

## Privacy policy

*Effective on:* 18 September 2020. This Privacy Policy completely replaces the previous version.

OWOX is committed to protecting your safety and privacy, and takes its responsibilities regarding the security of information very seriously.

This privacy policy explains what data OWOX collects about you, how and why OWOX uses it, who OWOX discloses it to, and how OWOX protects your privacy.

If you do not agree to this Privacy policy, please do not use our website and our services.

### 1. Who is collecting and/or processing your data?

OWOX, Inc., a company established under the laws of California, United States of America, with registration number C3725260, (referred to as “OWOX”, “we”, “us”, “our” in this Privacy Policy) is a company that collects and/or processes your data.

*Data controller.* OWOX collects some personal data from you, for example when you use OWOX website, provide feedback on OWOX services or contact OWOX. In this case, OWOX is the data controller for purposes of European data protection legislation and OWOX takes on the obligations and responsibilities of data controllers, particularly described in General Data Protection Regulation.

*Data processor.* You may decide to transfer OWOX with your clients’ personal data by using our services. In this case, you are the data controller and OWOX stands out as the data processor for purposes of European data protection legislation and OWOX takes on the obligations and responsibilities of data processor, particularly described in General Data Protection Regulation.

### 2. What personal data OWOX collects and processes?

The term “personal data” in this Privacy Policy is the information that relates to you and allows OWOX to identify you, either directly or in combination with other information that OWOX may hold. Your personal data may include for example your name, your contact details (email, telephone number), your payment details or information on how you use our website.

The personal data you provide us with is only processed and used in the manner adequate for the purpose for which it was collected. OWOX does not combine personal data that was obtained for a variety of purposes.

When providing the personal data through OWOX website, you consent to the OWOX usage of provided data in accordance with this Privacy Policy and/or any additional agreement between you and OWOX.

OWOX may collect and process the following categories of information about you:

Your contact details (name, surname, telephone number, email, company name, company website)	When you log in or create an account or project in OWOX services When you choose an offer OWOX makes available on its website When you request an OWOX services demonstration or trial When you subscribe for OWOX newsletters When you register for OWOX webinars
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	When you send a request for OWOX technical support When you send a request for third-party services information (e.g. Google Analytics 360)
Your payment details (credit card number, expiry date, etc.)	When you purchase OWOX products or services When you validate your payment details
Your IP, cookies	When you visit our website When you use our services
The communications you exchange with OWOX (for example, your emails, letters, calls, or your messages on OWOX online chat service)	When you contact OWOX or you are contacted by OWOX messages on our online chat service)
Your posts and messages on social media directed to OWOX	When you interact with OWOX on social media
Your feedback	When you reply to our requests for feedback or participate in our surveys
Information about how you use our website	When you navigate on our website
Aggregated data statistics (for personalization of user experience in services)	When you provide your access to Google Analytics account

By using our services, you may be providing us with your clients' personal data. You should therefore ensure that you have collected your clients' respective consents and approval in order to process their data in accordance with applicable data protection law and the Terms of use. We shall be entitled to: obtain, collect, distribute, record, organise, adapt or alter, retrieve, consult, align, combine, transfer, use, store, block, destroy, and conduct the international transfer (including countries that do not ensure adequate level of protection of personal data) of the personal data you provide us with. Your clients' personal data belongs to you and OWOX will follow your instructions in the regard of your client's personal data. It will be stored at Google BigQuery tables and at your Google Cloud Platform project.

We do not knowingly collect personal data from children under 16 without the consent of parents or legal guardians. You must be of age of majority in your jurisdiction to use our website or services. If you are under the age of 16, you may only use our website with the permission of your parents or legal guardian.

We do not knowingly collect personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and genetic data, or biometric data data concerning health or data concerning a natural person's sex life or sexual orientation.

## **2. Rights of data subjects**

You have certain legal rights to access certain personal data we hold about you and to obtain its correction, amendment, portability or deletion.

You may exercise those rights in your account, in the “Settings” chapter, or by contacting us via [data-protection@owox.com](mailto:data-protection@owox.com). We will respond to your request at the soonest, but in any case within 30 calendar days from the date we receive your request.

