



## Service Level Agreement



## DPA Annex 1: Description of the transfer



## Data Processing Agreement



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# Data Processing Agreement

## 1. Preamble

This Data Processing Agreement (the “**DPA**”) applies to the relationship between the customer subscribing to the services (hereinafter **Customer**) provided by Actual Reports OÜ, a company incorporated under the laws of Republic of Estonia, seated in under the registration number 12318670 (hereinafter **Supplier**) and governs the processing of personal data that Customer uploads or otherwise provides to Supplier in connection with the PDF Generator API services.

## 2. Definitions

- “**Customer Personal Data**” means Personal Data that Customer uploads or otherwise provides the Supplier.
- “**Data Protection Requirements**” means the General Data Protection Regulation, Local Data Protection Laws, any subordinate legislation and regulation implementing the General Data Protection Regulation.
- “**EU Personal Data**” means Personal Data the sharing of which pursuant to this DPA is regulated by the General Data Protection Regulation and Local Data Protection Laws.
- “**General Data Protection Regulation**” means the European Union Regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data.
- “**Local Data Protection Laws**” means any subordinate legislation and regulation implementing the General Data Protection Regulation which may apply to the DPA.

- **"Personal Data"** means information about an individual that (a) can be used to identify, contact or locate a specific individual, including data that Customer chooses to provide to the Supplier from services such as customer-relationships management (CRM) services.
- **"Personal Data Breach"** means any accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Customer Personal Data.
- **"Privacy Laws"** means all applicable laws, regulations, and other legal requirements relating to (a) privacy, data security, consumer protection, marketing, promotion, and text messaging, email, and other communications; and (b) the use, collection, retention, storage, security, disclosure, transfer, disposal, and other processing of any Personal Data.
- **"Process"** and its cognates mean any operation or set of operations which are performed on Personal Data or on sets of Personal Data, whether or not by automated means, 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.
- **"Subprocessor"** means any entity which provides processing services to Supplier in furtherance of Supplier's processing on behalf of Customer.
- **"Supervisory Authority"** means Estonian Data Inspectorate

### 3. Nature of data processing

Supplier is a data processor, who processes data on behalf of the Customer. Customer is a data controller. Supplier agrees to process Personal Data received under the DPA only for the purposes set forth in the DPA. For the avoidance of doubt, the categories of Personal Data processed are described in Schedule A to this DPA.

### 4. Compliance with laws

The parties shall each comply with their respective obligations under all applicable Data Protection Requirements.

## **5. Customer obligations**

Customer agrees to:

Provide instructions to Supplier and determine the purposes and general means of Supplier's processing of Customer Personal Data in accordance with the DPA; and Comply with its protection, security and other obligations with respect to Customer Personal Data prescribed by Data Protection Requirements for data controllers by: (a) establishing and maintaining a procedure for the exercise of the rights of the individuals whose Customer Personal Data are processed on behalf of Customer; (b) processing only data that has been lawfully and validly collected and ensuring that such data will be relevant and proportionate to the respective uses; and (c) ensuring compliance with the provisions of this DPA by its personnel or by any third-party accessing or using Customer Personal Data on its behalf.

The Customer is responsible for obtaining consent from data subjects, where applicable. Consent is an indication from the data subject to allow Customer Personal Data processed by the Customer. Consent needs to be in a written or electronic form.

## **6. Supplier's obligations**

### **6.1 Processing Requirements**

Supplier will:

- Process Customer Personal Data (i) only for the purpose of providing, supporting and improving Supplier's services, using appropriate technical and organisational security

measures; and (ii) in compliance with the instructions received from Customer. Supplier will not use or process the Customer Personal Data for any other purpose. Supplier will promptly inform Customer if it cannot comply with the requirements under Sections 5-8 of this DPA, in which case Customer may terminate the DPA or take any other reasonable action, including suspending data processing operations;

