

# DATA PROCESSING AGREEMENT FOR ADVANIA MARKETPLACE

VERSION: 3.0

## BETWEEN:

THESE DATA PROCESSING AGREEMENT (the "Agreement") are entered into effective as of the date on which You accept this Agreement electronic in Advania Marketplace (the "Effective Date"), by You and Advania AB Sweden.

## RECITALS:

- A Advania and the Customer have entered into an agreement (the "**Agreement**") under which Advania shall provide certain services as detailed in the Service Agreement (the "**Services**") to the Customer.
- B When performing the Services to the Customer, Advania may Process Personal Data on behalf of the Customer as a Data Processor as further detailed in [Appendix 1](#). Advania agrees to Process Personal Data on behalf of the Customer in accordance with the provisions of this Data Processing Agreement.
- C If any provision of the Service Agreement conflicts with the terms of this Data Processing Agreement, the terms of this Data Processing Agreement shall prevail to the extent the Data Processing Agreement provides greater protection of Personal Data than the Service Agreement.

## 1. DEFINITIONS

In this Data Processing Agreement, the following terms shall have the meanings set forth below:

**"Agreement Date"** means the date of this agreement as indicated above;

**"Applicable Legislation"** means laws and regulations under EU law and relevant Member State laws that from time to time apply to Advania and the Customer;

**"Applicable Data Protection Legislation"** means all legislation and regulations, including regulations issued by relevant supervisory authorities, protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the Processing of Personal Data that from time to time apply to Advania and the Customer, including without limitation, data protection laws and regulations implementing the Data Protection Directive 95/46/EC and as of 25 May 2018 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) (the "**GDPR**"); and

"**Data Subject**", "**Supplier**" "**Processing**", "**Personal Data**", and "**Personal Data Breach**", shall have the same meanings as set out in the GDPR;

"**Data Processing Agreement**" means this Data Processing Agreement and the appendices attached hereto (as amended from time to time in accordance herewith); and

"**Third Country**" means a country which is not a member of the European Union (EU) or the European Economic Area (EEA).

## **2. ADVANIA'S OBLIGATIONS**

- 2.1 Advania undertakes to only Process Personal Data in accordance with the Customer's documented and lawful instructions and this Data Processing Agreement and the Service Agreement. Advania shall not Process Personal Data for its own purposes, unless otherwise agreed between the Parties.
- 2.2 In the event the Customer submits new instructions over and above the instructions under this Data Processing Agreement and the Service Agreement, Advania shall be entitled to remuneration in accordance with Advania's from time to time applicable price list, or as agreed between the Parties.
- 2.3 Notwithstanding what is stated in section 2.1 above, Advania may Process Personal Data to the extent it is necessary in order to comply with legal requirements under Applicable Legislation to which Advania is subject. Advania shall notify the Customer about the legal requirement before the Processing, unless the Applicable Legislation prohibits the Supplier from providing this information.
- 2.4 Notwithstanding any provisions regarding choice of law according to the Service Agreement, Applicable Data Protection Legislation shall apply to the Processing of Personal Data within the scope of this Data Processing Agreement.
- 2.5 Advania shall notify the Customer if Advania cannot fulfil its obligations under this Data Processing Agreement or if Advania is of the view that an instruction regarding the Processing of Personal Data given by the Customer would be in breach of Applicable Data Protection Legislation, unless Advania is prohibited from notifying the Customer under Applicable Legislation.

## **3. SECURITY MEASURES**

### **3.1 Obligation to Implement Technical and Organizational Measures to Protect the Personal Data**

- 3.1.1 Advania takes appropriate technical and organizational measures in order to protect the Personal Data against Personal Data Breaches. The measures shall at least maintain a level of security which is deemed appropriate under Applicable Data Protection Legislation, as well as

relevant supervisory authorities' decisions and guidelines regarding security of Personal Data.