According to California Consumer Protection Act, consumers from California has the following rights:

- Right to request from OWOX:
  - (1) The categories of personal data that OWOX has collected about you,
  - (2) Categories of sources from which personal data are collected,
  - (3) Business or commercial purpose for the collection or sale of personal data,
  - (4) Categories of third parties to whom OWOX provides personal data,
  - (5) Categories of your personal data that has been sold, and categories of third parties to whom personal data has been sold,
  - (6) The specific personal data that OWOX has collected about you,You can exercise this right by using the method described above.
- The right to non-discrimination in the event you exercise your rights under the California Consumer Privacy Act.

#### **4. How and why OWOX uses your data?**

We use your personal data for the following purposes:

##### ***4.1. To provide our services to you and technical support***

OWOX uses your information to perform OWOX services in relation to your project. For example, to automatically import data into your Google Analytics account, collect Google Analytics unsampled data in your Google BigQuery project, store frequently used queries for Google BigQuery, make transactions, or when you ask for the technical assistance.

##### ***4.2. To communicate with you and manage our relationship with you***

When you provide your details to submit the request for information on our website, download any material or presentation from our website, request a demo of our services, register for webinar, start a trial or services usage, contacted us on social media, or in any other way express your interest in our services and products, we will communicate with you to respond on your request and subscribe you to our newsletter. You may unsubscribe from us or request to stop any communication with you by clicking the "unsubscribe" link on our email or by replying "unsubscribe" for any emails from our sales or marketing team (if "unsubscribe" link is unavailable). We will honor your request.

Occasionally we may need to contact you by email and/or telephone for administrative or operational reasons, for example in order to send you the confirmation regarding webinar registration, the reply for your request on the technical assistance, to remind you about trail expiry date or pending invoices.

Please be aware that these communications are not made for marketing purposes and as such, you will continue to receive them even if you opt-out from receiving marketing communications.

##### ***4.3. To personalize and improve your customer experience***

OWOX may use your personal data in order to tailor our services to your needs and preferences and to provide you with a personalised customer experience.

OWOX may also collect information on how you use our website, which pages of our website you visit most, what products you buy, in order to understand what you like. OWOX may use this information to tailor the content and offers that you see on our website and, if you have agreed to receiving marketing communications, to send you relevant messages that we think you like.

***4.4. To inform you about our news and offers that you may like***

OWOX may send you marketing communications, if you have indicated your interest in our product and services: submitted the request for information on our website, downloaded any material or presentation from our website, requested a demo of our services, registered for webinar, started a trial or services usage, contacted us on social media, or in any other way expressed your interest in our services and products..

Please note that OWOX does not share your contact details and other personal data with other companies for marketing purposes, unless OWOX has obtained your consent to do so.

If you do not want to receive marketing communications from us, you can at any time opt out from receiving marketing communications by updating your account settings or by clicking on the relevant "unsubscribe" link at the bottom of any email you received from us, or by replying "unsubscribe" for any emails from our sales or marketing team (if "unsubscribe" link is unavailable).

***4.5. To improve our services, fulfil our administrative purposes and protect our business interests and for marketing purposes***

The business purposes for which OWOX will use your information include lead's evaluation, marketing among leads and customers, accounting, billing and audit, credit or other payment card verification, fraud screening, safety, security and legal purposes, systems testing, maintenance and development.

OWOX may use anonymous data, which will not include personally identifiable information or information that identifies or would reasonably be expected to identify you, to collect the OWOX service statistics and to improve and enhance the OWOX services (the data is collected in anonymized form, e.g. in the form of derived metrics and coefficients).

***4.6. To showcase the results of using OWOX services or your feedback, only upon prior agreement with you and to the agreed extent***

***4.7. To comply with our legal obligations and compliance reasons, such as the prevention, detection, or investigation of a crime; loss prevention; or fraud.***

OWOX may also use personal information to meet its internal and external audit requirements, information security purposes, and as OWOX otherwise believe to be necessary or appropriate: (a) under applicable law, which may include laws outside your country of residence; (b) to respond to requests from courts, law enforcement agencies, regulatory agencies, and other public and government authorities, which may include such authorities outside your country of residence; (c) to enforce our terms and conditions; and (d) to protect our rights, privacy, safety, or property, or those of other persons, court order, law or governmental request.

We use your personal data based on:  
your consent,

agreement concluded with you, or to take action at your request before concluding an agreement,

compliance with our legal obligations,

based on our legitimate interests, for example, when we use cookies on our website or when we receive your data from advertising campaigns, from open public sources or as a result of communications with you.

