

## Data Processing Addendum

This Data Processing Addendum ("DPA") is between **ACL Services Ltd.** and its Affiliates ("**ACL**") and the Customer identified on the applicable ACL Order Form who acquires and uses ACL products, acting on its own behalf and as agent for each of its Affiliates ("**Customer**").

This DPA is incorporated by reference, supplements and forms part of the ACL Master Subscription Agreement for ACL's products and any other agreement (written or electronic) existing between the parties pursuant to which ACL Processes Personal Data on behalf of Customer (the "**Agreement**"). The ACL Master Subscription Agreement, the ACL Order Form and any other agreement (written or electronic) between the parties together with this DPA form the "Agreement" between the parties. Except as specifically amended in this DPA, the Agreement remains unchanged and in full force and effect.

### 1. Definitions

The terms used in this DPA will have the meanings set forth below. Capitalized terms not otherwise defined in this DPA will have the meaning given to them in the Agreement.

The terms "**Controller**", "**Data Subject**", "**Personal Data**", "**Personal Data Breach**", "**Processing**", "**Processor**" and "**Supervisory Authority**" will have the meanings given to them in the GDPR (defined below).

- 1.1 "Affiliate" means an entity which controls, is controlled by, or is under common control with a party, where "control" means at least a 50% ownership interest in such entity, or the power to direct the management of such entity, whether through the ownership of voting securities, by contract or otherwise.
- 1.2 "Data Protection Laws" means all laws and regulations applicable to the Processing of Personal Data pursuant to the Agreement, including laws and regulations of the European Union, the European Economic Area and their member states, Switzerland and the United Kingdom.
- 1.3 "GDPR" means the 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 (General Data Protection Regulation).
- 1.4 "Solution" means ACL's cloud-based Software-as-a-Service (SaaS) offering and any services which are provided to Customer pursuant to the Agreement.
- 1.5 "Sub-processor" means any person (including any third party, but excluding an employee of ACL or any of its sub-contractors) engaged by ACL to Process Personal Data on behalf of Customer in connection with the Agreement.
- 1.6 "Standard Contractual Clauses" means the contractual clauses referenced in Section 11.3 of this DPA.

### 2. Processing of Personal Data

- 2.1 Application of this DPA. This DPA will apply solely to the extent that ACL or any of its Affiliates Processes Personal Data of individuals in the European Union on behalf of Customer in the course of providing the Solution to Customer.
- 2.2 Roles of the Parties. The parties acknowledge and agree that, with regard to the Processing of Personal Data, ACL will act as a Processor to Customer and that ACL will engage Sub-processors in accordance with the terms of Section 5 ("Sub-processors") below. Customer will act as either the Controller or Processor with respect to such Personal Data.
- 2.3 Instructions for Processing. In accordance with Article 28(3) of the GDPR, ACL will Process Personal Data only on documented instructions from Customer and will ensure that all personnel authorized to Process the Personal Data have committed to confidentiality. Customer hereby instructs ACL to:
  - (a) Process Personal Data, and
  - (b) transfer Personal Data to third countries or territories only in accordance with Section 11 (Data Transfer) of this Agreement,

as reasonably necessary for the provision of the Solution and subject to the terms of this DPA. Customer warrants and represents that it is, and will at all relevant times remain, duly and effectively authorized to give the instructions set out in this Section 2.3, as well as any future instructions regarding the Processing of Personal Data, and that Customer's instructions will comply with Data Protection Laws.

- 2.4 Customer's Processing of Personal Data. Customer will, in its use of the Solution, Process Personal Data in accordance with the requirements of Data Protection Laws. It is the responsibility of the Customer to ensure that any Personal Data submitted or provided in connection with the Solution is done in compliance with applicable Data Protection Laws. In any circumstances where providing Personal Data will not comply with Data Protection Laws, Customer must not submit or provide such Personal Data.
- 2.5 Details of the Processing. The details of the Processing of Personal Data pursuant to this DPA are set out in Schedule 1 ("Details of the Processing") and include the subject-matter and duration of the Processing, the nature and purpose of such Processing, the type of Personal Data and categories of Data Subjects, and the obligations and rights of the Customer. ACL may amend Schedule 1 as reasonably necessary from time to time to reflect the Processing and to meet the requirements of applicable Data Protection Laws. ACL will provide written notice to Customer of any such amendments.

### **3. Personnel**

- 3.1 ACL will take reasonable steps to ensure the reliability of any personnel engaged by it in the Processing of Personal Data hereunder, and to ensure such personnel are informed of the confidential nature of the Personal Data and are subject to confidentiality obligations. ACL will ensure that access to Personal Data is limited to only those individuals who need to know and/or access the Personal Data for purposes of providing the Solution in accordance with the Agreement.

