**Data Processing Agreement Schedule**

1. **INTRODUCTION**

1.1 To the extent that the Agency is processing Client Personal Data as part of the Services, the terms contained in this Schedule will apply.

1.2 If the Services are altered during the term of the Agreement and the altered Services involve new or amended processing of Client Personal Data, the parties will ensure that the Annex is updated as appropriate before such processing commences.

1.3 If there is any conflict or inconsistency between this Schedule and the main documents of the Agreement, this Schedule will take precedence and apply to the extent of the conflict or inconsistency.

1.4 In respect of all processing of Client Personal Data carried out pursuant to the Agreement the parties agree that the Agency is the processor and that the Client is the controller.

1.5 The parties shall comply with and process all Client Personal Data in accordance with applicable Data Protection Legislation.

2. **DEFINITIONS**

2.1 For the purposes of this Schedule, capitalised terms shall have the meanings given below:

“**Agency**" has the meaning set out in the Agreement.

 "Agreement" means the contract between the Agency and the Client to which this Schedule is attached.

"**Applicable Law**" means (i) any and all laws, statutes, regulations, by-laws, orders, ordinances and court decrees that apply to the performance and supply of the Services or the processing of Client Personal Data, and (ii) the terms and conditions of any applicable approvals, consents, exemptions, filings, licences, authorities, permits, registrations or waivers issued or granted by, or any binding requirement, instruction, direction or order of, any applicable government department, authority or agency having jurisdiction in respect of that matter.

"**Client**" means the Client as set out in the Agreement.

"**Client Personal Data**" means personal data provided or made available to the Agency, or collected or created for the Client, in connection with the Agreement, as described in more detail in the Annex.

"Data Protection Legislation" means as set out in the Agreement.

“**DP Losses**” means all liabilities, including all: (a) costs (including legal costs), claims, demands, actions, settlements, ex-gratia payments, charges, procedures, expenses, losses and damages (including relating to material and non-material damage); and (b) to the extent permitted by Applicable Law: (i) administrative fines, penalties, sanctions, liabilities or other remedies imposed by a court or regulatory authority; (ii) compensation to a data subject ordered by a court or regulatory authority; and (iii) the costs of compliance with investigations by a regulatory authority.

 “**Processing Instructions**” has the meaning set out in paragraph 3.2.1.

"**Security Incident**" means the accidental or unlawful destruction, loss, alteration or unauthorised disclosure of, or access to, Client Personal Data while in the custody of the Agency or a Sub-Processor.

"**Services**" means the services to be provided by the Agency to the Client pursuant to the Agreement.

“**Sub-Processor**” means another processor engaged by the Agency for carrying out processing activities in respect of the Client Personal Data on behalf of the Client.

3. **PROCESSING**

3.1 The Annex to this Schedule:

3.1.1 describes the processing of Client Personal Data permitted in connection with the Agreement;

3.1.2 lists the Sub-Processors (if any) who the Client agrees may process Client Personal Data; and

3.1.3 sets out the circumstances (if any) in which the Client agrees Client Personal Data may be disclosed to a country outside the European Economic Area.

3.2 The Agency shall:

3.2.1 unless Applicable Law requires otherwise, only process Client Personal Data on and in accordance with the Client’s documented instructions as set out in this Schedule or otherwise in writing (“Processing Instructions”);

3.2.2 unless prohibited by Applicable Law, notify the Client if Applicable Law requires it to process Client Personal Data other than in accordance with Processing Instructions (such notification to be given before such processing commences); and

3.2.3 notify the Client if, in its opinion, the processing of Client Personal Data in accordance with Processing Instructions infringes Data Protection Legislation.

3.3 The Agency shall not permit any Sub-Processor to process Client Personal Data without:

3.3.1 the Client’s prior written approval (not to be unreasonably withheld, conditioned or delayed) (such approval having already been provided in respect of those Sub-Processors listed in the Annex); and

3.3.2 entering into a contract which binds the Sub-Processor to substantially similar obligations with respect to the processing of Client Personal Data as to which the Agency is bound by this Schedule, and the Agency agrees that if a Sub-Processor fails to fulfil its obligations under the contract required by paragraph 3.3.2 the Agency shall remain fully liable to the Client for the Sub-Processor’s performance.

3.4 After the business purposes for which Client Personal Data was processed have been fulfilled (or earlier upon the Client’s written request) the Agency shall, at the Client’s option, either delete or return all Client Personal Data and delete any existing copies of the same (unless storage of such copies is required by Applicable Law).

