



Appendix 4: EEA Controller to Processor Clauses

(Module 2)

This attachment is attached to and forms part of the Data Processing Addendum between Open Text and have the meanings given to them in the DPA.

SECTION I

(P)-7E114.U73 65TTo 16 2sc0To1To6ToTd12 76To7To9q01BT/GSTd12 7 tW*n588.17 q01E14icu (o88.(o)11oc)-1p88.

Clause 1

Purpose and scope

Clause 2

Effect and invariability of the Clauses

- a) These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46(2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.
- b) These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

Clause 3

Third-party beneficiaries

- a) Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:
 - i. Clause 1, Clause 2, Clause 3, Clause 6, Clause 7;
 - ii. Clause 8 Clause 8.1(b), 8.9(a), (c), (d) and (e);
 - iii. Clause 9 Clause 9(a), (c), (d) and (e);
 - iv. Clause 12 Clause 12(a), (d) and (f);
 - v. Clause 13;
 - vi. Clause 15.1(c), (d) and (e);
 - vii. Clause 16(e);
 - viii. Clause 18 Clause 18(a) and (b).
- b) Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

Clause 4

Interpretation

- a)

- b) These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.
- c) These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

Clause 5

Hierarchy

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

Clause 6

Description of the transfer(s)

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

Clause 7

Docking clause

- a) An entity that is not a Party to these Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer, by completing the Appendix and signing Annex I.A.
- b) Once it has completed the Appendix and signed Annex I.A, the acceding entity shall become a Party to these Clauses and have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex I.A.
- c) The acceding entity shall have no rights or obligations arising under these Clauses from the period prior to becoming a Party.

SECTION II OBLIGATIONS OF THE PARTIES

Clause 8

Data protection safeguards

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

8.1 Instructions

- a) The data importer shall process the personal data only on documented instructions from the data exporter. The data exporter may give such instructions throughout the duration of the contract.
- b) The data importer shall immediately inform the data exporter if it is unable to follow those instructions.

8.2 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in An0.624 rg/Gific x0 0 612 792 reW*nBT/GS0 gs/TT0 10 Tf196.33 548.17 T5()TjET@ 0 612 792 reW*nBT/GS0 gs/T

the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the

Clause 9**Use of sub-processors**

- a) processor(s) from an agreed list. The data importer shall specifically inform the data exporter in -

Clause 10

Data subject rights

- a) The data importer shall promptly notify the data exporter of any request it has received from a data subject. It shall not respond to that request itself unless it has been authorised to do so by the data exporter.
- b) The data importer shall assist the data exporter in fulfilling its obligations to respond to data subjects
the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.
- c) In fulfilling its obligations under paragraphs (a) and (b), the data importer shall comply with the instructions from the data exporter.

Clause 11

Redress

- a) The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.
- b)

Clause 12

Liability

- a) Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.
- b) The data importer shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data importer or its sub-processor causes the data subject by breaching the third-party beneficiary rights of the data subject under the Clauses.
- c) Notwithstanding paragraph (b), the data exporter shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-

Clause 15

Obligations of the data importer in case of access by public authorities

15.1 Notification

- a) The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary, with the help of the data exporter) if it:
 - i. receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or
 - ii. becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.
- b) If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate

ANNEX I

A - LIST OF PARTIES

Where there is a Restricted Transfer, Customer is the Controller and Open Text is the Processor, then Customer is the data exporter and Open Text is the data importer.

See Principal Agreement for the following information in respect of each party: name; address; contact person's name, position and contact details.

See Description of Transfer Appendix of the DPA for activities relevant to the data transferred under these Clauses.

B - DESCRIPTION OF TRANSFER

See Description of Transfer Appendix of the DPA.

C - COMPETENT SUPERVISORY AUTHORITY

The supervisory authority shall be the competent supervisory authority that has supervision over the Customer in accordance with Clause 13 of the EEA Controller to Processor SCCs

ANNEX II

TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

See Technical and Organisational Measures of the DPA.