

# **Data Processing Agreement ("DPA")**

## **Contractual Clauses for the Subcontracting of Personal Data Processing**

### **SECTION I**

#### ***Clause 1 Purpose and scope***

- (a) The purpose of these standard contractual clauses (hereinafter the "clauses") is to ensure compliance with Article 28(3) and (4) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals regarding the processing of personal data and on the free movement of such data.
- (b) The controllers and processors have agreed to these clauses to ensure compliance with the provisions of Article 28(3) and (4) of Regulation (EU) 2016/679 and/or the provisions of Article 29(3) and (4) of Regulation (EU) 2018/1725.
- (c) These clauses apply to the processing of personal data as described in Annex I.
- (d) These clauses are without prejudice to the obligations to which the data controller is subject under Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725.

#### ***Clause 2 Invariability of clauses***

- (a) The parties undertake not to modify the clauses, except as regards the addition of information to the appendices or the updating of information contained therein.
- (b) The parties are not, however, prevented from including the standard contractual clauses defined in the present clauses in a broader contract, nor from adding other clauses or additional guarantees, if these do not directly or indirectly contradict the clauses or infringe the fundamental rights and freedoms of the persons concerned.

#### ***Clause 3 Interpretation***

- (a) Where terms defined respectively in Regulation (EU) 2016/679 or Regulation (EU) 2018/1725 appear in the Clauses, they shall be construed as in the Regulation in question.
- (b) These clauses shall be read and interpreted considering the provisions of Regulation (EU) 2016/679 and Regulation (EU) 2018/1725 respectively.
- (c) These clauses shall not be interpreted in a manner contrary to the rights and obligations under Regulation (EU) 2016/679 / Regulation (EU) 2018/1725 or in a manner that infringes the fundamental rights or freedoms of data subjects.

#### ***Clause 4 Hierarchy***

In the event of any inconsistency between these clauses and the provisions of related agreements existing between the parties at the time these clauses are agreed or entered subsequently, these clauses shall prevail.

#### ***Clause 5 – Optional Mooring clause***

- (a) Any entity which is not a party to the present clauses may, with the agreement of all parties, accede to them at any time, either as data controller or data processor, by completing the appendices.
- (b) Once the annexes referred to in point a) have been completed and signed, the adhering entity is considered a party to these clauses and enjoys the rights and is subject to the obligations of a controller or processor, in accordance with its designation.
- (c) The present clauses do not create any rights or obligations for the adhering party for the period prior to adherence.

## **SECTION II - OBLIGATIONS OF THE PARTIES**

### ***Clause 6 Description of treatment(s)***

Details of processing operations, and in particular the categories of personal data and the purposes for which personal data is processed on behalf of the controller, are set out in Annex I.

### ***Clause 7 Obligations of the parties***

#### **7.1 Instructions**

(a) The processor processes personal data only on the documented instruction of the controller unless he is required to do so by Union law or the law of the Member State to which he is subject. In this case, the processor shall inform the controller of this legal obligation prior to processing, unless prohibited by law on important grounds of public interest. Instructions may also be given subsequently by the controller for the duration of the processing of personal data. Such instructions must always be documented.

(b) The processor shall immediately inform the controller if, in its opinion, an instruction given by the controller constitutes a breach of Regulation (EU) 2016/679 / Regulation (EU) 2018/1725 or other provisions of Union or Member State law relating to data protection.

#### **7.2. Purpose limitation**

The processor processes personal data solely for the specific purpose(s) of processing, as defined in Annex I, unless further instructions are given by the controller.

#### **7.3. Duration of personal data processing**

Processing by the processor takes place only for the period specified in Annex I.

#### **7.4. Processing safety**

(a) The processor implements at least the technical and organizational measures to ensure the security of personal data. These measures include the protection of data against any breach of security resulting in the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of or access to personal data (personal data breach). In assessing the appropriate level of security, the parties shall take due account of the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing, as well as the risks to data subjects.

(b) The subcontractor shall grant members of its staff access to the personal data being processed only to the extent strictly necessary for the performance, management and monitoring of the contract. The processor shall ensure that persons authorized to process personal data undertake to respect confidentiality or are subject to an appropriate legal obligation of confidentiality.

#### **7.5. Sensitive data**

If the processing involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade-union membership, as well as genetic data or biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning the sex life or sexual orientation of a natural person, or data relating to criminal convictions and offences ("sensitive data"), the processor applies specific limitations and/or additional guarantees.

