



Annex 3 – Data Processing Agreement

This Data Processing Agreement ("**Data Processing Agreement**") forms part of the Agreement -as defined in GÉANT's Terms and Conditions of Contract for Services and/or for Goods - between:

- (a) GÉANT Vereniging (Association), which is registered with the Chamber of Commerce in Amsterdam with registration number 40535155 with the office at Hoekenrode 3, 1102 BR Amsterdam, The Netherlands ("**Customer**", "**Controller**") and
- (b) _____, a company incorporated in _____ registered _____ with the office at _____ ("**Supplier**", "**Processor**"),

Hereinafter jointly referred to as "**Parties**" or each separately as "**Party**".

The Parties hereby agree that the terms and conditions set out below shall be added as an addendum to the Agreement.

1. Definitions

2. In this Addendum, the following terms shall have the meanings set out below and cognate terms shall be construed accordingly:

- 2.1.1 "**Applicable Laws**" means (a) European Union or Member State laws applicable to Personal Data; and (b) any other applicable law with respect to Personal Data in respect of which the Processor is subject to any other Data Protection Laws;
- 2.1.2 "**Personal Data**" means any personal data as defined by Data Protection Laws processed by the Processor pursuant to or in connection with the Principal Agreement;
- 2.1.3 "**Data Protection Legislation**" means EU Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;
- 2.1.4 "**EEA**" means the European Economic Area;
- 2.1.5 "**EU Data Protection Laws**" means applicable European legislation as the GDPR and laws implementing or supplementing the GDPR;
- 2.1.6 "**GDPR**" means EU General Data Protection Regulation 2016/679 applicable from 25th of May 2018;
- 2.1.7 "**Data Breach**" means breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.
- 2.1.8 "**Sub-processor**" means any third party appointed to process personal data on behalf of the Processor.



2.1.9 The terms "Controller", "Processor", "data subject", "personal data", "Data Breach", "process" and "processing" and "supervisory authority" have the same meaning as in the GDPR.

3. Data Protection

4. The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor. The only processing to which the Processor is authorized is specified in the Schedule 1 to the Data Processing Agreement.

5. The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe Data Protection Legislation.

6. The Processor shall provide all reasonable assistance to the Controller in the preparation of Data Protection Impact Assessment prior to commencing any processing if it is required. Such assistance, at the discretion of the Controller, may include:

- a) A systematic description of the envisaged processing operations and the purpose of the processing,
- b) An assessment of the necessity and proportionality of the processing operations in relation to the Services and/or Goods;
- c) An assessment of the risks to the rights and freedom of individuals,
- d) The measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of personal data.

7. The Processor shall, in relation to any personal data processed in connection with its obligations under this Data Protection Agreement:

- a) Process that personal data only in accordance with the Schedule 1 to the Data Processing Agreement, unless the Processor is required to do otherwise by Applicable Law. If it is so required, the Processor shall promptly notify the Controller before processing personal data unless prohibited by Applicable Law;
- b) Ensure that it has in place appropriate technical and organisational measures as required by art. 32 of the GDPR, which are adequate to protect against Data Breach, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of technical and organisational measures), having taken account of the:
 - (i) Nature of personal data to be protected,
 - (ii) Harm that might result from Data Breach event,
 - (iii) State of technological development,
 - (iv) Cost of implementation of any measures.
- c) Ensure that:
 - (i) Personnel of the Processor do not process personal data except in accordance with the Data Processing Agreement – and in particular Schedule 1 to this agreement,

- (ii) It takes all reasonable steps to ensure the reliability and integrity of any Processor's personnel having access to personal data and ensure that they:
 - (A) Are aware of and comply with the Processor duties and comply with them,
 - (B) Are subject to appropriate confidentiality undertakings with the Processor and any Sub-Processor,
 - (C) Are informed of the confidential nature of personal data and do not publish, disclose or divulge any of personal data to any third party, unless directed in writing to do so by the Controller or as otherwise permitted by the Data Processing Agreement, and
 - (D) Have undergone appropriate training in the use, protection, handling and disposal of personal data.
- d) Not transfer personal data outside of the European Union unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - a) The Controller or the Processor has provided appropriate safeguards in relation to the transfer in line with art. 46 of the GDPR,
 - b) Data subject has enforceable rights and effective legal remedies,
 - c) The Processor complies with its obligations under Data Protection Legislation by providing an adequate level of protection to any personal data that it is transferred, and
 - d) The Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of personal data.