### **4. Security**

- 4.1 Security. ACL has implemented and will maintain appropriate technical and organizational measures (including, without limitation, with respect to personnel, facilities, hardware and software, storage and networks, access controls, monitoring and logging, vulnerability and breach detection, incident response and encryption) to protect the security, confidentiality and integrity of Personal Data Processed by ACL in connection with the Solution, and to prevent the accidental or unlawful Processing, destruction, loss, alteration, unauthorized disclosure of or access to such Personal Data. Details of these measures are set out at [www.acl.com/trust](http://www.acl.com/trust), or such other url as ACL may use for this purpose. ACL will regularly monitor compliance with these measures.
- 4.2 Certification Mechanism. Customer acknowledges and agrees that adherence to an approved certification mechanism will be sufficient to demonstrate ACL's compliance with its security obligations hereunder, for as long as such certification mechanism remains approved for purposes of applicable Data Protection Laws.

### **5. Sub-Processors**

- 5.1 Authorisation. Customer authorises ACL to engage Sub-processors in accordance with the terms of this DPA. Customer authorises the continued use of Sub-processors already engaged by ACL as of the effective date of this DPA, provided that the terms of this DPA are met with respect to those Sub-processors.
- 5.2 Contract. ACL has, or will enter into, a written agreement (which may be electronic) with each Sub-processor which contains data protection obligations no less protective than those in this DPA, to the extent applicable to the nature of the services provided by such Sub-processor. Customer acknowledges and agrees that a Sub-processor's adherence to an approved certification mechanism will be sufficient to demonstrate compliance with the data protection obligations hereunder, for as long as such certification mechanism remains approved for purposes of applicable Data Protection Laws.
- 5.3 Notice and Objection. ACL will inform Customer of any intended changes concerning the addition or replacement of its Sub-processors and Customer will have the opportunity to object to such change. If, within thirty (30) days of being informed of the change, Customer notifies ACL in writing of any objections on reasonable grounds, ACL will work with Customer in good faith to address the objection to Customer's satisfaction. If the objection cannot be addressed to Customer's satisfaction within a reasonable time (not to exceed 90 days), Customer may, by written notice to ACL, terminate the Agreement to the extent it relates to products or services which require use of the proposed Sub-processor.
- 5.4 Liability. Where a Sub-processor fails to fulfil its data protection obligations in respect of Customer, ACL will be liable for performance of such obligations.

## **6. Rights of Data Subjects**

- 6.1 Data Subject Request. ACL will, to the extent legally permitted, promptly notify Customer if ACL receives a request from a Data Subject to exercise his or her rights under Data Protection Laws in respect of his or her Personal Data being Processed by ACL in the course of providing the Solution to Customer (the "**Data Subject Request**"). ACL will not respond to a Data Subject Request without Customer's prior written consent, except to confirm that such request relates to Customer.
- 6.2 Assistance. Taking into account the nature of the Processing, ACL will assist Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfillment of Customer's obligation to respond to a Data Subject Request. To the extent Customer, through its use of the Solution, does not have the ability to address a Data Subject Request, ACL will, upon Customer's request, provide commercially reasonable efforts to assist Customer in responding to such Data Subject Request, to the extent ACL is legally permitted to do so. Customer will be responsible for any costs arising from ACL's provision of such assistance.

## **7. Personal Data Breach**

- 7.1 ACL will notify Customer without undue delay, and where feasible not later than forty-eight (48) hours, after becoming aware of a Personal Data Breach affecting Personal Data Processed by ACL. ACL will make reasonable efforts to identify the cause of the Personal Data Breach and will cooperate with Customer to take such steps as the parties deem necessary and reasonable to mitigate and remediate the Personal Data Breach, to the extent remediation is within ACL's control. ACL will not assess the contents of Customer Data (as defined in the Agreement) to identify information subject to specific legal requirements. Customer is solely responsible for complying with incident notification laws applicable to Customer. ACL's notification of or response to a Personal Data Breach under this Section 7.1 will not be construed as an acknowledgement by ACL of any fault or liability with respect to the Personal Data Breach.

## **8. Data Protection Impact Assessment and Prior Consultation**

- 8.1 Upon Customer's request, ACL will provide Customer with reasonable cooperation and assistance as needed to fulfill Customer's obligation under GDPR (or other applicable Data Protection Laws) to carry out a data protection impact assessment related to Customer's use of the Solution, to the extent Customer does not otherwise have access to the relevant information, and taking into account the nature of the Processing and the information available to ACL. To the extent required under the GDPR (or other applicable Data Protection Laws), ACL will also provide reasonable assistance to Customer in the cooperation or prior consultation with a Supervisory Authority in the performance of Customer's tasks related to this Section.

## **9. Return or Deletion of Personal Data**

- 9.1 After termination of the Agreement, at the choice of Customer, ACL will delete or return all Personal Data to Customer within thirty (30) days after Customer's written request to do so. Personal Data may reside in ACL backups for up to sixty (60) days after deletion before being fully purged.

## **10. Audit**

- 10.1 ACL will make available to Customer, on request, all information necessary to demonstrate compliance with this DPA, and will allow for and contribute to audits, including inspections, conducted by Customer. Customer will give ACL reasonable advance written notice of any audit or inspection and will not carry out an audit or inspection more than once in any calendar year, unless an additional audit is required by Data Protection Laws or is reasonably necessary due to genuine concerns regarding ACL's compliance with this DPA. Any audit or inspection will be carried out during ACL's business hours and in accordance with ACL's reasonable security requirements. Before commencement of any such audits or inspections, the parties will mutually agree upon the scope, timing and duration of the audit or inspection. ACL may charge for any time expended for such audit or inspection at ACL's then-current rates, which will be made available to Customer.