#### **7.6 Documentation and compliance**

(a) The parties must be able to demonstrate compliance with these clauses.

(b) The data processor shall deal promptly and adequately with the data controller's requests concerning the processing of data in accordance with these clauses.

(a) The Processor shall make available to the Controller all information necessary to demonstrate compliance with the obligations set out in these Clauses and arising directly from Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725. At the request of the controller, the processor shall also allow and contribute to audits of the processing activities covered by these clauses at reasonable intervals or in the presence of indications of non-compliance. When deciding on a review or audit, the controller may take into account relevant certifications in the possession of the processor.

(b) The controller may decide to carry out the audit itself or to appoint an independent auditor. Audits may also include inspections at the subcontractor's premises or physical facilities and are, where appropriate, carried out with reasonable notice.

(c) The parties shall make available to the competent supervisory authority(ies), upon request, the information set out in this clause, including the results of any audits.

#### **7.7. Use of subcontractors**

(a) GENERAL WRITTEN AUTHORIZATION: the processor has the controller's general authorization to recruit further processors based listed at the time of the conclusion of this Appendix.

The processor specifically informs the controller in writing of any proposed changes to this list through the addition or replacement of sub-processors at least thirty (30) days in advance, thus giving the controller sufficient time to object to such changes prior to the recruitment of the sub-processor(s) concerned. The processor shall provide the controller with the information necessary to enable him to exercise his right to object.

(b) Where the Processor engages a subsequent processor to carry out specific processing activities (on behalf of the Controller), it does so by means of a contract which imposes on the subsequent processor, in substance, the same data protection obligations as those imposed on the Processor under these Clauses. The Processor shall ensure that the Subsequent Processor complies with the obligations to which it is itself subject under these Clauses and Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725.

(c) At the request of the controller, the processor shall provide the controller with a copy of this contract with the subsequent processor and any subsequent amendments thereto. To the extent necessary to protect business secrets or other confidential information, including personal data, the processor may redact the text of the contract before distributing a copy.

(d) The processor remains fully responsible to the controller for the performance of the obligations of the sub-processor in accordance with the contract concluded with the sub-processor. The processor shall inform the controller of any breach by the sub-processor of its contractual obligations.

(e) The processor agrees with the sub-processor a third-party beneficiary clause according to which - if the processor has materially disappeared, ceased to exist in law or become insolvent - the controller has the right to terminate the contract with the sub-processor and to instruct the sub-processor to erase or return the personal data.

#### **7.8. International transfers**

(a) Any transfer of data to a third country or international organization by the processor shall only be carried out on the basis of documented instructions from the controller or in order to comply with a specific requirement of Union law or Member State law to which the processor is subject and shall be carried out in accordance with Chapter V of Regulation (EU) 2016/679 or Regulation (EU) 2018/1725.

(b) The Controller agrees that where the Processor engages a subsequent Processor in accordance with clause 7.7 to carry out specific processing activities (on behalf of the Controller) and such processing activities involve a transfer of personal data within the meaning of Chapter V of Regulation (EU) 2016/679, the Processor and the Further Processor may ensure compliance with Chapter V of Regulation (EU) 2016/679 by using the standard contractual clauses adopted by the Commission on the basis of Article 46(2) of Regulation (EU) 2016/679, provided that the conditions for using such standard contractual clauses are met.

### ***Clause 8 Assistance to the data controller***

(a) The processor shall inform the data controller without delay of any request he has received from the data subject. He shall not himself comply with such a request, unless authorized to do so by the data controller.

(b) The processor shall assist the controller in fulfilling its obligation to respond to requests from data subjects to exercise their rights, taking into account the nature of the processing. In fulfilling its obligations under points (a) and (b), the processor complies with the controller's instructions.

(c) In addition to the processor's obligation to assist the controller under clause 8(b), the processor shall also assist the controller in ensuring compliance with the following obligations, considering the nature of the processing and the information available to the processor:

(1) the obligation to carry out an assessment of the impact of proposed processing operations on the protection of personal data ("data protection impact assessment") when a type of processing is likely to present a high risk to the rights and freedoms of natural persons;

(2) the obligation to consult the competent supervisory authority(ies) prior to processing where a data protection impact assessment indicates that the processing would present a high risk if the controller did not take steps to mitigate the risk;

(3) the obligation to ensure that personal data is accurate and up to date, by informing the controller without delay if the processor becomes aware that the personal data it is processing is inaccurate or has become obsolete.

