

Data Processor Agreement

Between

The Data Controller:

Client data and contact information as specified in the Master Agreement

and

The Data Processor:

ActionPlanner A/S

VAT number: 35388931

Diplomvej 381

2800 Kgs. Lyngby

Denmark

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Background

1. The Data Processor provides the application 'ActionPlanner' to the Data Controller. When using the application, the Data Controller is responsible for the processing of personal data in the application. The Data processor will process personal data on behalf of the Data Controller and according to the Data Controllers instructions. This Data Processing Agreement sets out the rights and obligations that apply to the Data Processor's handling of personal data on behalf of the Data Controller.

This Agreement has been designed to ensure the Parties' compliance with Article 28, sub-section 3 of **Regulation 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)**, which sets out specific requirements for the content of data processing agreements.

2. The Data Processor's processing of personal data shall take place for the purposes of fulfilment of the Parties' Master Agreement.

The Data Processing Agreement and the Master Agreement shall be interdependent and cannot be terminated separately. The Data Processing Agreement may however – without termination of the Master Agreement – be replaced by an alternative valid data processing agreement.

This Data Processing Agreement shall take priority over any similar provisions contained in other agreements between the Parties, including the Master Agreement.

3. Two appendices are attached to this Data Processing Agreement. The Appendices form an integral part of this Data Processing Agreement.

Appendix A of the Data Processing Agreement contains details about the processing as well as the purpose and nature of the processing, type of personal data, categories of data subject and duration of the processing.

Appendix B of the Data Processing Agreement contains the Data Controller's terms and conditions that apply to the Data Processor's use of Sub-Processors and a list of Sub-Processors approved by the Data Controller.

The rights and obligations of the Data Controller

The Data Controller shall be responsible to the outside world (including the data subject) for ensuring that the processing of personal data takes place within the framework of the General Data Protection Regulation and the Danish Data Protection Act.

The Data Controller shall therefore have both the right and obligation to make decisions about the purposes and means of the processing of personal data.

The Data Controller shall be responsible for ensuring that the processing that the Data Processor is instructed to perform is authorised in law.

The obligations of the Data Processor

Instructions

The Data Processor shall solely be permitted to process personal data on documented instructions from the Data Controller unless processing is required under EU or Member State law to which the Data Processor is subject; in this case, the Data Processor shall inform the Data Controller of this legal requirement prior to processing unless that law prohibits such information on important grounds of public interest, cf. Article 28, sub-section 3, para a.

The Data Processor shall immediately inform the Data Controller if instructions in the opinion of the Data Processor contravene the General Data Protection Regulation or data protection provisions contained in other EU or Member State law.

By entering into this agreement, the Data Controller instructs the Data Processor to process personal data in the following ways:

1. In accordance to applicable law
2. To fulfil the Data Processors' obligations according to 'Software License Agreement' which are the subscription terms to the application 'ActionPlanner'
3. As specified by the Data Controllers' normal use of the application 'ActionPlanner'
4. As specified in this agreement

The Data Processor is obligated to offer the Data Controller an application and related services of the highest quality possible. This obligation is fulfilled by registering how The Data Controller and its employees use the application 'ActionPlanner'. In this registration, data is processed in an anonymised form that cannot be traced back to the registrant, with the purpose of providing solutions that are customised to the Data Controller's requirements.

Confidentiality

The Data Processor shall ensure that only those persons who are currently authorised to do so are able to access the personal data being processed on behalf of the Data Controller. Access to the data shall therefore without delay be denied if such authorisation is removed or expires, e.g. If a person's employment with The Data Processor ends.

The Data Processor shall ensure that persons authorised to process personal data on behalf of the Data Controller have undertaken to observe confidentiality or are subject to suitable statutory obligation of confidentiality.

The Data Processor shall at the request of the Data Controller be able to demonstrate that the employees concerned are subject to the above confidentiality.

Security of processing

The purpose of The Data Processors' 'Information Security Policy' and internal procedures are to ensure ongoing confidentiality, integrity, resilience and the access to data.

The Data Processor shall take all the measures required pursuant to Article 32 of the General Data Protection Regulation which stipulates that with consideration for the current level, implementation costs and the nature, scope, context and purposes of processing and the risk of varying likelihood and severity for the rights and freedoms of natural persons, the Data Controller and Processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk.

The Data Processor has implemented the following measures:

- The ability to ensure ongoing confidentiality, integrity, availability and resilience of processing systems and services
- The ability to restore the availability and access to the personal data in a timely manner in the event of a technical or physical incident
- A process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing

Use of sub- processors

The Data Processor shall meet the requirements specified in Article 28, sub-section 2 and 4, of the General Data Protection Regulation in order to engage another processor (Sub-Processor).

The Data Processor shall therefore not engage another processor (Sub-Processor) for the fulfilment of this Data Processing Agreement without the prior specific or general written consent of the Data Controller.

The Data Controller's requirements for the Data Processor's engagement of other sub-processors, including the consent to the engagement of specific sub-processors, shall be specified in Appendix B to this Data Processing Agreement.

