. Data Processor shall be entitled to reject auditors which are competitors of Data Processor. Audits shall be conducted in accordance with Data Processor's Audit Procedure Description which is available upon request.

6 SIGNATURES

This DPA has been duly executed in two (2) identical counterparts on its effective date. Each Party has received one original counterpart.

Place: _____

Place: _____

Date: _____

Date: _____

Customer (as Data Controller)

OpusCapita (as Data Processor)

Name: _____

Name: _____

Title: _____

Title: _____

Further details on how OpusCapita processes Personal Data can be found on our GDPR pages: <https://www.opuscapita.com/gdpr-information>. Customer Service can be contacted through the Customer Service portal <https://opusflow.service-now.com> and via <https://www.opuscapita.com/customerservice>.