(4) the obligations set out in Article 32 of Regulation (EU) 2016/679.

### ***Clause 9 Notification of personal data breaches***

In the event of a personal data breach, the processor shall cooperate with and assist the controller in complying with its obligations under Articles 33 and 34 of Regulation (EU) 2016/679 or Articles 34 and 35 of Regulation (EU) 2018/1725, whichever is applicable, taking into account the nature of the processing and the information available to the processor.

#### **9.1 Data breach in relation to data processed by the controller**

In the event of a personal data breach relating to data processed by the controller, the processor provides assistance to the controller:

(a) for the purpose of notifying the competent supervisory authority(ies) of the personal data breach, as soon as possible after the controller becomes aware of it, if applicable (unless the personal data breach is unlikely to give rise to a risk to the rights and freedoms of natural persons);

(b) for the purposes of obtaining the following information which, in accordance with Article 33(3) of Regulation (EU) 2016/679, must be included in the controller's notification, and include, at least:

(1) the nature of the personal data, including, if possible, the categories and approximate number of persons affected by the breach and the categories and approximate number of personal data records affected;

(2) the likely consequences of the personal data breach;

(3) the measures taken or proposed to be taken by the controller to remedy the personal data breach, including, where appropriate, measures to mitigate any negative consequences.

When, and insofar as, it is not possible to provide all the information at the same time, the initial notification contains the information available at that time and, as it becomes available, additional information is subsequently communicated as soon as possible.

(c) for the purposes of fulfilling, in accordance with Article 34 of Regulation (EU) 2016/679, the obligation to communicate the personal data breach to the data subject as soon as possible, where the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons.

#### **9.2 Data breach in relation to data processed by the processor**

In the event of a personal data breach relating to data processed by the processor, the latter shall notify the controller as soon as possible after becoming aware of the breach. This notification shall contain at least:

(a) a description of the nature of the breach found (including, if possible, the categories and approximate number of persons affected by the breach and of personal data records affected);

(b) details of a contact point from which further information may be obtained about the personal data breach;

(c) its probable consequences and the measures taken or proposed to be taken to remedy the breach, including the mitigation of any adverse consequences.

When, and insofar as, it is not possible to provide all the information at the same time, the initial notification contains the information available at that time and, as it becomes available, additional information is subsequently communicated as soon as possible.

### **SECTION III - FINAL PROVISIONS**

#### ***Clause 10 Non-compliance with clauses and termination***

(a) Without prejudice to the provisions of Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725, in the event of a breach by the processor of its obligations under these clauses, the controller may instruct the processor to suspend the processing of personal data until the processor has complied with these clauses or the contract is terminated. The processor shall promptly inform the controller if it is unable to comply with these clauses for any reason whatsoever.

(b) The controller is entitled to terminate the contract insofar as it relates to the processing of personal data in accordance with these clauses if:

(1) the processing of personal data by the processor has been suspended by the controller in accordance with point (a) and compliance with these clauses is not restored within a reasonable period and, in any event, within one month of the suspension;

(2) the subcontractor is in serious or persistent breach of these clauses or its obligations under Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725;

(3) the subcontractor fails to comply with a binding decision of a competent court or the competent supervisory authority(ies) regarding its obligations under these clauses or Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725.

(c) The processor shall be entitled to terminate the contract insofar as it relates to the processing of personal data under these clauses where, having informed the controller that its instructions infringe the applicable legal requirements pursuant to clause 7.1(b), the controller insists that its instructions be followed.

(d) Following termination of the contract, the processor shall, at the choice of the controller, either delete all personal data processed on behalf of the controller and certify to the controller that it has done so, or return all personal data to the controller and destroy existing copies, unless Union or national law requires them to be retained for a longer period. The processor continues to ensure compliance with these clauses until the data is deleted or returned.

#### **The Data Controller (or the "Customer")**

Customer name:

Name of signatory:

Position :

Date :

Signature :

**Annex I**

**TREATMENT DESCRIPTION**

**Type of treatment:** The Service Provider acts as a technical subcontractor on behalf of the Customer for all technical operations and supply of services and systems

**Purpose(s):** Personal Data is Processed for the following purpose(s): Parameterization, commissioning and maintenance of the and maintenance of the application and its modules on behalf of the Data Controller, including all data loading and mass modification operations.

