

Registrar Data Escrow Agreement

This Registrar Data Escrow Agreement (“Agreement”) among _____ (“Registrar”), a(n) _____, DENIC Services GmbH & Co. KG, a German registered limited liability company & limited partnership (“Escrow Agent”), and the Internet Corporation for Assigned Names and Numbers, a California nonprofit public benefit corporation (“ICANN”), is effective on _____ (the “Effective Date”).

1. Background.

1.1 ICANN is charged with oversight of the security and stability of the Internet’s domain name system. As a function of this responsibility, ICANN accredits domain name registrars (“Registrar(s)”) who facilitate the registration of Internet domain names. Each accredited Registrar, within its Registrar Accreditation Agreement (“RAA”) with ICANN, has agreed to deposit with ICANN, or a designated or approved agent, all data described in the Registrar Data Escrow Specifications (“RDE Specifications”), including certain enumerated domain name registration records pursuant to a schedule, format, and terms established by ICANN and incorporated in the RAA and the RDE Specifications (each collection of such data, a “Deposit”)¹. The RDE Specifications are incorporated herein by reference and may be amended by ICANN from time to time.

1.2 As established in the RAA and described herein, Registrar will send to Escrow Agent a Deposit for each registered domain name with a generic top-level domain (“gTLD”) under Registrar’s sponsorship, in accordance with the RDE Specifications.

1.3 Escrow Agent will receive, process, verify, validate and store the Deposits and release them upon the conditions and under the circumstances set out in this Agreement, in accordance with the RDE Specifications.

1.4 ICANN will be responsible for and pay Escrow Agent’s fees for services under this Agreement as set forth in the Master Registrar Data Escrow Service Agreement (the “Master Registrar Escrow Agreement”) between ICANN and Escrow Agent dated 1 August 2023, as may be amended from time to time.

1.5 ICANN and Escrow Agent have entered into a Data Processing Agreement attached to the Master Registrar Escrow Agreement, which specifies the data processing obligations of the Escrow Agent in relation to ICANN. Data processing obligations of the Escrow Agent in relation to the Registrar, if any, are set forth in a separate Data Processing Agreement entered into between the Escrow Agent and the Registrar where required pursuant to applicable privacy and data protection laws and regulations according to Section 4.1.14 of this Agreement.

¹ As of the Effective Date of this Agreement, the current RDE Specifications are available at: <https://www.icann.org/en/system/files/files/rde-specs-09nov07-en.pdf>.

The parties hereto, intending to be legally bound hereby, agree as follows:

2. Definitions. Capitalized terms in this Agreement shall have the meanings ascribed to them in this Section 2 unless otherwise defined.

2.1 "Section" refers to any numbered paragraph, section, or subsection of this Agreement unless otherwise specified.

2.2 The "RDE Specifications" are the schedule, format, and terms specified by ICANN, applicable to Registrar's data escrow requirements under the RAA, as it may be amended or modified by ICANN from time to time, and incorporated in the RAA. Registrar and Escrow Agent will be notified of any amendment or modification of the RDE Specifications by email to Registrar and Escrow Agent at the electronic mail address provided for in Section 11 and by posting the most current version of the RDE Specifications on ICANN's website. Amendments and modifications of the RDE Specifications will be effective sixty (60) days following such notification.

2.3 An "Electronic Deposit" is a Deposit transmitted to Escrow Agent by electronic means (e.g., SFTP, SCP, or HTTPS) as permitted by the RDE Specifications and as specified in the Escrow Agent's data escrow implementation instructions to Registrar.

2.4 A "Physical Deposit" is a Deposit transmitted on a physical medium (e.g., CD ROM, DVD, or hard drive) by courier or post, as permitted by the RDE Specifications and as specified in the Escrow Agent's data escrow implementation instructions to Registrar. Physical Deposits will not be considered delivered to Escrow Agent until they are physically delivered to Escrow Agent. Risk of loss of Deposit in transit is the responsibility of the Registrar.

2.5 "Online" refers to data that is stored on a live, operational server using redundant re-writable media (i.e., RAID).

2.6 "Offline" refers to data that is stored on optical media, tape, or another medium mutually approved by ICANN and Escrow Agent.