- Inform Customer promptly if, in Supplier's opinion, an instruction from Customer violates applicable Data Protection Requirements;
- Take commercially reasonable steps to ensure that (i) persons employed by it and (ii) other persons engaged to perform on Supplier's behalf comply with the terms of the DPA;
- Ensure that its employees, authorised agents and any Subprocessors are required to comply with and acknowledge and respect the confidentiality of the Customer Personal Data, including after the end of their respective employment, contract or assignment;
- If it intends to engage Subprocessors to help it satisfy its obligations in accordance with this DPA or to delegate all or part of the processing activities to such Subprocessors, (i) exclusive of the list of Subprocessors Supplier maintains online, obtain the prior written consent of Customer to such subcontracting, such consent to not be unreasonably withheld; (ii) remain liable to Customer for the Subprocessors' acts and omissions with regard to data protection where such Subprocessors act on Supplier's instructions; and (iii) enter into contractual arrangements with such Subprocessors binding them to provide the same level of data protection and information security to that provided for herein;
- Upon request, provide Customer with a summary of Supplier's privacy and security policies; and
- Inform Customer if Supplier undertakes an independent security review.

## **6.2 Notice to Customer**

Supplier will inform Customer if Supplier becomes aware of:

- Any non-compliance by Supplier or its employees with Sections 5-8 of this DPA or the

Data Protection Requirements relating to the protection of Customer Personal Data processed under this DPA;

- Any legally binding request for disclosure of Customer Personal Data by a law enforcement authority, unless Supplier is otherwise forbidden by law to inform Customer, for example to preserve the confidentiality of an investigation by law enforcement authorities;
- Any notice, inquiry or investigation by a Supervisory Authority with respect to Customer Personal Data; or
- Any complaint or request (in particular, requests for access to, rectification or blocking of Customer Personal Data) received directly from data subjects of Customer Supplier will not respond to any such request without Customer's prior written authorisation.

## **6.3 Assistance to Customer**

Supplier will provide reasonable assistance to Customer regarding:

- Any requests from Customer data subjects in respect of access to or the rectification, erasure, restriction, portability, blocking or deletion of Customer Personal Data that Supplier processes for Customer. In the event that a data subject sends such a request directly to Supplier, where we will promptly send such request to Customer;
- The investigation of Personal Data Breaches and the notification to the Supervisory Authority and Customer's data subjects regarding such Personal Data Breaches; and
- Where appropriate, the preparation of data protection impact assessments and, where necessary, carrying out consultations with any Supervisory Authority.

## **6.4 Required Processing**

If Supplier is required by Data Protection Requirements to process any Customer Personal Data for a reason other than providing the services described in the Terms of Service, Supplier will inform Customer of this requirement in advance of any processing,

unless Supplier is legally prohibited from informing Customer of such processing (e.g., as a result of secrecy requirements that may exist under applicable EU member state laws).

## **6.5 Security**

Supplier will:

- Maintain appropriate organisational and technical security measures (including with respect to personnel, facilities, hardware and software, storage and networks, access controls, monitoring and logging, vulnerability and breach detection, incident response, encryption of Customer Personal Data while in transit and at rest) to protect against unauthorised or accidental access, loss, alteration, disclosure or destruction of Customer Personal Data;
- Be responsible for the sufficiency of the security, privacy, and confidentiality safeguards of all Supplier personnel with respect to Customer Personal Data and liable for any failure by such Supplier personnel to meet the terms of this DPA;
- Take reasonable steps to confirm that all Supplier personnel are protecting the security, privacy and confidentiality of Customer Personal Data consistent with the requirements of this DPA; and
- Notify Customer of any Personal Data Breach by Supplier, its Subprocessors, or any other third-parties acting on Supplier's behalf without undue delay and in any event within 48 hours of becoming aware of a Personal Data Breach.

## **7. Liability and audit**

### **7.1 Liability**

The Supplier shall be liable for damage caused in the course of processing if it has not complied with the requirements of the applicable legislation specifically addressed to the Supplier, or if it has not complied with or acted against the lawful instructions of the Customer. If the Customer or the Supplier has fully compensated for the damage caused, that Customer or Supplier shall be entitled to recover from the other controllers or processors involved in the same processing the part of the compensation corresponding to the part of the damage for which they are responsible.