## **11. Data Transfer**

- 11.1 Permitted Transfers. Personal Data may be transferred to a third country on the basis of an adequacy decision or subject to appropriate safeguards in accordance with applicable Data Protection Laws. The parties acknowledge and agree that Personal Data may be transferred to: (a) Canada for so long as Canada is recognized under applicable Data Protection Laws as having an adequate level of protection; and (b) the United States pursuant to the EU-US Privacy

Shield (or any successor scheme approved under applicable Data Protection Laws) or binding corporate rules approved under applicable Data Protection Laws.

- 11.2 Restricted Transfers. For purposes of this DPA, a “**Restricted Transfer**” is a transfer of Personal Data which is not permitted under Section 11.1 (Permitted Transfers) and which would be prohibited by Data Protection Laws in the absence of the Standard Contractual Clauses.
- 11.3 Standard Contractual Clauses. If the parties wish to make a Restricted Transfer, the parties agree to promptly enter into the form of Standard Contractual Clauses prior to such transfer, a copy of which is available at [www.acl.com/legal](http://www.acl.com/legal) and the Standard Contractual Clauses will apply to such Restricted Transfer (or any amended or successor form of Standard Contractual Clauses approved by Data Protection Laws and accepted by the parties in accordance with Section 12.2). The Standard Contractual Clauses will be incorporated herein upon execution. The parties agree that, for purposes of the Standard Contractual Clauses:
- (a) This DPA and the Agreement are Customer’s complete documented instructions for the Processing of Personal Data and any alternate or additional instructions will be agreed upon separately;
  - (b) This DPA constitutes Customer’s written consent to sub-processing and ACL may engage Sub-processors as described in this DPA;
  - (c) The Standard Contractual Clauses will only apply to a transfer of Personal Data where such transfer of Personal Data could not take place lawfully in the absence of such Standard Contractual Clauses; and
  - (d) In the event of any conflict or inconsistency between the terms of this DPA and the executed Standard Contractual Clauses between the parties, the Standard Contractual Clauses will prevail.

## **12. General**

- 12.1 Order of Precedence. With respect to the subject matter of this DPA: (a) in the event of any conflict between the provisions of this DPA and the Agreement, the provisions of this DPA will prevail; and (b) in the event of any conflict between the provisions of this DPA and the Standard Contractual Clauses in respect of a Restricted Transfer, the Standard Contractual Clauses will apply.
- 12.2 Changes in Data Protection Laws; Amendment. Either party may, by written notice to the other party, propose changes to this DPA or the Standard Contractual Clauses which the notifying party reasonably considers to be necessary to address the requirements of any Data Protection Laws. Upon receipt of such notice, the parties will promptly enter into good faith discussions and negotiations to make the proposed changes, or agree upon alternative changes, as necessary to address the requirements identified in the notice as soon as reasonably practicable. Any such changes will be documented in a written amendment signed by both parties, or by entering into a new DPA and/or Standard Contractual Clauses which are signed by both parties and which are stated to supersede and replace this DPA and/or the Standard Contractual Clauses attached as Schedule 2.

## **13. Legal Effect**

- 13.1 This DPA is incorporated by reference in the Agreement and supplements and forms part of the Agreement for ACL’s products and any other agreement between the parties pursuant to which ACL Processes Personal Data on behalf of Customer. No further acts are required by either party to accept these terms and the parties acknowledge they will be bound by the terms of this DPA upon acceptance of the Agreement.

v. Oct 25-18

## **Schedule 1 – Details of the Processing**

This Schedule 1 includes certain details of the Processing of Personal Data as required by Article 28(3) of the GDPR.

### **Subject Matter and Duration of Processing**

The subject matter and duration of the Processing of Personal Data are set out in the Agreement and this DPA. The subject matter of ACL's Processing of Personal Data is the provision of the Solution to Customer pursuant to the Agreement.

### **Nature and Purpose of Processing**

ACL will Process Personal Data as necessary to provide the Solution to Customer pursuant to the Agreement and as further instructed by Customer in its use of the Solution. Customer will set up an account in the SaaS service and will manually input data into the SaaS service for its own use. Customer retains sole control over the Personal Data and determines the nature and purpose of the Processing.

### **Types of Personal Data to be Processed**

Customer may submit or provide Personal Data in connection with the Solution. The nature and extent of such Personal Data is determined and controlled by Customer in its sole discretion. ACL does not collect data directly from Data Subjects.

### **Categories of Data Subjects to whom the Processing Relates**

The categories of Data Subjects are determined and controlled by Customer in its sole discretion. ACL does not collect data directly from Data Subjects.

### **Obligations and Rights of Customer**

The obligations and rights of Customer are set out in the Agreement and this DPA. It is the responsibility of the Customer to ensure that any Personal Data submitted or provided in connection with the Solution is done in compliance with applicable Data Protection Laws. In any circumstances where providing Personal Data will not comply with Data Protection Laws, Customer must not submit or provide such Personal Data.