2.7 A "Release" is the retrieval and delivery of Deposits by Escrow Agent to ICANN or its assignee or designee pursuant to this Agreement.

2.8 A "Transaction" is a one (1) year gTLD registration increment consisting of a successful add, renewal, or transfer of a domain name by Registrar. Where a domain name is deleted by Registrar within its "add" or "auto-renew" grace period (as defined in the functional specifications for each respective registry) or transferred to another registrar during the "auto-renew" grace period, the underlying "add" or "renewal" shall not be considered a Transaction.

3. Obligations of Registrar with Respect to Deposits.

3.1 Deposits in Accordance with RDE Specifications. Registrar shall deposit with Escrow Agent the domain registration records enumerated in the RDE Specifications, on the schedule, in the format, and under the terms described in the RDE Specifications. Registrar shall ensure that Deposits and their transmission conform to the implementation instructions provided by Escrow Agent, which may be more specific than the RDE Specifications, provided that such implementation instructions shall not contradict the RDE Specifications.

3.2 Transmission of Deposits. Registrar shall transmit all Deposits to Escrow Agent as Electronic Deposits unless Registrar has obtained prior written consent from both ICANN and Escrow Agent to submit Deposits as Physical Deposits and such consent has not been withdrawn by either ICANN or Escrow Agent. Consent to submit Deposits as Physical Deposits will only be granted in extraordinary circumstances.

3.3 Transmission of Physical Deposits. In transmitting any Physical Deposit, Registrar shall include with such Deposit a completed copy of the Physical Deposit Transmittal Form provided in Appendix B.

3.4 Registrant Notice of Data Escrow. Registrar's registration agreement(s) entered into with registrants shall include notice to the registrant of the obligations of Registrar to escrow data hereunder, as specified in the RAA.

4. Obligations of Escrow Agent with Respect to Deposits.

4.1 Acceptance, Storage, and Reporting of Deposits: Escrow Agent shall:

- 4.1.1. receive Electronic Deposits or Physical Deposits (as designated by the Escrow Agent) from Registrar;
- 4.1.2. receive and process Electronic Deposits in one (1) of two (2) geographically separated, secure, locked and environmentally safe facilities, which are accessible only to authorized representatives;
- 4.1.3. copy Physical Deposits into one (1) of two (2), geographically separated, secure, locked and environmentally safe facilities, which are accessible only to authorized representatives, for processing and storage;
- 4.1.4. store two (2) copies of all Deposits in electronic format, each copy in geographically separated, secure, locked and environmentally safe facilities which are accessible only to authorized representatives;
- 4.1.5. in the event Registrar misses a scheduled Deposit or a Deposit fails a validation or verification test, contact ICANN and Registrar within twenty-four (24) hours to remedy the failure. The notification to Registrar shall include sufficient details to identify

the registration records that need remediation, where applicable;

- 4.1.6. provide ICANN with monthly statistical summaries of reported issues in a mutually agreed upon format and as requested by ICANN;
- 4.1.7. prepare Deposits for verification testing by decrypting Deposits using encryption technology and uncompressing Deposits to original size;
- 4.1.8. perform checksum validation of uncompressed Deposits and automated inspection of uncompressed Deposits (as defined in the RDE Specification);
- 4.1.9. perform manual review of uncompressed Deposits as necessary when verification indicates failed automated inspection or upon request by ICANN for the purpose of verification that the Deposits are complete, consistent, and in proper format;
- 4.1.10. securely store all Deposits for no less than three hundred and sixty-five (365) days unless otherwise agreed by the parties in writing or as required by the RDE Specifications;
 - 4.1.10.1 Escrow Agent shall store all Deposits Online for at least thirty (30) days following receipt.
 - 4.1.10.2 Escrow Agent shall store Deposits Online for a period longer than thirty (30) days if reasonably requested by ICANN.
 - 4.1.10.3 Escrow Agent shall store all Deposits Offline that are less than three hundred sixty-six (366) days aged and are not stored Online.
- 4.1.11. use commercially reasonable efforts and industry standard safeguards to protect the integrity and confidentiality of Deposits, including the use of encryption technology, verification of data validity and confirm authenticity of the sender, and enterprise class software to store data both online and offline;
- 4.1.12. destroy or permanently erase any and all Deposits eighteen (18) or more months old, although Escrow Agent may destroy or permanently erase any or all Deposits older than one (1) full year (prior to the end of eighteen (18) months);
- 4.1.13. administer the receipt, verification, validation, storage, and release (as applicable) of the Deposits using reasonable and appropriate administrative, physical and technical safeguards to protect the privacy

and security of the Deposits;