## **5. Security of your data**

We are committed to taking appropriate technical and organisational measures to protect your personal data against unauthorised or unlawful processing and against accidental loss, destruction or damage to personal data.

Your personal information is stored behind secured networks and is only accessible by a limited number of people who have special access rights to such systems, and are required to keep the information confidential. In addition, all information you supply is encrypted using Secure Socket Layer (SSL).

Our services use official APIs from Google, Bing, Facebook, Yandex, Vkontakte and others, where it is technically applicable to access the data that you provide.

To provide access to Google services, we use OAuth authentication. This is an open authorization protocol, which provides us with limited access to protected resources for our services without passing your data for authorization in your account.

You can limit access to your data in your Google account settings at any time.

We will protect your data in the following ways:

using cryptography, where necessary;

using password, where necessary; and

restricting access to your data (i.e. access to your personal data is granted only to those of our employees or contractors for whom the access is necessary).

## **6. International transfer of data**

- 6.1. As described in this Privacy Policy, OWOX may in some instances disclose your personal data to third parties. Where OWOX discloses your personal data to a third party, we require that the third party has appropriate technical and organisational measures in place to protect your personal data.
- 6.2. The information that you provide to us will be held in our systems, which are located on our premises or those of an appointed third party.
- 6.3. We and some of our subprocessors are based outside the EEA. That is why your personal data may be accessed by and processed outside the European Economic Area, Switzerland and/or United Kingdom.
- 6.4. When we act as data controller, the transfer of personal data outside the EEA, Switzerland and/or United Kingdom is based on this Privacy Policy. In this case, we check if there is a European authorities decision that the third country, a territory or one or more specified sectors within that third country, or the international organisation in question ensures an adequate level of protection, and/or in the absence of this decision we will rely on one or more of the appropriate safeguards, referred to in Article 46 of the GDPR.

- 6.5. When you are (a) an EU-based controller (or a processor for an EU-based controller), (b) OWOX is engaged as a processor (or a subprocessor), (c) the conditions set forth under Article 3 of the GDPR are met, and (d) only to the extent that any processing of personal data by OWOX takes place in any country outside the EU (except if the country ensures an adequate level of protection as defined in Article 45 of the GDPR), the parties agree that the Standard Contractual Clauses, attached as annex to this Privacy Policy, will apply in respect to that processing, and OWOX will comply with the obligations of the 'data importer' and you will comply with the obligations of the 'data exporter'.
- 6.6. The following additional conditions shall apply during the international transfer of personal data (hereinafter — Client's Personal data) based on the Standard Contractual Clauses:
  - 6.6.1. Legal basis. If you provide us with Client's Personal Data, you should comply with the applicable EU data protection laws and regulations. As between the parties, OWOX is responsible for the lawfulness of the processing of Client's Personal Data in its capacity as a processor (or subprocessor), and you are responsible for the processing of Client's Personal Data in your capacity as a controller (or a processor for an EU-based controller).
  - 6.6.2. Subprocessor's engagement. You provide OWOX with the authorization to engage sub-processors for processing of Client's Personal Data, including transfer to third country or an international organization, provided the provisions of Standard Contractual Clauses are fulfilled. OWOX hereby confirms that it requires all of its personnel and engaged subcontractors authorized to process Client's Personal Data to commit themselves to confidentiality, or ensures that they are under an appropriate statutory obligation of confidentiality, and not to process Client's Personal Data for purposes other than as described in this Privacy Policy. This authorization should be considered as a "prior written consent" as prescribed by Clause 11 of the Standard Contractual Clauses.
  - 6.6.3. Integration with Third Party services. OWOX may provide links to integrations with Third Parties services, including, without limitation, certain Third Party services, which may be integrated directly into OWOX Services. If you elect to enable, access or use such Third Party Services, the access and use of such Third Party services is governed solely by the terms and conditions and privacy policies of such Third Party services, and OWOX does not endorse, is not responsible or not liable for, and makes no representations as to any aspect of such Third Party services, including without limitation their consent or the manner in which they handle Client's Personal Data or any interaction between you and the provider of such Third Party services. The provider of Third Party services shall not be deemed subprocessors for any purpose under this Privacy Policy.
  - 6.6.4. International Transfer. You acknowledge that OWOX and its subprocessors may maintain data processing operations in countries that are outside of the EEA, Switzerland and the UK.
- 1.1.1. Limitation of Liability. Notwithstanding anything to the contrary, will either party of this Privacy Policy, their affiliates, officers, directors, employees, agents, service providers, suppliers or licensors be liable to the other party or any third party for any lost profits,

lost sales, lost data (being data lost in the course of transmission via Your system or over the internet through no fault of OWOX), loss of goodwill, or for any type of indirect, incidental loss or damages, incurred by the other party in connection with this Privacy Policy. For the avoidance of doubt, this provision shall not be construed as limiting the liability of either party with respect to claims brought by data subjects.

