

## DATA PROCESSING AGREEMENT (“DPA”)

### D) General

#### 1. Scope

The DPA is incorporated by reference into and forms an integral part of the Agreement (as defined in the Terms and Conditions), unless the parties enter into a separate data processing agreement as part of specific agreements. In the event of any inconsistency between the DPA and any other terms of the Agreement, the DPA shall prevail.

This DPA applies where TD SYNEX, acting in a capacity of a processor, processes personal data on behalf and in accordance with the instructions of Buyer, acting on its own behalf or on behalf of its customers or their end users (“Clients”) in a capacity of a controller. It also applies in case that Buyer, acting in a capacity of a processor, should process personal data on behalf and in accordance with the instructions of TD SYNEX acting [on its own behalf or on behalf of a third party] in a capacity of a controller.

This DPA does not apply to TD SYNEX and Buyer sharing personal data with each other as separate or joined controllers.

TD SYNEX typically acts as a separate controller if:

- (a) it collects personal data in connection with Buyer’s operations (such as personal data relating to Buyer’s employees);
- (b) TD SYNEX processes end user personal data provided by Buyer’s customer for:
  - (i) carrying out fraud, anti-money laundering, sanctions and any other checks including denied party list screenings, and investigating and prosecuting fraud, money laundering or sanctions violations in connection with the establishment and maintenance of a client relationship and provision of services;
  - (ii) compliance with legal and regulatory obligations;
  - (iii) anonymization and/or data analytics; and
  - (iv) the fulfilment of the Agreement, including drop shipments and, if necessary for the fulfillment of the Agreement, the transfer of such personal data to third parties who are acting as a controller, such as carriers, manufacturers or third party service providers.

#### 2. Definitions

Any term not defined in this DPA or in other parts of the Agreement shall have the meaning ascribed to them under the General Data Protection Regulation (EU 2016/679) (“GDPR”). References to articles of GDPR herein [Art....GDPR] shall apply only to the extent that the processing is subject to the GDPR – for all other relevant jurisdictions the corresponding applicable data protection laws apply.

“**Third Country**” means any country which is neither a member state of the European Union (“EU”) or the European Economic Area (“EEA”), nor is confirmed by the European

Commission to provide adequate protection for personal data pursuant to Article 45(3) GDPR.

“**Processing of EEA Personal Data**” for the sake of this DPA, means processing of personal data which falls in the scope of the GDPR or Privacy Laws of UK or Switzerland.

“**Standard Contractual Clauses**” or “**SCCs**”- means the standard contractual clauses for the transfer of personal data to third countries as to the Commission Implementing Decision (EU) 2021/914 of 4 June 2021 or any successor or supplementing decision;

“**Privacy Law**” means all applicable laws and regulations relating to the processing of personal data and privacy that may exist in the relevant jurisdictions, for member states of the EU or EEA this includes the GDPR;

“**TOMs**” means the technical and organizational measures in the meaning of Privacy Laws;

“**Sub-Processor**” or “**Sub-(sub)processor**” means third parties authorized under this DPA to have logical access to and process personal data in accordance with the Agreement;

“**Data Transfer**” means any party transmitting or giving access to personal data.

“**Exporter**” means any party of a Data Transfer that is located in the EEA, UK, or Switzerland.

### II) Special terms for TD SYNEX as a Processor

This section II applies where TD SYNEX, acting in a capacity of a processor, processes personal data on behalf and bound by the instructions of Buyer, acting on its own behalf or on behalf of Clients in a capacity of a controller. It applies in addition to section III below. In case of an inconsistency between sections II and III, this section II shall prevail.

1. **Electronical communication.** TD SYNEX may provide Buyer with information and notices in the context of this DPA electronically, including via email, through the TD SYNEX standard website, or through a web site that TD SYNEX identifies.
2. **Details of Processing.** By using the Services, Buyer agrees to the details of processing including nature, purpose and subject matter of processing, categories of data subjects, types of personal data, special categories of personal data, TOMs and other processors – where relevant – as defined in the Agreement (including this DPA) and as otherwise made available and communicated by TD SYNEX electronically, including via email, through the TD SYNEX standard website, or through a web site that TD SYNEX identifies.
3. **Standard Contractual Clauses.** SCCs, if applicable between TD SYNEX and Buyer, can be found on the TD SYNEX standard website, or through a web site that TD SYNEX identifies.