**Retention period(s) :** duration of the performance of the Services described in the Contract.

**Categories of data subjects whose personal data is processed:** authorized users of the Customer. personal data is processed on behalf of and for the specified purposes of the Customer as Data Controller, including the personal data of its Users.

**Categories of personal data processed -Identification data**

Categories of Personal Data	Tick if yes	Details if yes
Civil status, identity, identification data	<input checked="" type="checkbox"/>	Last name, first name, ID, address email, country of residence Identification of personal or business vehicle
Personal life (lifestyle, family situation, excluding sensitive data...)	<input type="checkbox"/>	[To be specified]
Professional life (CV, education, professional training, awards...)	<input checked="" type="checkbox"/>	Professional organization Professional discount cards
Economic and financial information (income, financial situation, tax situation, etc.)	<input type="checkbox"/>	[To be specified]
Connection data (IP addresses, event logs, etc.)	<input checked="" type="checkbox"/>	Connection logs
Location data (movements, GPS, GSM data, etc.)	<input type="checkbox"/>	[To be specified]
Bank details	<input type="checkbox"/>	[To be specified]
Other data types	<input type="checkbox"/>	

Special data	Tick if yes	Details if yes
Biometric data	<input type="checkbox"/>	[To be specified]
Philosophical opinions	<input type="checkbox"/>	[To be specified]
Political views	<input type="checkbox"/>	[To be specified]
Religious views	<input type="checkbox"/>	[To be specified]
Union views	<input type="checkbox"/>	[To be specified]
Sexual life or sexual orientation	<input type="checkbox"/>	[To be specified]
Health data	<input type="checkbox"/>	[To be specified]
Genetic data	<input type="checkbox"/>	[To be specified]
Health data	<input type="checkbox"/>	[To be specified]
Social security number	<input type="checkbox"/>	[To be specified]
Data relating to convictions or offences	<input type="checkbox"/>	[To be specified]

**Categories of Data Subjects whose Personal Data is Processed**

Categories of persons concerned	Tick if yes
Employees	<input checked="" type="checkbox"/>
Customers	<input type="checkbox"/>
Suppliers	<input type="checkbox"/>
Prospects	<input type="checkbox"/>

Business partners	<input type="checkbox"/>
Other category of persons	[If yes, please specify]

**Identity of the Service Provider's subsequent subcontractors**

Company	Designation	Country	
SAP	Hosting in Europe and the USA, depending on Customer location	Europe	All Customer Data as defined
Training Orchestra		Europe	

Arago Consulting affiliate Sub processors

Company	Designation	Country	National Id
ARAGO CONSULTING SAS 12 avenue de Versailles, 75116 Paris France	ARAGO France	France	RCS : Paris 533 716 775
Arago Consulting SAS ARAGO Consulting LATAM Carrera 28D N° 67B-30, Officinas 204 - 205, 170004 – Manizales, Caldas	ARAGO Consulting LATAM	Colombia	NIT : 901010948-8
Arago Consulting Iberia LDA, Rua Eng° Ferreira Dias, 924, Piso 1, 22/23, 4100-246 Porto Registre du Commerce de Braga (Portugal)	ARAGO Consulting Iberia	Portugal	514 134 305
Arago Consulting SARL Route de Pré-Bois, 29 Case Postale 1215 Genève SUISSE	ARAGO Consulting Suisse	Switzerland	CH-660.0.142.014-3
Consulting Minds LLP JAL 1304, UNICCA EMPORIS Apartments, Sorahunase, Varthur Main Road, Varthur Hobli, Bengaluru – 560087 Karnataka, India	Consulting Minds LLP	India	CIN AAY-1095
ARAGO CONSULTING ESPAÑA, S.L. Calle Puerto 14, 5-5, 29016, Malaga, España	Arago Consulting Spain	Spain	ID : B19328145
ACAFRICA Florida Center Park Lot 9, N 28, Etage 4 Sidi Maarouf, Casablanca Maroc	Arago Consulting Africa	Morocco	ID : 433937
ArCoDe GMBH Königsallee 92a Düsseldorf Germany	Arago Consulting Germany	Germany	HRB115801
Arago Consulting Belgium BV Leonardo Da Vincilaan 19A bus 8 1831 Diegem Belgium	Arago Consulting Belgium	Belgium	BE0768.826.354