Transfer of data to third countries or international organisations

1. The Data Processor shall solely be permitted to process personal data on documented instructions from the Data Controller, including as regards transfer (assignment, disclosure and internal use) of personal data to third countries or international organisations, unless processing is required under EU or Member State law to which the Data Processor is subject; in such a case, the Data Processor shall inform the Data Controller of that legal requirement prior to processing unless that law prohibits such information on important grounds of public interest, cf. Article 28, sub-section 3, para a.
2. Without the instructions or approval of the Data Controller, the Data Processor therefore cannot within the framework of this Data Processing Agreement:
 - disclose personal data to a data controller in a third country or in an international organisation
 - assign the processing of personal data to a sub-processor in a third country
 - have the data processed in another of the Data Processor's divisions which is located in a third country

Assistance to the Data Controller

1. The Data Processor, taking into account the nature of the processing, shall, as far as possible, assist the Data Controller with appropriate technical and organisational measures, in the fulfilment of the Data Controller's obligations to respond to requests for the exercise of the data subjects' rights pursuant to Chapter 3 of the General Data Protection Regulation.

This entails that the Data Processor should as far as possible assist the Data Controller in the Data Controller's compliance with:

- notification obligation when collecting personal data from the data subject
 - notification obligation if personal data have not been obtained from the data subject
 - right of access by the data subject
 - the right to rectification
 - the right to erasure ('the right to be forgotten')
 - the right to restrict processing
 - notification obligation regarding rectification or erasure of personal data or restriction of processing
 - the right to data portability
 - the right to object
 - the right to object to the result of automated individual decision-making, including profiling
2. The Data Processor shall assist the Data Controller in ensuring compliance with the Data Controller's obligations pursuant to Articles 32-36 of the General Data Protection Regulation taking into account the nature of the processing and the data made available to the Data Processor, cf. Article 28, sub-section 3, para f.

This entails that the Data Processor should, taking into account the nature of the processing, as far as possible assist the Data Controller in the Data Controller's compliance with:

- the obligation to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk associated with the processing
- the obligation to report personal data breaches to the supervisory authority (Danish Data Protection Agency) without undue delay and, if possible, within 72 hours of the Data Controller discovering such breach unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons
- the obligation – without undue delay - to communicate the personal data breach to the data subject when such breach is likely to result in a high risk to the rights and freedoms of natural persons

- the obligation to carry out a data protection impact assessment if a type of processing is likely to result in a high risk to the rights and freedoms of natural persons
- the obligation to consult with the supervisory authority (Danish Data Protection Agency) prior to processing if a data protection impact assessment shows that the processing will lead to high risk in the lack of measures taken by the Data Controller to limit risk

The Parties' possible regulation/agreement on remuneration etc. for the Data Processor's assistance to the Data Controller shall be specified in the Parties' Master Agreement.

Notification of personal data breach

1. On discovery of personal data breach at the Data Processor's facilities or a sub-processor's facilities, the Data Processor shall without undue delay notify the Data Controller.

The Data Processor's notification to the Data Controller shall, if possible, take place within 48 hours after the Data Processor has discovered the breach to enable the Data Controller to comply with his obligation, if applicable, to report the breach to the supervisory authority within 72 hours.

2. The Data Processor shall – taking into account the nature of the processing and the data available – assist the Data Controller in the reporting of the breach to the supervisory authority.

This may mean that the Data Processor is required to assist in obtaining the information listed below which, pursuant to Article 33, sub-section 3, of the General Data Protection Regulation, shall be stated in the Data Controller's report to the supervisory authority:

- The nature of the personal data breach, including, if possible, the categories and the approximate number of affected data subjects and the categories and the approximate number of affected personal data records
- Probable consequences of a personal data breach
- Measures which have been taken or are proposed to manage the personal data breach, including, if applicable, measures to limit its possible damage

Erasure and return of data

On termination of the processing services, the Data Processor shall be under obligation, at the Data Controller's discretion, to erase all the personal data and to erase existing copies unless EU law or Member State law requires storage of the personal data.

Inspection and audit

The Data Processor shall make available to the Data Controller all information necessary to demonstrate compliance with Article 28 of the General Data Protection Regulation and this Data Processing Agreement, and allow for and contribute to audits, including inspections performed by the Data Controller or another auditor mandated by the Data Controller.

The Data Processor shall be required to provide the supervisory authorities, which pursuant to applicable legislation have access to the Data Controller's and Data Processor's facilities, or

representatives acting on behalf of such supervisory authorities, with access to the Data Processor's physical facilities on presentation of appropriate identification.

The Data Controller is entitled to initiate a review of the Data Processor's obligations under the Agreement once a year. The Data Controller must provide a detailed audit plan with a description of the scope, duration and start date at least four weeks prior to the proposed start date. For security reasons, the audit shall be done by a neutral third party after the Data Processor's choice, as it is a processing environment where multiple Data Controllers' data is processed.