#### 4. Obligations of TD SYNEX and Buyer.

- 4.1. TD SYNEX will comply with all Privacy Law applicable to it in its role as a processor. TD SYNEX is not responsible to comply with any laws or regulations applicable to Buyer's or its Clients' industry that are not generally applicable to providers of the respective Products. TD SYNEX does not determine whether Buyer's or its Clients' data includes information subject to any specific law or regulation.
- 4.2. Buyer shall evaluate and determine the suitability, appropriateness and compliance of Buyer's or its Clients' use of the Products with laws and regulations including Privacy Laws especially in terms of the TOMs, other processors involved, data center location and relevant transfer of data as described in the Agreement including the DPA and the details of processing.
- 4.3. If Buyer himself is not the controller of the personal data but processes personal data on behalf of Clients, Buyer warrants to have all contracts in place and to have all necessary permissions and authorizations of Client(s):
  - to act in relation to TD SYNEX as the controller under this DPA and exercise all rights as a controller towards TD SYNEX and its other processors with regard to the DPA;
  - to use TD SYNEX as a processor to process personal data, as set out in the Agreement including this DPA and the details of processing;
  - to be the single point of contact to TD SYNEX for all instructions, notices, information and communication in connection with this DPA and to interface relevant communication between Clients and TD SYNEX, where legally required. TD SYNEX shall be discharged of any obligation to inform or notify a Client when TD SYNEX has provided such information or notice to Buyer. TD SYNEX will serve as a single point of contact in view of TD SYNEX's other processors.
  - to exercise Exporters' rights according to the Standard Contractual Clauses – where applicable – towards (i) TD SYNEX and/or (ii) its other processors via TD SYNEX on behalf of Exporter.

#### III) General Processing Terms

This section III applies in addition to section II where TD SYNEX, acting in a capacity of a processor, processes personal data on behalf and bound by the instructions of Buyer, acting on its own behalf or on behalf of Clients in a capacity of a controller. It also applies in case that Buyer, acting in a capacity of a processor, should process personal data on behalf and in accordance with the instructions of TD SYNEX acting [on its own behalf or on behalf of a third party] in a capacity of a controller.

#### 1. Obligations of Controller

- 1.1. Controller shall be solely responsible for complying with all statutory obligations of a controller in view of the processing according to Privacy Laws. Controller shall, upon termination or expiration of the Agreement and by way of issuing an instruction, stipulate the measures to return data carrier media including personal data or to delete stored personal data, and will notify processor without undue delay of any errors or irregularities it gains knowledge of in connection with the processing of personal data by the processor.
- 1.2. Controller will not use the Products in conjunction with personal data to the extent that doing so would violate Privacy Laws and will oblige its Clients accordingly.

#### 2. Obligations of Processor

- 2.1. **Compliance with Processor obligations.** Processor will comply with all obligations applicable to processors according to EEA data Privacy Law. Processor is not responsible for determining the requirements of laws applicable to controller's or Clients' business or industry or that processor's provision of the Products meet the requirements of such laws.
- 2.2. **Instructions.** Processor shall process personal data solely in accordance with controller's written instructions, which are defined in the Agreement including this DPA and its exhibits, – if applicable – controllers' authorized use and configuration of the Products or otherwise in writing. Processor shall inform the controller immediately if processor believes controller's instruction to be in violation of applicable data protection law, and/or of contractual duties under the Agreement including this DPA. Processor is entitled to suspend the implementation of such instruction until it is examined by the controller and confirmed or changed as a result. Processor is permitted process personal data without the controller's instruction if required to do so by the law of the EU or its member states to which the processor is subject; in such a case, the processor shall inform the controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest.
- 2.3. **Disclosure/Access.** Processor shall not disclose personal data to any third party, unless authorized by controller or required by the law of the EU or its member states. If such law requires to give third party, or a government, court or supervisory authority based on such law demands access to personal data, processor will notify controller prior to disclosure, unless prohibited by law on important grounds of public interest. Unless obliged to do so by the law of the EU or its member states, processor shall not disclose or release any personal data in response to such request served on processor without first consulting with controller. Where controller's personal data becomes subject to search and seizure, confiscation during bankruptcy or insolvency proceedings, or similar events or measures by third parties while being processed, processor shall inform controller without undue delay.
- 2.4. **Duty of confidence.** Processor requires all of its personnel and persons being entrusted with the processing

of personal data, to commit themselves to confidentiality - unless an appropriate statutory obligation of confidentiality applies - and not to process such personal data for any other purpose except on instructions from controller or otherwise required by the law of the EU or its member states.

- 2.5. Data Subject Rights.** Processor shall reasonably assist controller upon controller's request and as legally required, in providing data subject access and to respond to any requests, complaints or other communications from a data subject, including requests from data subjects seeking to exercise their rights under Privacy Laws. If any such request, complaint or communication is received by or otherwise made to processor, processor shall inform controller without undue delay, if processor is able to correlate data subject to controller.
- 2.6. Data Breach.** Processor will notify controller without undue delay after becoming aware of any personal data breach ("Data Breach") affecting controller's personal data. Processor shall take such measures and actions as reasonable to remedy or mitigate the effects of the personal Data Breach and shall assist the controller in ensuring compliance with its obligations under applicable Privacy law to notify the Data Breach to supervisory authorities and data subjects taking into account the nature of processing and the information available to the processor. Particularly, processors shall cooperate with controller by providing regular updates and other reasonably requested information. Any press release, notification, public or regulatory announcement or communication concerning a Data Breach shall be made by controller at controller's sole discretion, except as otherwise required by applicable laws.
- 2.7. Assistance with Controller obligations.** Processor shall reasonably assist controller upon controller's request, with controller's obligations regarding security of processing, data protection impact assessments and prior consultations taking into account the information available to TD SYNnex and the nature of processing. Processor will provide assistance in connection with audits of any competent supervisory authority to the extent such audit relates to the processing of personal data by the processor under this Agreement and as reasonably requested by the controller. Processor's assistance may be subject to reasonable charge unless processor's assistance is already addressed in the Agreement accordingly.
- 2.8. End of Contract.** Processor shall, at the choice of controller, delete or return all personal data to controller upon termination or expiry of the Agreement, and delete existing copies unless EU or member state law requires processor's storage of the personal data.