- 3.1.2 Advania shall, upon the Customer's request, provide necessary information in order to allow the Customer to fulfil its obligations to, where applicable, carry out data protection impact assessments (DPIAs) and prior consultations with the relevant supervisory authority under Applicable Data Protection Legislation in relation to the Processing of Personal Data covered by this Data Processing Agreement. In the event the Customer requests assistance from Advania to assist with a DPIA although the Customer is not obligated to conduct a DPIA according to Applicable Data Protection Legislation, Advania shall be entitled to remuneration for such assistance, in accordance with Advania's from time to time applicable price list.

### **3.2 Access Control, Confidentiality and Logging**

- 3.2.1 Advania shall ensure that access to the Personal Data is restricted to those employees and/or consultants at Advania who need access to the Personal Data in order for Advania to fulfil its obligations under this Data Processing Agreement and the Service Agreement.
- 3.2.2 Advania shall ensure that all employees and/or consultants authorized to access and Process Personal Data have committed themselves to confidentiality in relation to the Processing of Personal Data covered by this Data Processing Agreement.

### **3.3 Personal Data Breach**

- 3.3.1 In the event of a Personal Data Breach, Advania shall notify the Customer in writing without undue delay from when Advania became aware of the Personal Data Breach.
- 3.3.2 Unless it is unlikely that a Personal Data Breach will purport any risk to the personal integrity of the Data Subjects, Advania shall immediately after becoming aware of the Personal Data Breach take appropriate remedial measures to prevent or limit the potential adverse effects of the Personal Data Breach.
- 3.3.3 Upon the Customer's request, Advania shall provide the Customer with:
- 3.3.3.1 a description of the nature of the Personal Data Breach including the categories and approximate number of Data Subjects concerned and the categories and approximate number of Personal Data records concerned;
  - 3.3.3.2 the likely consequences of the Personal Data Breach; and
  - 3.3.3.3 a description of the measures taken or proposed to be taken by Advania to address the Personal Data Breach, including,

where appropriate, measures to mitigate its possible adverse effects.

Where and insofar as it is not possible for Advania to provide the abovementioned information at the same time, the information may be provided in phases without further undue delay. Advania is entitled to remuneration for any potential costs incurred to Advania in the course of providing the information according to this section 3.3.3.

### **3.4 Access to Information etc.**

- 3.4.1 The Customer is entitled to, once (1) per year, either by itself or through a third party, conduct audits at Advania to inspect whether Advania is complying with its obligations regarding the security of the Processing. Advania shall be notified about such audit at least fourteen (14) days prior to the audit. Any and all costs and expenses arising out of an audit in accordance with this section 3.4.1 shall be borne by the Customer. For the avoidance of doubt, an audit according to this section 3.4 shall only relate to information that is necessary in order for the Customer to comply its obligation to inspect the Processing under Applicable Data Protection Legislation and shall not under any circumstances include information pertaining to Advania's business which is irrelevant in relation to Advania's Processing of Personal Data on behalf of the Customer.
- 3.4.2 In the event the Customer assigns a third party, the Customer shall ensure that such third party signs a confidentiality undertaking relating to any and all information which is disclosed to such third party during the audit, such confidentiality undertaking not to be less restrictive than the confidentiality undertaking set forth in section 5.2 below.
- 3.4.3 Advania continuously documents in writing the measures taken by Advania to comply with its obligations under section 3 of this Data Processing Agreement, e.g. in an information security policy. The Customer is entitled to, upon request, receive a copy of such documentation.

## **4. ASSIGNMENT OF SUB-PROCESSORS**

- 4.1 Advania may assign sub-suppliers, sub-consultant or any other third parties to Process Personal Data on behalf of the Customer ("**Sub-Processors**").
- 4.2 In the event Advania assigns a Sub-Processor, the Customer approves that Advania enters into a data processing agreement directly with the Sub-Processor. Such data processing agreement with the Sub-Processor shall include obligations

correspondent to and not less restrictive than what is set out in this Data Processing Agreement.