If the proposed scope of the audit follows an ISAE, ISO or similar audit report conducted by a qualified third-party auditor within the previous twelve months and the Data Processor confirms that there have been no material changes in the measures under review, the Data Controller shall accept this review instead of requesting a new review of the measures already covered.

In any case, audits must take place during normal office hours on the relevant facility in accordance with the Data Processors' policies and may not unreasonably interfere with the Data Processor's usual commercial activities.

The Data Controller shall bear all costs associated with the request for review. The assistance from the Data Processor, which exceeds the general service that the Data Processor must provide as a result of applicable data protection legislation, is settled separately.

Commencement and termination

1. This Data Processing Agreement shall become effective on the date of both parties except of the Master Agreement.
2. Both Parties shall be entitled to require this Data Processing Agreement renegotiated if changes to the law or inexpediency of the provisions contained herein should give rise to such renegotiation.
3. This Data Processing Agreement may be terminated according to the terms and conditions of termination, incl. notice of termination, specified in the Master Agreement.
4. This Data Processing Agreement shall apply as long as the processing is performed. Irrespective of the termination of the Master Agreement and/or this Data Processing Agreement, the Data Processing Agreement shall remain in force until the termination of the processing and the erasure of the data by the Data Processor and any sub-processors.

Data Controller and Data Processor contacts/contact points

1. The parties may contact each other using the contact persons/contact point listed in the Master Agreement.
2. The Parties shall be under obligation continuously to inform each other of changes to contacts/contact points.

Appendix A: Information about the processing

The purpose of the Data Processor's processing of personal data on behalf of the Data Controller is:

that the Data Controller is able to use the application 'ActionPlanner' which is owned and managed by the Data Processor and that the Data Processor can provide the best service to The Data Controller when using the application.

The Data Processor's processing of personal data on behalf of the Data Controller shall mainly pertain to (the nature of the processing):

that the Data Processor makes available the application 'ActionPlanner' and hereby stores personal data about the Data Controller's employees that are relevant for the Data Controllers' use of the application and related support activities. The Data Controller adds personal data in the application.

The processing includes the following types of personal data about data subjects:

Name and e-mail address. Furthermore, it is not mandatory for the users of the application to insert the correct data about: Birthday, Phone number, Job title, Initials, Gender and Nationality.

Processing includes the following categories of data subject:

- Persons whom are employed with the Data Controller
- Persons whom are stakeholders with the Data controller, including board members, suppliers, clients, collaborators etc.

The Data Processor's processing of personal data on behalf of the Data Controller may be performed when this Data Processing Agreement commences. Processing has the following duration:

Processing shall not be time-limited and shall be performed until this Data Processing Agreement is terminated or cancelled by one of the Parties. After this Data Processor Agreement is terminated or cancelled, the personal data will be deleted permanently.

The Data Processors processing of personal data takes place on the following sites:

Servers:

- Frankfurt am Main, Germany
- Amsterdam, Holland

Client support:

- Copenhagen, Denmark

Appendix B: Terms of the Data Processor's use of sub-processors and list of approved sub-processors

Terms of the Data Processor's use of sub-processors, if applicable

The Data Processor has the Data Controller's general consent for the engagement of sub-processors. The Data Processor shall, however, inform the Data Controller of any planned changes with regard to additions to or replacement of other data processors and thereby give the Data Controller the opportunity to object to such changes. Such notification shall be submitted to the Data Controller a minimum of 1 month prior to the engagement of sub-processors or amendments coming into force.

If the Data Controller should object to the changes, the Data Controller shall notify the Data Processor of this within 14 days of receipt of the notification. The Data Controller shall only object if the Data Controller has reasonable and specific grounds for such refusal."

The Data Processor shall ensure that the Sub-Processor is subject to the same data protection obligations as those specified in this Data Processing Agreement on the basis of a contract or other legal document under EU law or the national law of the Member States, in particular providing the necessary guarantees that the Sub-Processor will implement the appropriate technical and organisational measures in such a way that the processing meets the requirements of the General Data Protection Regulation.

A copy of such a sub-processor agreement and subsequent amendments shall – at the Data Controller's request – be submitted to the Data Controller who will thereby have the opportunity to ensure that a valid agreement has been entered into between the Data Processor and the Sub-Processor. Commercial terms and conditions, such as pricing, that do not affect the legal data protection content of the sub-processor agreement, shall not re-require submission to the Data Controller.

Approved sub-processors

The Data Controller shall on commencement of this Data Processing Agreement approve the engagement of the following sub-processors:

Name	Address	Description of processing
IBM Cloud	Wilhem-Fay-Straße 30-34, 65936 Frankfurt am Main, German	Hosting of infrastructure
IBM Cloud	Paul van Vlissingenstraat 16, 1096BK Amsterdam, Netherlands	Hosting of infrastructure

The Data Controller shall on the commencement of this Data Processing Agreement specifically approve the use of the above sub-processors for the processing described for that party. The Data Processor shall not be entitled – without the Data Controller's explicit written consent – to engage a sub-processor for 'different' processing than the one that has been agreed or have another sub-processor perform the described processing.