### 3. Technical and Organizational Security Measures

- 3.1. Processor and controller shall implement and maintain TOMs as required by applicable Privacy Law. This includes implementing and maintaining TOMs to ensure a level of security appropriate to the risks or damage to personal data, appropriate to the harm that might result from the unauthorized or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymizing and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services).
- 3.2. TOMs are subject to technical progress and further development. Processor reserves the right to modify the measures and safeguards implemented, provided, however, that the functionality and security of the Products are not degraded. Any substantial security-related decisions on the organization of data processing and the applied procedures shall be notified to controller.
- 3.3. By using a Product, controller acknowledges the TOMs as outlined in the Agreement and/or provided by Processor and confirms the TOMs to provide an adequate level of protection in respect to the risks associated with the processing of personal data.

### 4. Documentation and Audit Obligations

- 4.1. Upon controller's request, processor shall make available to controller, or an authorized third party acting on controller's behalf, information necessary for controller or Clients to comply with their own audit obligations under applicable data protection laws or a supervisory authority's request, and shall allow for and contribute to reviews and audits including inspections as stipulated below.
- 4.2. Controller may request processor to provide relevant information on the TOMs including – where available – auditor's certificates, reports or excerpts from reports provided by independent bodies (e.g. auditor, data protection officer, IT security department, data privacy auditor, quality auditor).
- 4.3. To the extent it is not possible to otherwise satisfy an audit obligation mandated by applicable Privacy Law, controller or its mandated auditor may conduct personal on-site audits at controller's cost on individual basis, usually not more often than once a year, during regular business hours, with reasonable interference with processor's operations and upon reasonable prior notice. Processor may 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 TOMs and safeguards implemented.
- 4.4. Controller shall inform processor without undue delay about any errors or irregularities detected during an audit.

## 5. Sub-processor

- 5.1. Controller authorizes processor herewith to transfer personal data or give access to personal data to other processors engaged by it (and permit other processors to do so in accordance with this Clause 5) for the purposes of providing the Products subject to controller's obligations under this Clause 5. The above authorization constitutes controller's prior written consent to the involvement of other processors by processor if such consent is required under the Standard Contractual Clauses or Privacy Law. Processor remains responsible for its other processors' compliance with the obligations of this DPA. Processor makes available to controller a current list of other processors, e.g. on a processor website.
- 5.2. Controller shall be entitled to object to the engagement of a new processor within 10 days of notification. Otherwise controller shall be deemed to have approved such new assignment or change. Where a materially important reason for an objection exists, and failing an amicable resolution of this matter by the parties, controller shall be entitled to terminate the Agreement in respect of the concerned Product.
- 5.3. Processor enters into written agreements with each other processor it engages being not less protective than those stipulated in this DPA. Such contract in particular provides sufficient guarantees to implement appropriate TOMs.

## 6. International Data Transfer

- 6.1. Controller authorizes processor herewith to transfer or give access to the personal data in the context of the services as outlined in the Agreement, the details of processing and/or the SCCs – where relevant.
- 6.2. Any processing of personal data outside the country or region where controller is located is subject to an adequate data transfer mechanism if and as required by Privacy Law.
- 6.3. For international data transfers in the context of the Processing of EEA Personal Data, SCCs have to be executed between TD SYNEX and Buyer if the party transmitting or giving access to personal data, is located in the EEA, UK, or Switzerland and the other party, receiving or having access to such data is located in a Third Country. The terms of this DPA are not intended to amend or modify the SCCs but provide clarity in terms of processes and procedures for complying with the SCCs. In the event of any conflict between the terms of this DPA and the SCCs, the SCCs shall prevail.
- 6.4. For Data Transfers in connection with processor engaging other processors, processor enters into the applicable Standard Contractual Clauses (Processor to Processor) with the other processors and obliges the other processors accordingly with regard to any further onward transfer.

## 7. Confidentiality

Parties shall not disclose any confidential information shared in connection with this DPA except (i) as required in this DPA or parties' instruction, (ii) as required by law, (iii) in response to a competent authority or regulatory or government agency, and (iv) for disclosures to its employees, agents and contractors that are bound by confidentiality on a need-to-know basis.