- 4.1.14. where required by applicable privacy and data protection laws and regulations, upon entry into force of this Agreement or, at the latest, the commencement of the provision of the services under this Agreement, enter into a Data Processing Agreement with the Registrar, substantially in the form of the template attached in the Appendix D, or any other essentially similar template agreed upon between the Registrar and the Escrow Agent, and will comply with the terms of that Data Processing Agreement at all times during the term of the services provided by the Escrow Agent or any longer period provided in that Data Processing Agreement.
- 4.1.15. comply with privacy and data protection regulations applicable to the receipt, verification, validation and storage of Deposits by a third party provider of escrow services under applicable law as well as the respective data processing instructions of ICANN and the Registrar, if any, and at all times in accordance with the terms of this Agreement. In case of a conflict between ICANN's data processing instructions and data processing instructions received by the Escrow Agent from the Registrar, ICANN's data processing instructions in relation to the release of the Deposits and the related duration of their processing shall be prevailing. ICANN's data processing instructions in relation to any other circumstances of the processing of personal data contained in the Deposits by the Escrow Agent shall be prevailing over the instructions of the Registrar, if and to the extent this is stipulated in the Master Registrar Escrow Agreement and the Agreement. Neither ICANN nor Escrow Agent makes any representation or warranty to any other party to this Agreement regarding the lawfulness of transmittal of Deposits from the Registrar to Escrow Agent under applicable privacy and data protection laws and regulations; and
- 4.1.16. report all Deposits to ICANN via ICANN's Registration Reporting Interface ("RRI")² as defined in the ICANN Registrar Interfaces draft-icann-registrar-interfaces ("RRI Specification"), which may be amended by ICANN from time to time. If not already an RFC, Escrow Agent will use the most recent draft version of the RRI Specification. Once the RRI Specification is published as an RFC, Escrow Agent will implement that version of the RRI Specification no later than sixty (60) calendar days after such publishing.

4.2 Confidential Information. Escrow Agent shall use commercially reasonable efforts and industry standard safeguards to protect the confidentiality of the Deposits. Except as provided in this Agreement, Escrow Agent shall not review, disclose, transfer, make available or

² The current RRI Specification is available at: <https://tools.ietf.org/html/draft-icann-registrar-interfaces>.

use the Deposits or any other Registrar data obtained in performance of the Agreement. If Escrow Agent should receive a subpoena or an enforceable decision or any other order from a court or other judicial tribunal or an enforceable decision for a competent authority pertaining to the disclosure or release of the Deposits, Escrow Agent shall promptly provide ICANN and Registrar notice of such order, unless such notice is prohibited by law or regulation. Unless impracticable, Escrow Agent shall provide such notice within two (2) business days after receipt. It shall be the responsibility of Registrar to challenge any such order if desired; provided, however, that Escrow Agent does not waive its rights to present its position with respect to any such order or decision. Escrow Agent will cooperate with Registrar or ICANN, as applicable, to support efforts to quash or limit any subpoena, order or decision at Registrar's or ICANN's expense, as applicable.

5. Covenants of Escrow Agent and/or Registrar. Throughout the term of this Agreement, Escrow Agent and/or Registrar covenant as follows:

5.1 Notice of Material Changes. Escrow Agent shall promptly inform ICANN and Registrar of any and all material changes that could reasonably be expected to have a negative effect on the security or stability of Escrow Agent's infrastructure, software, hardware, or premises, or material changes to practices, policies, or procedures related to security or separation of business practices and operations.