- 4.3 Advania shall upon assignment of a new Sub-Processor notify the Customer in writing without undue delay about the following:
  - 4.3.1 the Sub-Processor's identity (including information about full name, company registration number and address);
  - 4.3.2 the type of service that the Sub-Processor provides; and
  - 4.3.3 where (geographically) the Sub-Processor will Process Personal Data on behalf of the Customer.
- 4.4 The Customer may, in relation to the assignment of new Sub-Processors, a rights to object to the assignment of the Sub-Processor.
- 4.5 Advania shall upon the Customer's request, in addition to the information stated in section 4.3 above, provide the Customer with a copy of the data processing agreement that Advania has entered into with the Sub-Processor in accordance with section 4.2 above.
- 4.6 Advania shall be liable for the Sub-Processor's Processing of Personal Data as for its own Processing.

## **5. CONFIDENTIALITY**

- 5.1 Without prejudice to any confidentiality undertakings included in the Service Agreement, Advania shall keep and maintain all Personal Data in strict confidentiality and not disclose the Personal Data to a third party, unless otherwise authorized in advance in writing by the Customer or otherwise required by Applicable Legislation or for the performance of this Data Processing Agreement and the Service Agreement. Advania agrees that the confidentiality undertaking under this section 5 shall survive the termination of this Data Processing Agreement and shall continue to apply until all Personal Data have been returned or (upon the Customer's request) have been deleted or anonymized in a secure and irreversible manner in accordance with section 8 below.
- 5.2 The Customer undertakes to keep any and all information that the Customer may receive about Advania's security measures, routines, IT systems or that is otherwise of confidential nature, strictly confidential and not disclose confidential information about Advania or its Sub-Processors to any third party. The Customer may only disclose such information if the Customer is obligated to disclose such information according to Applicable Legislation or according to the Service Agreement or this

Data Processing Agreement. The Customer accepts that this confidentiality undertaking shall survive the termination of this Data Processing Agreement.

## **6. LIABILITY**

The provisions regarding liability set out in the Service Agreement shall apply to this Data Processing Agreement.

## **7. DATA SUBJECTS' RIGHTS**

Advania shall, insofar it is possible, take necessary technical and organizational measures in order to assist the Customer in its obligation to respond to requests from Data Subjects to exercise the Data Subject's rights according to Applicable Data Protection Legislation. Advania is entitled to remuneration for such assistance in accordance with the from time to time applicable price list.

## **8. RETURN OF PERSONAL DATA**

Upon termination of the Service Agreement, the Customer shall instruct Advania whether the Personal Data that Advania has Processed on behalf of the Customer within the scope of this Data Processing Agreement shall either, (i) be returned to the Customer, or (ii) be irreversibly deleted, unless Advania is obligated under Applicable Legislation to continue to store the Personal Data. If the Customer does not submit such instruction within thirty (30) days from the termination of the Service Agreement, Advania shall irreversibly delete the Personal Data without undue delay.

## **9. TRANSFERS TO THIRD COUNTRY**

9.1 Advania may not transfer Personal Data belonging to the Customer to a Third Country without the Customer's prior written authorization. By signing this Data Processing Agreement, the Customer authorizes any current transfers to Third Country that are necessary for Advania's provision of the Services.

9.2 Where Personal Data will, upon the Customer's prior written authorization, be transferred to and Processed in a Third Country, the Parties shall prior to such transfer of the Personal Data:

9.2.1 verify whether the Third Country according to an adequacy decision issued by the EU Commission provides an adequate level of protection for Personal Data in which case the Personal Data may be transferred to the Third Country; and if not

9.2.2 ensure that there are appropriate safeguards in place in accordance with Applicable Data Protection Legislation, e.g. standard data protection clauses adopted by the EU Commission under Applicable Data Protection Legislation, covering the transfer and Processing of Personal Data; or (in the absence of such safeguards)

9.2.3 verify whether it is possible to rely on any specific derogation provided for under Applicable Data Protection Legislation for the transfer of Personal Data in which case the Personal Data may be transferred to the Third Country only to the extent (i) that such derogation allows for the

transfer and Processing of the Personal Data, and (ii) that the Customer agrees that such specific derogation may be relied on.