4. **CLIENT WARRANTIES**

4.1 The Client warrants and represents that:

4.1.1 the processing of Client Personal Data by the Client will be carried out in accordance with Data Protection Legislation;

4.1.2 the Agency is entitled to process Client Personal Data pursuant to the Agreement for the purpose of providing the Services and such use will comply with Data Protection Legislation;

4.1.3 all Client Personal Data provided by the Client to the Agency is necessary, accurate and up-to-date;

4.1.4 all Processing Instructions shall at all times be in accordance with Data Protection Legislation; and

4.1.5 it is satisfied that:

4.1.5.1 the Agency’s processing operations are suitable for the purposes for which the Client proposes to use the Services and engage the Agency to process Client Personal Data; and

4.1.5.2 the Agency has sufficient expertise, reliability and resources to implement technical and organisational measures that meet the requirements of Data Protection Legislation.

5. **SECURITY AND DELEGATION**

5.1 The Agency shall:

5.1.1 implement and maintain throughout the term of the Agreement appropriate technical and organisational measures intended to protect Client Personal Data against accidental, unauthorised or unlawful access, disclosure, alteration, loss, damage or destruction; and

5.1.2 take reasonable steps to ensure that its personnel do not process Client Personal Data other than in accordance with Processing Instructions (unless required to do so by Applicable Law) and are obligated to maintain the security and confidentiality of any Client Personal Data to which they have access.

6. **NOTIFICATIONS**

6.1 The Agency shall, without undue delay, notify the Client if:

6.1.1 it becomes aware of a Security Incident; or

6.1.2 it receives a request from or on behalf of a data subject of Client Personal Data to exercise any of the rights given to data subjects by Data Protection Legislation.

6.2 The Agency shall (at the Client’s expense) provide such further information and assistance as the Client reasonably requires in handling and responding to such notifications in accordance with its obligations under Data Protection Legislation.

7. **INSPECTIONS AND ASSISTANCE WITH REGULATORS**

7.1 Subject to reasonable written advance notice from the Client the Agency shall:

7.1.1 permit the Client to conduct (and shall contribute to) audits and inspections of its systems and processes in relation to the processing of Client Personal Data subject to the Client ensuring:

7.1.1.1 that such audit or inspection is undertaken during normal business hours and with minimal disruption to the Agency’s business and the business of other clients of the Agency; and

7.1.1.2 that all information obtained or generated by the Client or its auditor(s) in connection with such audits and inspections is kept strictly confidential (save for disclosure to a regulatory authority or as otherwise required by Applicable Law);

7.1.2 give the Client such information as is reasonably necessary to verify that the Agency is in compliance with its obligations under Data Protection Legislation; and

7.1.3 co-operate and assist the Client with any data protection impact assessments and consultations with any regulatory authority that the Client reasonably considers are relevant pursuant to Data Protection Legislation in relation to the Client Personal Data.

7.2 The cost of such audit, inspection, provision of information or data protection impact assessment shall be borne by the Client.

7.3 The Client may require the Agency to conduct an audit or inspection of the Sub-Processor’s systems and processes in relation to the processing of Client Personal Data. The cost of such an audit or inspection shall be borne by the Client.

8. **INDEMNITY AND LIMITATION OF LIABILITY**

8.1 Subject to the limitation in paragraph 8.3, the Client shall indemnify and keep indemnified the Agency in respect of all DP Losses suffered or incurred by, awarded against or agreed to be paid by, the Agency and any Sub-Processor arising from or in connection with any:

8.1.1 non-compliance by the Client with Data Protection Legislation;

8.1.2 processing carried out by the Agency or any Sub-Processor pursuant to any Processing Instruction that infringes Data Protection Legislation; or

8.1.3 breach by the Client of any of its obligations under this Schedule,

except to the extent that the Agency is liable under paragraph 8.2.

8.2 Subject to the limitation in paragraph 8.3, the Agency shall indemnify the Client for DP Losses (howsoever arising, whether in contract, tort (including negligence) or otherwise) under or in connection with this Schedule:

8.2.1 only to the extent caused by the processing of Client Personal Data under this Schedule and directly resulting from the Agency’s breach of this Schedule; and

8.2.2 in no circumstances to the extent that any DP Losses (or the circumstances giving rise to them) are contributed to or caused by any breach of this Schedule by the Client.

8.3 The parties’ total aggregate liability arising in connection with the performance or contemplated performance of this Schedule or any collateral contract shall in all circumstances be limited to 100% of the fees paid or payable during the 12 months preceding the event triggering paragraph 8.1 or 8.2.

**ANNEX 1A**

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| **Subject Matter, Nature and Purpose of processing** | [Explain the context and purpose of the processing.] |
| **Duration** | Personal Data will be processed during the Term.[Describe length of processing for various data sets, if applicable.] |
| **Client Personal Data**  | [Insert a list of the personal data that the parties may process – for example, customer names and addresses or head office employee user names.] |
| **Data Subjects** | [Clarify what kind of individuals the personal data may relate to, e.g. Client customers, prospective customers and/or visitors to Client’s website(s).] |
| **Specific Restrictions** | [Client to insert any additional restrictions on the processing] |
| **Processor DPO** | Dpo@dentsu.com  |
| **Permitted Sub-Processors and Transfers**  |
| **Name** | **Services** | **Location/Transfers** | **Mechanism** |
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