5.2 Separation of Conflicting Businesses. Should Escrow Agent ever offer registrar or gTLD registry services, the following shall apply: Escrow Agent shall adhere to strict separation of business practices with respect to such business and its registrar data escrow business. Services provided under this Agreement shall be performed through password- access only networks, protected by internal and external firewalls, which share no common hardware, software or users with those systems used by Escrow Agent's registrar businesses. All Deposits submitted by Registrar will initially be encrypted. Escrow Agent shall ensure that all personnel with access to Deposits in an unencrypted form, if applicable, are provided with strict guidance on conflict of interest avoidance with respect to Escrow Agent's registrar or gTLD registry businesses and the confidentiality obligations set forth in Section 4.2. Escrow Agent shall ensure that no employees providing services to customers in its registrar or gTLD registry businesses have access to Deposits (encrypted or unencrypted) or hardware, software or systems used in Escrow Agent's registrar data escrow business. Escrow Agent shall ensure that no employees providing services to customers in its registrar data escrow business have access to hardware, software or systems used in Escrow Agent's registrar or gTLD registry businesses.

5.3 Staffing. Escrow Agent shall at all times maintain sufficient and commercially reasonable staffing to perform its obligations hereunder. One or more representatives of ICANN will be identified as a resource for Escrow Agent to assist in Escrow Agent communications with Registrar.

5.4 Business Continuity. Escrow Agent shall use commercially reasonable efforts to maintain network and business continuity.

5.5 Separation of Escrow Agent and Registrar. Each of Escrow Agent and Registrar represent and warrant to ICANN that Escrow Agent and Registrar are not, directly

or indirectly, an Affiliate of such other party. In the event Escrow Agent and Registrar are or become Affiliates for any reason, Escrow Agent shall terminate this Agreement and release all Deposits to ICANN pursuant to this Agreement. For purposes of this Agreement: (a) “Affiliate” means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the person or entity specified, and (b) “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of securities, as trustee or executor, by serving as an employee or a member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise.

5.6 Certification. Concurrent with the execution of this Agreement, Escrow Agent shall certify to ICANN by signing the certification in Appendix C (the “Certification of Usage”) that the Template (as defined in Appendix C) was used for purposes of this Agreement and that this Agreement has not been edited or modified in any material respect from the Template. Registrar shall confirm such certification by countersigning the Certification of Usage.

6. Term and Termination.

6.1 Term. The initial term of this Agreement shall be for a period of one (1) year from the Effective Date. At the end of the initial term, this Agreement shall automatically renew for an additional one (1) year period and upon each anniversary thereafter unless terminated according to the terms hereof.

6.2 Termination of Agreement upon Termination of Registrar's RAA. This Agreement shall be terminated upon termination of or expiration without renewal of Registrar’s RAA, in which case ICANN shall notify Escrow Agent of such termination or expiration, provided, however, that such termination of Registrar’s RAA shall not modify or relieve Escrow Agent of its responsibilities and duties hereunder to the extent provided herein. Thereupon Deposits shall be released to ICANN (or its assignee or designee) as provided in Section 7 hereof.

6.3 Termination by ICANN or Escrow Agent. This Agreement may be terminated by ICANN, with or without cause, by providing the other parties to this Agreement notice of termination at least sixty (60) days in advance of the termination or if the Master Registrar Escrow Agreement is terminated, immediately upon notice of termination by ICANN to the other parties. This Agreement may be terminated by Escrow Agent only in the event of termination of the Master Registrar Escrow Agreement or pursuant to Section 5.5. If the Master Registrar Escrow Agreement is terminated or if Section 5.5 becomes applicable, and accordingly the Escrow Agent terminates this Agreement, Escrow Agent shall so notify Registrar in writing. In the event of such termination of this Agreement (i) by ICANN for any reason, or (ii) concurrent with termination of the Master Registrar Escrow Agreement or pursuant to Section 5.5 as provided herein, Escrow Agent and Registrar shall fully cooperate to allow the transfer of the Deposits and all responsibilities of the Escrow Agent to a successor escrow agent hereunder if requested by ICANN. This Section shall not negate, reduce, or otherwise modify

the obligations of ICANN and Escrow Agent to each other under the Master Registrar Escrow Agreement.