## **7. Term for data storage**

OWOX will not store your personal data for longer than is necessary for the purpose for which it was provided or collected. OWOX will only retain the personal data that serves a legitimate purpose (e.g. applicable legal regulations may require the retention of data, or some data may be necessary for the purposes of billing outstanding amounts).

After 2 years from the moment of last visit of OWOX website, your account and your unsubscription from OWOX newsletters, OWOX at its sole discretion delete your personal data or anonymize it.

OWOX will also delete your personal data within 30 calendar days upon receiving your request for data erasure.

OWOX reserves its right to retain a part of personal data, which are required by applicable law and for the term, required by applicable law (e.g. applicable law may require that some personal data shall be retained for tax accounting or for issues of the invoice for unpaid fees).

## **8. Sharing your personal data**

OWOX uses a limited number of third party providers to assist us in providing the services to our customers. Third parties may access, process or store personal data in the framework and upon our instructions only. OWOX may share your information with the following persons:

*Affiliates.* OWOX may disclose your information to its affiliates or subsidiaries, which may use your information to provide services to you or to communicate with you regarding services provision on OWOX behalf.

*Service Providers.* OWOX may disclose the information it collects from you to third party vendors, service providers, contractors or agents who perform functions on OWOX behalf.

*Other Third Parties.* OWOX may disclose your information to third parties upon your instructions to do so. For example, when you ask OWOX to transfer the data from your CRM to your Google BigQuery project.

*Credit and debit card companies.* OWOX may disclose your payment details strictly to the companies that process the card payments for the purposes of processing of payment for OWOX services.

*Business Transfers.* If OWOX is acquired by or merged with another company, if substantially all of OWOX assets are transferred to another company, or as part of a bankruptcy proceeding, OWOX may transfer the information it has collected from you to this company.

## **9. Cookies or other tracking technologies**

In order to improve our services, to provide you with more relevant content and to analyse how visitors use our website, or for direct marketing purposes, we may use technologies, such as cookies, local storage and pixels. Please be aware that in most cases we will not be able to identify you from the information we collect using these technologies.

For example, we use software to monitor customer traffic patterns and website usage to help us develop the design and layout of the website in order to enhance the experience of the visitors to our website. In addition, in order to understand how our customers interact with the emails and the content that we send, we use pixels that allow us to know if the emails we send are opened.

We use cookies and local storage on our website. These technologies are small pieces of information stored by your browser on your computer's hard drive. On your further visits to that website, the information stored in the cookie is sent back to the website. This allows the website to recognise you and tailor its content to your needs.

*What cookies does OWOX use?*

We use the following types of cookies:

(i) essential cookies, which are essential for the provision of access to our websites and Services;

(ii) functionality cookies, which are used to personalize the content in accordance with your actions on our website;

(iii) performance cookies, which do not identify you individually (until you enter your identification details in any of our forms) but help us to evaluate the website performance and its statistics; and

(iv) targeting/advertising cookies, which help advertise OWOX offers and services on the other sites.

We also use analytics and similar services that collect third-party cookies:

1. Google Analytics, Google Optimize, and Google AdWords (Google Privacy Policy is available at <https://policies.google.com/technologies/ads?hl=en>, text and URL may be changed by Google sole discretion),

2. Intercom (Intercom Privacy Policy is available at <https://www.intercom.com/terms-and-policies#privacy>, text and URL may be changed by Intercom sole discretion),

3. Facebook (Facebook Privacy Policy is available at <https://www.facebook.com/policy.php>, text and URL may be changed by Facebook sole discretion),

4. Twitter (Twitter Privacy Policy is available at <https://twitter.com/en/privacy>, text and URL may be changed by Twitter sole discretion),

5. LinkedIn (LinkedIn Privacy Policy is available at <https://www.linkedin.com/legal/preview/privacy-policy>, text and URL may be changed by LinkedIn sole discretion).