8. Subject to clause 2.6, the Processor shall notify the Controller immediately if it:

- a) Receives a data subject request or request relating to exercise of any of data subject rights defined in art. 15-22 of the GDPR,
- b) Receives any complaints, communication relating to either Party's obligation under Data Protection Legislation,
- c) Receives any communication from any supervisory authority,
- d) Becomes aware of Data Breach event.

9. The Processor's obligation to notify under the clause 2.5 shall include the provision of further information to the Controller, as details become available.

10. Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 2.5 including by promptly providing:

- a) The Controller with the full details and copies of the complaint, communication or request,

- b) Such assistance as is reasonably requested by the Controller to enable the Controller to comply with data subject request within the relevant timescales set out in Data Protection Legislation,
- c) The Controller, as its request, with any personal data it holds in relation to data subject,
- d) Assistance as requested by the Controller following any Data Breach Event,
- e) Assistance as requested by the Controller with respect to any request from supervisory authority or any consultation by the Controller with supervisory authority.

11. The Processor shall maintain complete and accurate records of processing connected with the Data Processing Agreement to demonstrate its compliance with the requirements set in art. 30 of the GDPR. This requirement does not apply where the Processor employs fewer than 250 persons, unless:

- a) The Controller determines that the processing the Processor carries out is not occasional,
- b) The Controller determines that the processing includes special categories of personal data as defined in art. 9 (1) of the GDPR or personal data relating to criminal convictions and offences referred to in art. 10 of the GDPR, or
- c) The Controller determines that the processing is likely to result in a risk to rights and freedoms of individuals.

12. The Controller is entitled – upon written notification provided to the Processor 30 days in advance – audit the Processor.

13. The Processor shall designate its own data protection officer if required by Data Protection Legislation.

14. Before allowing any Sub-processor to process any personal data related to the Data Processing Agreement, the Processor must:

- a) Notify the Controller in writing of the intended Sub-processor and processing,
- b) Obtain written consent of the Controller,
- c) Enter into a written agreement with the Sub-processor,
- d) Provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

15. The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.

16. The Controller may, at any time on not less than 30 working days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme.

17. The Parties agree to take into account any guidance issued by the supervisory authorities.

Schedule 1 to the Data Processing Agreement

This Schedule relates to and is incorporated into Contract/Agreement/Purchase Order Ref:

1. Contact details of the Controller's Data Protection Officer: gdpr@geant.org;
2. Contact details for the Processor's Data Protection Officer:
3. The Processor shall comply with any further written instructions with respect to processing by the Controller.
4. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Subject matter of the processing	Please provide high-level short description of the processing: e.g. subject matter of the Agreement. Example: The processing is needed in order to ensure that the Processor can effectively deliver the Agreement.
Duration of processing	As defined in the Agreement (ideally provide exact dates)
Nature and purposes of the processing	Please be specific and cover all the purposes of the processing. The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, use, disclosure by transmission, dissemination or otherwise making available etc. The purpose might include e.g.: employment processing.
Type of personal data being processed	Provide type of personal data as for example: emails, phone numbers, name, surnames, and date of birth.
Categories of data subject	Example: staff, suppliers.
Plan to return/destruction of personal data	Describe how long personal data will be retained for and how it be returned or destroyed.



On behalf of the Customer		On behalf of the Supplier
Signature		Signature
Name		Name
Title		Title
Date		Date

Once your DPA is fulfilled please contact: gdpr@geant.org

If you have any questions related to the DPA please contact: gdpr@geant.org