6.4 Termination by Registrar.

6.4.1. In accordance with the RDE Specifications, Registrar may elect to use an alternate, approved Third Party Provider ("TPP") of escrow services in lieu of the services provided by Escrow Agent hereunder. Where Registrar makes such an election, Registrar's Deposit obligations under this Agreement and Escrow Agent's responsibilities and duties hereunder and under the Master Registrar Escrow Agreement shall continue until ICANN confirms that Registrar successfully made its initial Deposit with such TPP, at which time, ICANN will notify Escrow Agent that this Agreement shall be deemed terminated.

6.4.1.1 Upon termination of this Agreement pursuant to Section 6.4.1, Escrow Agent shall continue to store and maintain Registrar's Deposits as described in Section 4, unless and until Registrar effects a transfer of all Deposits aged fewer than three hundred sixty-six (366) days to the Registrar's approved TPP at Registrar's expense and effort, and ICANN confirms receipt and storage by TPP of same.

6.4.1.2 Following termination of this Agreement pursuant to Section 6.4.1, Registrar shall fulfill its data escrow obligations under the RAA with an approved TPP for at least a term of three hundred sixty-five (365) days or until Registrar is no longer obligated to escrow data under its RAA.

7. Release of Deposits.

7.1 Notice for Release of Deposits. Escrow Agent shall effect a Release within twenty-four (24) hours following receipt of any of the following:

7.1.1. Written notice executed jointly by ICANN and Registrar requesting Escrow Agent effect such Release; or

7.1.2. Written notice by ICANN that Registrar's RAA has expired without renewal or been terminated, with confirmation by ICANN that such Release is in accordance with the RAA; or

7.1.3. Written notice by ICANN that such Release is otherwise permitted by the RAA, as it may be amended from time to time, and that ICANN has complied with the RAA's requirements (if any) to provide notice of the Release to Registrar; or

7.1.4. Written notice by ICANN that a court or arbitral tribunal or legislative or government agency that ICANN finds to be of competent jurisdiction has issued an order, rule, statute, regulation, or other requirement (a copy of which ICANN has provided to Registrar) that mandates the Release.

7.2 Notice from Escrow Agent to Registrar upon Release of Deposits. Upon any Release or within twenty-four (24) hours of any Release, Escrow Agent shall provide Registrar with written notice of same.

8. Indemnification. Escrow Agent shall hold and save ICANN and Registrar (subject to the limitation set forth in Section 10 below) and their respective officers, directors, agents and employees harmless from liability, claims, suits, causes of action, fees, charges, costs, damages and any other expenses whatsoever of any nature or kind, for or on account of any or all suits or damages whatsoever resulting from injuries or damages sustained, arising or resulting from the negligence or willful misconduct of Escrow Agent, its parent, subsidiaries, officers, directors or employees.

9. Arbitration.

9.1 Disputes Between ICANN and Registrar. In the event of any dispute between ICANN and Registrar arising under Registrar's RAA, including without limitation the termination thereof and release of Deposits to ICANN hereunder, Section 5 of the RAA including, but not limited to Section 5.6 ("Termination Procedures") and Section 5.8 ("Resolution of Disputes Under the Agreement") shall control the resolution of such dispute, or, as the case may be, any successor dispute resolution provision under the RAA as the same may be amended from time to time.

9.2 Disputes Involving Escrow Agent. Upon the occurrence of a dispute between the parties arising from alleged performance or non-performance of any obligation under this Agreement or any obligation relating thereto that is not the subject of Section 9.1 above, the matter shall be finally settled by arbitration, held in Los Angeles County, California, such arbitration to be conducted through JAMS and subject to the terms of this Section 9.2. There shall be three arbitrators, including one nominee of Registrar, one nominee of ICANN, and one nominee of Escrow Agent. A prevailing party or parties in the arbitration shall have the right to recover its costs and reasonable attorneys' fees, which the arbitrators shall include in their awards. Any party that seeks to confirm or vacate an arbitration award issued under this Section 9 may do so only pursuant to the applicable arbitration statutes. In any litigation involving ICANN concerning this Agreement, jurisdiction and exclusive venue for such litigation shall be in a court located in Los Angeles County, California, USA; however, the parties shall also have the right to enforce a judgment of such a court in any court of competent jurisdiction. For the purpose of aiding the arbitration and/or preserving the rights of the parties during the pendency of an arbitration, the parties shall have the right to seek a temporary stay or injunctive relief from the arbitration panel or a court, which shall not be a waiver of this agreement to arbitrate.

