

## ANNEX 6 – DATA PROCESSING AGREEMENT

### 1. INTRODUCTION

- 1.1. The Customer has reached an Agreement together with the Supplier on the delivery of products and/or fulfilment of Services as they are stipulated in the Master Contract and its annexes. The Supplier, hereinafter referred to as (the) Processor, will be pursuant to the Agreement process personal data as a processor on behalf of the Customer. The Customer will hereinafter be referred to as (the) Controller.
- 1.2. As a result of the Processor's processing of personal data on behalf of the Controller, the Parties hereby enter into this Data Processing Agreement (DPA) which forms an integral part of the Agreement.
- 1.3. In case of any inconsistencies between the rest of the Agreement and this DPA, the DPA shall prevail.

### 2. CONTRACT STRUCTURE AND INTERPRETATION

- 2.1. The DPA shall be interpreted in accordance with and considering the terminology used in the General Data Protection Regulation (EU) 2016/679 (GDPR).
- 2.2. The DPA consists of the following terms together with the following appendices:  
**Appendix 1 – Processing of Personal data**  
**Appendix 2 – Data sub-processors**

### 3. DEFINITIONS

<b>"Customer"</b>	means the party defined as the Customer in the Master contract.
<b>"Data Protection Law"</b>	means the from time to time applicable laws and regulations in respect of Processing of Personal Data, including but not limited to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the "GDPR"), replacing the Swedish Personal Data Act (1998:204), as well as Supervisory Authority's binding decisions, regulations and recommendations and supplementary local adaptations and regulations in respect of data protection.
<b>"Data Subject"</b>	means the natural person to whom Personal Data relates to.

**“Personal Data”**

means any information that the Supplier is Processing on behalf of the Customer under this Data Processing Agreement, relating to an identified or identifiable natural person (“Data Subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**”Subprocessor”**

Data as a subcontractor of the Supplier (including, but not limited to, companies within the Supplier group).

**”Supervisory Authority”**

means the supervisory authority or supervisory authorities authorised to conduct supervision of Processing of Personal Data or considered to be the supervisory authority concerned under Data Protection Law, for example the Swedish Authority for Privacy Protection (Sw. Integritetsskyddsmyndigheten).

**”Supplier”**

means Binerio Group AB

- 3.1 Any other terms or concepts used with a capitalized initial letter in this Data Processing Agreement shall, unless otherwise is expressly stated, have the meaning provided for under Data Protection Law and otherwise under the Agreement, unless the circumstances obviously require another order of interpretation.

**4. THE PROCESSOR’S GENERAL RIGHTS AND OBLIGATIONS**

- 4.1. The Processor shall process personal data according to documented instructions from the Controller and in accordance with Appendixes 1 and 2.
- 4.2. If the Processor deems that the Controller’s instructions constitute an infringement to the GDPR or any other data protection legislation that the Processor and/or Controller are legally obliged to observe, the Processor shall immediately inform the Controller of this.

**5. THE CONTROLLER’S GENERAL RIGHTS AND OBLIGATIONS**

- 5.1. The Controller may give the Processor additional instructions that have a natural connection with the products or Services purchased under the Agreement.
- 5.2. The Controller may give the Processor additional instructions, or change the instructions, to the extent this is necessary to comply with the GDPR.

- 5.3. The Controller shall give the Processor the necessary, documented processing instructions for the processing of personal data. If the Processor requests clarifications or additional instructions, the Controller shall provide such clarifications/additional instructions without undue delay.
- 5.4. The Controller shall not give the Processor instructions for the processing of personal data that are in breach of the GDPR or any other data protection legislation that the Controller and/or the Processor are legally obliged to observe.
- 5.5. If the Processor informs the Controller that the Controller's instructions will amount to such a breach as described in section 5.4 the Controller shall without undue delay assess whether a change of instructions is required.

## **6. DATA PROTECTION AND SECURITY**

- 6.1. The Processor shall, considering the state of the art, the costs of implementation, and the nature, scope, context and purposes of processing, as well as the risk of varying likelihood and severity for the rights and freedoms of natural people, implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk, included, when appropriate
  - pseudonymization or encryption of personal data.
  - the ability to ensure ongoing confidentiality, integrity, availability and resilience of processing systems and services.
  - the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident, and.
  - a process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing.
- 6.2. In assessing the appropriate level of security, accounts shall be taken to the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to personal data transmitted, stored or otherwise processed.
- 6.3. The Processor shall ensure that persons authorized to process the personal data have committed themselves to confidentiality or are under an applicable and appropriate statutory obligation of confidentiality. Such confidentiality or statutory obligation of confidentiality shall survive in the event of termination of the DPA.
- 6.4. The Processor shall ensure that any natural person who acts under the authority of the Processor and who has access to personal data does not process said data except on instructions from the Controller or if otherwise required to do so by European Union or European Union Member State law.