6. Yandex.Metrics (Yandex Privacy Policy is available at <https://yandex.ru/support/legal/confidential/index.html?lang=en>, text and URL may be changed at Yandex sole discretion),

7. AdMixer (AdMixer Privacy Policy is available at <https://sales.admixer.ua/privacy>, text and URL may be changed by AdMixer sole discretion),

8. Zendesk (Zendesk Privacy Policy is available at <https://www.zendesk.com/company/customers-partners/privacy-policy/>, text and URL may be changed by Zendesk sole discretion),



9. Albacross (Albacross Privacy Policy is available at <https://albacross.com/privacy-policy/>, text and URL may be changed by Albacross sole discretion),

10. Other services.

#### *How to reject or delete cookies?*

Most web browsers automatically accept cookies. However, you do not have to accept cookies and you can, should you choose to at any time, reject or block the use of cookies and delete all cookies currently stored on your device. You can find out how to do this for your particular browser by clicking “help” on your browser’s menu, or by visiting: [www.allaboutcookies.org](http://www.allaboutcookies.org), <http://www.youronlinechoices.com/uk/your-ad-choices>, <http://optout.networkadvertising.org/>.

However, if you turn off cookies, the functionality of our Services may be limited (i.e. in the case of essential cookies you may not be able to access our websites, your account and services).

### **10. Links**

OWOX websites may contain links to others websites, which are owned and operated independently of OWOX. Therefore, any information you provide to those websites will be governed by their own privacy policy principles and data collection practices. OWOX assumes no responsibility or liability for information handling procedures and/or policies of such independent websites.

### **11. Revisions**

OWOX may make changes to this Privacy Policy from time to time, without the advance notice and any modifications are effective when they are posted at our website.

OWOX may make changes to this Privacy Policy including as part of the new European data protection legislation which will start to apply on 25 May 2018 (the “General Data Protection Regulation”) and Privacy Shield program.

### **12. Privacy Shield notice**

**12.1.** OWOX complies with the EU-U.S. Privacy Shield Framework and the Swiss-U.S. Privacy Shield Frameworks (referred to as “Privacy Shield”) as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information transferred from the European Union and/or the United Kingdom and/or Switzerland to the United States. OWOX has certified to the Department of Commerce that it adheres to the Privacy Shield Principles. If there is any conflict between the terms in this Privacy Policy and the Privacy Shield Principles, the Privacy Shield Principles shall govern. To learn more about the Privacy Shield program, please visit <https://www.privacyshield.gov/>.

**12.1. Questions or Complaints** You may direct any questions or complaints concerning our Privacy Shield compliance to [data-protection@owox.com](mailto:data-protection@owox.com) or at our mailing address: 340 S Lemon Ave Ste 2021 Walnut CA 91789 United States.

We will respond to you to resolve your issue as soon as possible but in any event within 30 days from receiving your letter.

**12.2 Dispute Resolution** If you have not received timely response to your concern, or we have not addressed your concern to your satisfaction, you may seek further assistance, at no cost to you, from EU Data Protection Authorities for EU/EEA/UK Data Subjects (available at [http://ec.europa.eu/justice/article-29/structure/data-protection-authorities/index\\_en.htm](http://ec.europa.eu/justice/article-29/structure/data-protection-authorities/index_en.htm)), and the Swiss Federal Data Protection and Information Commissioner for Swiss Data Subjects (available at <https://www.edoeb.admin.ch/edoeb/en/home/the-fdpic/task.html>), which are an independent dispute resolution bodies.

**12.3. Arbitration** You may also be able to invoke binding arbitration for unresolved complaints but prior to initiating such arbitration, a resident of a European country participating in the Privacy Shield must first: (1) contact us and afford us the opportunity to resolve the issue; (2) seek assistance from EU Data Protection Authorities for EU/EEA/UK Data Subjects, and the Swiss Federal Data Protection and Information Commissioner for Swiss Data Subjects; and (3) contact the U.S. Department of Commerce (either directly or through a European Data Protection Authority) and afford the Department of Commerce time to attempt to resolve the issue. If such a resident invokes binding arbitration, each party shall be responsible for its own attorney's fees. Please be advised that, pursuant to the Privacy Shield, the arbitrator(s) may only impose individual-specific, non-monetary, equitable relief necessary to remedy any violation of the Privacy Shield Principles with respect to the resident.

**U.S. Federal Trade Commission Enforcement** Our Privacy Shield compliance is subject to the investigatory and enforcement powers of the U.S. Federal Trade Commission (FTC).