9.3 Specific Performance. ICANN, Escrow Agent and Registrar agree that irreparable damage could occur if any of the provisions of this Agreement was not performed in accordance with its specific terms. Accordingly, the parties agree that they each shall be entitled to seek from the arbitrators specific performance of the terms of this Agreement (in addition to any other remedy to which each party is entitled).

9.4 Time is of Essence. Prompt resolution of any dispute is important to all parties to this Agreement. The parties agree that the arbitration of any dispute shall be conducted expeditiously. The arbitrators shall be instructed and directed to assume case management initiative and control over the arbitration process (including scheduling of events, pre-hearing discovery and activities, and the conduct of the hearing), in order to complete the arbitration as expeditiously as is reasonably practical for obtaining a just resolution of the dispute.

10. Limitation of Liability and Consequential Damage Waiver.

10.1 Liability of ICANN. ICANN's aggregate monetary liability to Registrar for any claims, suits, causes of action, fees, charges, costs, damages and any other expenses whatsoever of any nature or kind arising under, related to, or in connection with this Agreement, shall be determined under Section 5 of the RAA, or, as the case may be, any successor provision relating to monetary liabilities under the RAA as the same may be amended from time to time.

10.2 Liability of Escrow Agent.

10.2.1. Notwithstanding anything else in this Agreement (but subject to paragraph 10.2.2 below), all liability, if any, whether arising in contract, tort (including negligence) or otherwise, of Escrow Agent to Registrar shall be limited to an amount equal to three times the then current annual fees paid or owed to Escrow Agent by ICANN under the Master Registrar Agreement with respect to this Agreement. Upon request by Registrar, Escrow Agent shall provide a statement as to the current liability limitation under this Section 10.2.1 to Registrar.

10.2.2. Notwithstanding the foregoing, in the event Escrow Agent through negligence causes Registrar's information held in escrow to be delivered or made available to a person or entity other than a "Designated Party" (which shall be defined as ICANN or its assignee or designee, Registrar, or any named third-party pursuant to Registrar's written instructions), Escrow Agent's liability for damages suffered by Registrar in such circumstances shall not exceed (i) One Hundred Thousand US Dollars (\$100,000.00) (if Registrar completed 100,000 or more domain name Transactions during the preceding ICANN fiscal quarter) or its foreign equivalent or (ii) Fifty Thousand US Dollars (\$50,000.00) (if Registrar completed fewer than 100,000 domain name Transactions in the preceding ICANN fiscal quarter) or its foreign equivalent, provided, however, that notwithstanding the foregoing, Escrow Agent's liability

shall be unlimited in any circumstances where there is: (i) gross negligence or willful misconduct (including for delivering or making available Registrar's information held in escrow to anyone other than a Designated Party); (ii) any claim of infringement of any patent, copyright, or trademark; (iii) liability for death or bodily injury; or (iv) proven theft.

10.3 Consequential Damages Waiver. In no event shall any party to this Agreement be liable to another party for any incidental, special, punitive or consequential damages, lost profits, any costs or expenses for the procurement of substitute services, or any other indirect damages, whether arising in contract, tort (including negligence) or otherwise even if the possibility thereof may be known in advance to one or more parties.

11. Notices. Notices shall be deemed received on the fifth (5th) day after being sent by first class U.S. mail, or on the following day if sent overnight by U.S. commercial express courier to an address within the United States, or on the third (3rd) day after being sent by international express courier. With the exception of notices regarding the amendment or modification of the RDE Specifications as provided under Section 2.2, all notices under this Agreement shall be in writing and addressed and sent to the person(s) listed in the space provided below:

ICANN

Company: Internet Corporation for Assigned Names and Numbers
Attention: Registrar Data Escrow
Copy to: General Counsel
Address: 12025 Waterfront Drive, Suite 300
City, State, Zip: Los Angeles, CA 90094
Telephone: 310.301.5800
Fax: 310.823.8649

Escrow Agent

Company: DENIC Services GmbH & Co. KG
Attn: Data Escrow Services
Address: Heinrich-Hertz-Str. 6
City, State, Zip: Darmstadt, Hesse, 64295,
Germany
Telephone: +49 6151 6292710
Fax: +49 6151 6292711
Email: escrow@denic-services.de

Registrar (See Appendix A for Registrar Notice Contact)

Fax: _____
Email: _____
IANA ID: _____

11.1 Any party may change its address for delivery of notices as set forth above by delivering notice of such change as provided herein.