The Customer shall reimburse the Supplier for all costs and protect it against claims, damages and expenses incurred by the Supplier or for which the Supplier may be held liable in connection with the performance of its obligations under this DPA due to the Customer or its employees or agents.

The obligations set out above shall survive the termination, cancellation or expiration of this DPA and/or the Terms of Service.

## **7.2 Supervisory Authority Audit**

If a Supervisory Authority requires an audit of the data processing facilities from which Supplier processes Customer Personal Data in order to ascertain or monitor Customer's compliance with Data Protection Requirements, Supplier will cooperate with such audit. Customer is responsible for all costs and fees related to such audit, including all reasonable costs and fees for any and all time Supplier expends for any such audit, in addition to the rates for the performed services.

## **8. Data transfers**

The Supplier shall not have the right to transfer personal data to a third party or to grant access to a third party, e.g. by giving remote access to personal data (all understood as a transfer) or to involve Subprocessor to process personal data (the above-mentioned



transfer and subprocessing activities are collectively referred to as the transfer of personal data to a third party) without written consent. Upon consent, the transfer of personal data by the Supplier shall be subject to the establishment of the same data protection obligations as provided for in this data processing agreement before the transfer of personal data to the relevant third party. The consent shall not be required for those Subprocessor (service providers) listed in Annex 1.

This consent shall be valid until the earliest of the following: (i) if the Customer notifies the Supplier of the withdrawal of the consent; or (ii) if the Supplier notifies the Customer that the Supplier no longer uses the approved third party for that purpose.

If the Customer does not consent to the transfer of personal data to a third party for the reason that the Customer considers reasonable, the Supplier shall continue to perform the Agreement and the data processing agreement under the agreed conditions until the following events occur: (i) The Parties have agreed to terminate the Agreement related to the processing of personal data and have ensured the return of the relevant personal data to the Customer (or deletion, as the case may be) or have agreed to transfer the Agreement to a new service provider, which can in no case take longer than three (3) months; or (ii) the Parties have agreed how the performance of the Agreement will continue, including the relevant costs and in a manner reasonably acceptable to the Customer.

If the third party subprocessor does not comply with the applicable data protection legislation or does not comply with the data protection obligations arising from the Agreement with the Customer, the Supplier shall remain fully liable to the Customer for the third party obligations under applicable data protection legislation and the relevant Agreement.

## **9. Data return and deletion**

The parties agree that on the termination of the data processing services or upon Customer's reasonable request, Supplier shall, and shall cause any Subprocessors to, at

the choice of Customer, return all the Customer Personal Data and copies of such data to Customer or securely destroy them and demonstrate to the satisfaction of Customer that it has taken such measures, unless Data Protection Requirements prevent Supplier from returning or destroying all or part of the Customer Personal Data disclosed. In such case, Supplier agrees to preserve the confidentiality of the Customer Personal Data retained by it and that it will only actively process such Customer Personal Data after such date in order to comply with applicable laws.

## **10. Third party data processors**

Customer acknowledges that in the provision of some services (such as CRMs), Supplier, on receipt of instructions from Customer, may transfer Customer Personal Data to and otherwise interact with third party data processors. Customer agrees that if and to the extent such transfers occur, Customer is responsible for entering into separate contractual arrangements with such third-party data processors binding them to comply with obligations in accordance with Data Protection Requirements. For avoidance of doubt, such third-party data processors are not Subprocessors.

## **11. Term of the agreement**

This DPA shall remain in effect as long as Supplier carries out Personal Data processing operations on behalf of Customer or until the termination of the Terms of Service (and all Personal Data has been returned or deleted in accordance with Section 8 above).

## **12. Governing law, jurisdiction and venue**

Disputes arising from or related to the DPA will be resolved through negotiations. In case of failure of negotiation uses, disputes shall be settled in Harju County Court based on

legislation in force in the Republic of Estonia.

## Version Date

**Data Processing Agreement Version Date:** July 22, 2020



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