## **7. USE OF SUB-PROCESSORS**

The Processor may only engage Sub-processors that comply with the GDPR and this DPA. If the Processor engages a Sub-processor to carry out specific processing activities on behalf of the Controller, the Processor shall impose the same data protection obligations as set out in the DPA on the Sub-processor by way of contract or other legal act under European Union or European Union Member State law.

## **8. THE PROCESSOR'S ASSISTANCE TO THE CONTROLLER**

- 8.1. The Processor shall, considering the nature of the processing, assist the Controller through appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of the Controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III GDPR.
- 8.2. If the Processor receives a request or inquiry relating to processing activities for which the Controller is the controller, the Processor shall notify the Controller immediately, redirect the data subject to the Controller and refrain from giving the data subject any information or taking any other action in response to the data subject's inquiry or request, unless otherwise required to by European Union or European Union Member State law.
- 8.3. The Processor shall, considering the nature of the processing and the information available to the Processor, assist the Controller with data protection impact assessment and prior consultation.
- 8.4. Unless specified in the Agreement that the Processor's assistance in accordance with sections (8.1) is included in the price, the Processor shall be entitled to additional compensation for such assistance in accordance with the provisions in the Agreement, particularly Annex 4 - Master Terms. This does not apply if the assistance provided is a consequence solely of the Processor's violation of the DPA or a personal data breach for which the Processor is responsible.

## **9. DELETION**

After termination of the Agreement, the Processor shall, at the Controller's request, permanently delete or return all personal data to the Controller after the end of the provision of processing services, as well as delete existing copies (including back-ups) unless European Union or European Union Member State law requires storage of the personal data in question.

## **10. AUDIT**

The Processor shall make available to the Controller all information necessary to demonstrate compliance with the obligations laid down in the GDPR and this DPA, as well as allow for and contribute to audits, including inspections, conducted by the Controller or another auditor mandated by the Controller. The cost for an audit is borne by the Controller.

## **11. PERSONAL DATA BREACH**

- 11.1. In case of a personal data breach, the Processor shall, without undue delay:
  - Notify the Controller that a personal data breach has occurred.
  - Communicate the name and contact details of contact people from whom the Controller may obtain more information, and;
- 11.2. In case of a personal data breach, the Processor shall, without undue delay, while considering the nature of the processing and the information available to the Processor, provide the Controller with a detailed description of the incident, including a description of:
  - The nature of the personal data breach, including (where possible) the categories and approximate number of data subjects and personal data records concerned.

- The likely consequences of personal data breach, and;
  - The measures taken by the Processor, or measures proposed to be taken by the Processor or the Controller, to address the personal data breach, including (where appropriate) measures to mitigate its possible adverse effects.
- 11.3. The Processor shall without undue delay, after becoming aware of the personal data breach, take all reasonable steps to mitigate the consequences of said breach, and continuously inform the Controller of implemented and planned measures to be taken.
- 11.4. The Processor shall, considering the nature of the processing and the information available to the Processor, assist the Controller in ensuring compliance with the obligations to inform the data subjects of the personal data breach.
- 11.5. The Processor and the Controller shall, in consultation with one another, as soon as reasonably possibly make an analysis of the reasons behind the personal data breach and take reasonable steps to prevent similar incidents from occurring in the future. The Processor shall not incur costs thereof without the approval from the Controller.
- 11.6. To the extent that the personal data breach is due to the Controller's breach of the Agreement, the Processor shall be reasonably compensated for measures taken under sections 11.1-11.5.

## **12. LIMITATION OF LIABILITY**

- 12.1. Each Party shall compensate and hold harmless the other Party for direct damage suffered due to the first mentioned Party's breach of this Data Processing Agreement, the Controller's instructions, or applicable Data Protection Law, including, for the avoidance of doubt, any administrative fines or claims from third parties, and this shall also apply where such damage is caused by vague, inadequate or unlawful instructions from the Controller, failure by the Controller to provide sufficient or accurate information regarding the nature of the Personal Data being processed (including, but not limited to, failure to inform the Processor of the presence of special categories of Personal Data), or any other breach of this Data Processing Agreement attributable to the Controller.
- 12.2. If a Sub-processor fails to fulfil its data protection obligations, the Processor shall remain liable in relation to the Controller for the performance of the Sub-processor's data protection obligations.
- 12.3. The Processor's liability under sections 12.1-12.2 shall not in any case exceed the amount or level of liability stipulated in Annex 4 – Master Terms of the Agreement.

## **13. CHANGES TO THE AGREEMENT**

If additions or amendments are made to or in the Agreement, the Parties shall without undue delay ensure that the DPA is amended accordingly and to the extent necessary.

## **14. TERM AND TERMINATION**

The DPA shall remain in force until the later of:

- the termination of the Agreement, and;

- the time when the Processor no longer processes personal data on behalf of the Controller.

## **15. DISPUTE RESOLUTION**

Any dispute arising out of or in connection with the DPA shall be settled in accordance with the dispute resolution terms in the Agreement, particularly Annex 4 – Master Terms.