9.3 For the avoidance of doubt, Personal Data may not be transferred to or Processed in a Third Country if none of the conditions outlined in section 9.2 above exists.

## **10. TERM AND TERMINATION**

10.1 This Data Processing Agreement shall be effective as of the Agreement Date and until the Service Agreement is terminated or during the period that Advania Processes Personal Data on behalf of the Customer.

10.2 The Data Processing Agreement shall survive the termination of the Service Agreement and shall continue with full force and effect until Advania (and Sub-Processors assigned by Advania) ceases to Process Personal Data on behalf of the Customer.

## **11. NON-ASSIGNMENT**

Neither of the rights nor the obligations of either Party under this Data Processing Agreement may be assigned in whole or in part without the prior written consent of the other Party, unless otherwise stated in this Data Processing Agreement.

## **12. AMENDMENTS**

Additions and amendments to this Data Processing Agreement shall be in writing and duly signed by both Parties to be valid.

## **13. GOVERNING LAW**

This Data Processing Agreement shall be governed and construed in accordance with the laws of Sweden, without regard to its conflict of law principles.

## **14. DISPUTE RESOLUTION**

14.1 Any dispute arising out of or in connection with this Data Processing Agreement shall be finally settled in accordance with the provisions regarding dispute resolution in the Service Agreement.

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# **APPENDIX 1**

## **DESCRIPTION OF THE SCOPE, PROCESSING AND USE OF PERSONAL DATA COVERED BY THE DATA PROCESSING AGREEMENT**

This Appendix 1 shall form an integral part of the Data Processing Agreement.

### **1. Categories of Data Subjects**

The following categories of Data Subjects' Personal Data will be Processed under this Data Processing Agreement:

- Employees
- Customer Contacts
- Suppliers Contacts
- Customers
- Consultants

### **2. Categories of Personal Data**

The following categories of Personal Data will be Processed:

- User ID, Employee Number, Passport Number, etc.
- Permission for systems, apps and folders
- Electronic identification information, eg logs
- Photography and movie clips
- Identification information (name, address, telephone, registration number, etc.)
- Technical monitoring of internet usage and communication patterns
- Tasks that place an individual at geographical location and location

### **3. Purpose(s) of the Processing**

The Personal Data will be Processed for the following purpose(s):

- To provide the Services under the Service Agreement
- To fulfil the other obligations that the Supplier has in accordance with the Service Agreement and this Personal Data Entry Agreement; and
- Access and permissions to the required IT systems
- Administration and allocation of IT systems
- Billing and collection handling
- Logical management in customer and supplier deliveries
- Statistics

### **4. Processing Personal Data**

The Personal Data will be subject to the following basic processing activities:

- Use of personal data for
  - User Support
- Storing personal data for



- Backup management
- Structuring
  - Client register
- Reading
  - Access to personal data
- Distribution or provision otherwise
  - To distributors and suppliers
- Waste or destruction
  - Deletion of personal data

## **5. Place of Treatment**

Advania is entitled to Process Personal Data in Third Countries in accordance with the conditions set out in Point 9 of the Agreement.

## **6. Preservation of Personal Data**

Advania will keep the Personal Data for the following periods of time for the above purposes: (Note that the processing of personal data may only be valid for the time that there is a legal basis for the treatment. When the legal basis for the treatment is terminated, treatment will be terminated and thinning / anonymization done.)

- All data will be removed at the end of the contract
- Access logs are deleted after 12 months

## **7. Handling of personal data incidents**

Advania, shall report personal data incidents as per clause 3.3 of the Agreement to the email address what has been send to us at email address. [marketplace@advania.se](mailto:marketplace@advania.se)

## **8. Handling the Registrar's Rights**

In the case of Personal Data Responsibility, Customer, requesting any handling of the Registrar's rights pursuant to Clause 7 of the Agreement, Customer shall send this request to Advania at the following email address.  
to [marketplace@advania.se](mailto:marketplace@advania.se)

Advania will confirm the order and return its response to the same email address as the request.