### **13. Contact information**

Questions, comments and requests regarding this privacy policy are welcomed and should be addressed to [data-protection@owox.com](mailto:data-protection@owox.com).

You may also send your request to our data protection officer – Maksym Voloshyn, email: [data-protection@owox.com](mailto:data-protection@owox.com).

For EU and EEA citizens — you may also contact our EU Data Representative: OWOX limited, Boumpoulinas 11, 1st floor, 1060 Nicosia Cyprus.

Statement for the performance of California Consumer Protection Act:

Effective from 01 January 2020

Based on Article 1278.130 California Consumer Protection Act we inform you on the following actions, performed in the past 12 months:

1. OWOX collected the following categories of personal data: personal data, listed in paragraph 2 of OWOX Inc Privacy Policy,
2. OWOX did not sell personal data to third parties,
3. OWOX disclosed for a business purposes to its contractors and processors: personal data, listed in paragraph 2 of OWOX Inc Privacy Policy.

### **Standard Contractual Clauses (processors)**

for the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection

**Name of the data exporting organisation: You, when You act as an EU-based Controller (or a Processor for an EU-based Controller) (the data exporter)**

And

**Name of the data importing organisation: OWOX, Inc.**, with its registered office at Suite 340 S Lemon Ave Ste 2021 Walnut CA 91789 United States, **(the data importer)**, each a “party”; together “the parties”,

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix:

#### ***Clause 1. Definitions***

For the purposes of the Clauses:

- (a) *'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority'* shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- (b) *'the data exporter'* means the controller or processor who transfers the personal data;
- (c) *'the data importer'* means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;
- (d) *'the subprocessor'* means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;
- (e) *'the applicable data protection law'* means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;
- (f) *'technical and organisational security measures'* means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

#### ***Clause 2. Details of the transfer***

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

**Clause 3. *Third-party beneficiary clause***

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.
2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.
3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

**Clause 4. *Obligations of the data exporter***

The data exporter agrees and warrants:

- (a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;
- (b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;
- (c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;
- (d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;
- (e) that it will ensure compliance with the security measures;
- (f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;
- (g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;
- (h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well

as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

- (i) that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and
- (j) that it will ensure compliance with Clause 4(a) to (i).

**Clause 5. Obligations of the data importer**

The data importer agrees and warrants:

- (a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- (b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- (c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;
- (d) that it will promptly notify the data exporter about:
  - (i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,
  - (ii) any accidental or unauthorised access, and
  - (iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;
- (e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;
- (f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;
- (g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;
- (h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;
- (i) that the processing services by the subprocessor will be carried out in accordance with Clause 11;
- (j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

#### **Clause 6. Liability**

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.
2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity.  
The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.
3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

#### **Clause 7. Mediation and jurisdiction**

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:
  - (a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;
  - (b) to refer the dispute to the courts in the Member State in which the data exporter is established.
2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

#### **Clause 8. Cooperation with supervisory authorities**

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.
2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.
3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

#### **Clause 9. Governing Law**

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

***Clause 10. Variation of the contract***

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

***Clause 11. Subprocessing***

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.
2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.
4. The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5 (j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

***Clause 12. Obligation after the termination of personal data processing services***

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.
2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

**Appendix 1 to the Standard Contractual Clauses**

**Data exporter** is: providing personal data to the data importer necessary for the provision of services by the data importer to the data exporter.

**Data importer** is: processing personal data of the data exporter in accordance with the instructions of the data exporter in order to deliver services to the data exporter.

**Data subjects**

The personal data transferred concern the following categories of data subjects: **Natural persons employed or otherwise engaged by the data exporter, customers of the data exporter and other users of data exporter products or services, employees of the data exporter**

**Categories of data**

The personal data transferred concern the following categories of data: **Names, email address, phone number, username, cookies, IP address, first name, last name, subscription information.**

**Special categories of data (if appropriate)**

The personal data transferred concern the following special categories of data (*please specify*):  
N/A

**Processing operations**

The personal data transferred will be subject to activities necessary to provide the data exporter with products and services, such as: collection; recording; organisation; structuring; storage; adaptation or alteration; retrieval; consultation; use; disclosure by transmission; dissemination or otherwise making available; alignment or combination; restriction; erasure or destruction.

**Appendix 2 to the Standard Contractual Clauses**

Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

Data importer shall implement technical and organisational measures specified in Privacy Policy.