

TMB PATTERNS & DATA PROCESSING May 2018

This is included in TMB's ISO 9001; 2015 Quality Management System
5:3 "Organisation Roles Responsibilities & Authorities"

1. Definitions

The following definitions shall apply

"Applicable EU Law" means law of the European Union (or the law of a member state of the European Union)

"Data Protection Legislation" means the Data Protection Act 1998 and the GDPR together with any amendment to them, secondary legislation passed under them, any subsequent re-enactment or other law, statute, declaration, decree, directive, enactment, order, regulation, rule, Code of Practice or other binding restriction which relates to the protection of personal data of individuals similar to the Data Protection Act 1998 or GDPR.

"GDPR" means the General Data Protection Regulation.

"Controller" is a natural or legal person, Public Authority, Agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data, where the purpose and means of such processing are determined by Union or Member State Law.

"Processor" is a natural or legal person, Public Authority, Agency or any other body which processes personal data on behalf of the controller. The concept of processor does not change under the GDPR.

"Subject Access Request" means a request from an individual to access their personal data in accordance with Data Protection Legislation, where the purposes

"Permitted Purposes" means the purpose of fulfilling the Service Agreement between TMB PATTERNS LIMITED (hereafter referred to as TMB) and the Client

"Permitted Recipients" means the third parties to whom TMB are permitted to disclose the Client's data

"Particulars of Breach" means the information that must be notified in the event of a breach of GDPR as set out in Article 33(3) of GDPR

"ICO" means the Information Commissioner's Office

"Security requirements" means the requirements regarding the security of personal data as required by Data Protection Legislation

"Third Party Request" means a written request from any third party for disclosure of personal data where compliance with such request is required by law

"Service Agreement" means any agreement between the Supplier and TMB for the provision of services by one party to the other.

Headings in this agreement are included for convenience only and shall not affect the interpretation or construction of this Agreement

This agreement is supplemental to the Service Agreement and shall not amend or supersede the Service Agreement save as to where explicitly states and agreed under this Data Processing Agreement.

In consideration for the parties' respective rights and obligations under this Data Processing Agreement, the parties agree to perform their obligations as set out below.

This Data Processing Agreement shall take effect on 25 May 2018.

2. Data Protection

- Where processing is to be carried out on behalf of a controller, the controller shall use only processors providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.(only use processors that comply with the GDPR)
- The parties shall each process the Client's Data. Each party shall comply with its obligations under the Data Protection Legislation and use all reasonable efforts to assist the other in compliance with obligations under the Data Protection Legislation. Neither party shall cause the other to breach its respective obligations under the Data Protection Legislation whether by act or omission.
- Where one party acts as a processor; and the other acts as a controller ("controller means the natural in accordance with the definitions laid out by the Data Protection Legislation, they shall have the responsibilities and liabilities allocated to them as defined by the Data Protection Legislation.
- Where the parties act as joint controllers, the parties each acknowledge and agree they have joint responsibility for the security of personal data in its possession or control and the restrictions on transfers of personal data where that party instructed the data transfer to a third country. Both shall have responsibility for lawful, fair and transparent processing of data that purposes are limited, that the rights of data subjects are complied with, accuracy of data and protected storage of data.

3. TMB shall:

- Implement and maintain appropriate technical and organisation measures which are sufficient to comply with the Data Protection Legislation
- Ensure any suppliers or sub-contractors of TMB engage in a similar Data Processing Agreement with TMB.
- Notify the Client promptly in the event of a Subject Access Request which directly or indirectly relates to the Client.
- Notify the Client promptly in the event of any actual or suspected breach, any threatened breach or any 'near miss' breach of Data Protection Legislation or this Data Processing Agreement
- Shall not transfer any of the Client's data outside of the European Economic Area without prior notification to the Client
- Delete or permanently destroy the Client's data that is no longer reasonably required to be retained by TMB
- Provide information to the Client that is reasonably requested by the Client to demonstrate compliance with this Agreement, the Data Protection Legislation and/or any internal or external audit
- Shall not disclose the Client's data to any third party (save as to any sub-contractors who have fulfilled the requirements of 2.4.2 above) with the prior consent of the Client save as to disclosures to Permitted Recipients or Third Party Requests.
- Ensure that the Client data processed by TMB is segregated from other data processed by TMB
- Only disclose Client data to TMB personnel, following reasonable steps to ensure the reliability and integrity of the personnel including, but not limited to, training and the read and agreeing to relevant policies covering confidential information and data security as may vary from time to time.
- Only process data that is necessary for the fulfilment of the Service Agreement

4 The Client shall:

- Implement and maintain appropriate technical and organisation measures which are sufficient to comply with the Data Protection Legislation
- Ensure any suppliers or sub-contractors of the Client engage in a similar Data Processing Agreement with the Client
- Notify TMB promptly in the event of a Subject Access Request which directly or indirectly relates to TMB.
- Notify TMB promptly in the event of any actual or suspected breach, any threatened breach or any 'near miss' breach of Data Protection Legislation or this Data Processing Agreement that relates to TMB
- Shall not transfer any of the TMB's data outside of the European Economic Area without prior notification to TMB
- Delete or permanently destroy the TMB data that is no longer reasonably required to be retained by the Client
- Provide information to TMB that is reasonably requested by TMB to demonstrate compliance with this Agreement, the Data Protection Legislation and/or any internal or external audit
- Shall not disclose TMB's data to any third party (save as to any sub-contractors who have fulfilled the requirements of 2.4.2 above) with the prior consent of TMB save as to disclosures to Permitted Recipients or Third Party Requests.
- Ensure that TMB's data processed by the Client is segregated from other data processed by the Client
- Only disclose TMB's data to the Client's personnel (save as to any sub-contractors who have fulfilled the requirements of 2.4.2 above) and shall only do so following reasonable steps to ensure the reliability and integrity of the personnel including, but not limited to, training and the read and agreeing to relevant policies covering confidential information and data security as may vary from time to time.
- Only process data that is necessary for the fulfilment of the Service Agreement
- Both parties agree as far as is reasonable to assist the other in complying with their obligations imposed under this Agreement.

5. Miscellaneous

- The parties agree that each provision of this Data Processing Agreement is severable and distinct from the others and that if a provision is held to be void or unenforceable, the remainder of the agreement shall continue
- This Data Processing Agreement may be entered into in any number of counterparts and by the parties on separate documents all of which taken together will constitute one and the same Agreement
- No forbearance or delay by either party in enforcing its rights will prejudice or restrict the rights of that party. No waiver of any rights under this Data Processing Agreement shall be deemed to be a waiver of any other right or later breach.
- No variation of this Data Processing Agreement shall be effective unless it is agreed and recorded by both parties in writing.
- Neither party shall be permitted to use this Data Processing Agreement to make representations for or otherwise bind the other party in any way
- Save as to the companies, businesses and undertakings listed in the definition of “TMB PATTERNS LIMITED” above, no third party who is not a party to this agreement shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Data Processing Agreement.
- This Data Processing Agreement, together with the Service Agreement, forms the entire Agreement between the parties.
- TMB will enable and contribute to compliance audits conducted by the controller or a representative of the controller, as noted in the ISO 9001:2015 QMS.
- This Data Processing Agreement shall be governed in accordance with the laws of England and Wales. The Courts of England and Wales shall have exclusive jurisdiction over any claim or matter arising under, or in connection with, this Data Processing Agreement