12. Miscellaneous.

12.1 This Agreement and any and all Appendices hereto shall constitute the entire agreement by and among the parties hereto with regard to the subject matter hereof, provided, however, that (i) with respect to matters determined under the RAA as set forth herein, the RAA (as the same may be modified, amended or superseded from time to time) shall control, (ii) as between Escrow Agent and ICANN, with respect to any matters herein that conflict with the Master Registrar Agreement, the Master Registrar Agreement (as the same may be modified, amended or superseded from time to time) shall control, (iii) with respect to data processing obligations of the Escrow Agent towards ICANN the Data Processing Agreement between ICANN and Escrow Agent shall control, and (iv) with respect to data processing obligations of the Escrow Agent towards Registrar, the Data Processing Agreement between Registrar and Escrow Agent shall control. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing signed by each party, and then such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.

12.2 ICANN shall be allowed to communicate on an as needed basis with Escrow Agent regarding the Escrow Agent's Registrar Data Escrow service, with or without the Registrar's participation or authorization. Such communications include, but are not limited to, the review of existing and ongoing Registrar Data Escrow processes to help identify and implement opportunities for improvement.

12.3 Each party, in performance of the obligations set forth in this Agreement, shall comply with all laws and regulations applicable to such party's duties and responsibilities under this Agreement.

12.4 Nothing contained in this Agreement shall be deemed to imply or constitute any party as the agent or representative of another party for any purpose other than as expressly set forth herein.

12.5 Each reference to "days" herein shall mean calendar days, unless otherwise specified herein.

12.6 The waiver by any party of a breach or a default of any provision of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of

the same or any other provision, nor shall any delay or omission on the part of any party to exercise or avail itself of any right, power or privilege that it has, or may have hereunder, operate as a waiver of any right, power or privilege by such party.

12.7 This Agreement, and the rights and obligations hereunder, may not be assigned, in whole or in part by Escrow Agent without the prior written consent of Registrar and ICANN. In the case of any permitted assignment or transfer of or under this Agreement, this Agreement or the relevant provisions shall be binding upon, and inure to the benefit of, the successors, executors, heirs, representatives, administrators and assigns of the parties hereto.

12.8 This Agreement shall not be construed to create any obligation to any non-party to this Agreement, including any registered name holder. There shall not be any third-party intended beneficiaries under this Agreement.

12.9 The obligations of the parties intended to survive the termination of this Agreement are only those provisions of Sections 4.1.10, including subsections (storage of Deposits), 4.1.11 (protection of Deposits), 4.1.12 (destruction of aged Deposits), 4.1.14 (compliance with data privacy laws), 4.2 (confidentiality), 5 (covenants of Escrow Agent), 7 (Releases), 8 (indemnification), 9 (arbitration), 10 (limitation of liability and consequential damages waivers), 11 (notices), and 12 (miscellaneous), which shall survive the termination of this Agreement for any reason.

12.10 This Agreement shall be fairly interpreted in accordance with its terms and without any strict construction in favor of or against either of the parties. Captions and headings contained in this Agreement have been included for ease of reference and convenience and shall not be considered in interpreting or construing this Agreement.

12.11 This Agreement shall be governed by the laws of the State of California without regard to conflicts of law principles.

12.12 This Agreement may be executed in any number of multiple counterparts, each of which is to be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

[signatures on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Registrar

Signature: _____

Name: _____

Title: _____

Date: _____

Internet Corporation for Assigned Names and Numbers

Signature: _____

Name: _____

Title: _____

Date: _____

DENIC Services GmbH & Co. KG

Signature: _____

Name: _____

Title: _____

Date: _____

Appendix A

I. Registrar Notice Contact

Pursuant to Section 11 (Notices), the Registrar Notice Contact is as follows:

Registrar Notice Contact

Fax: _____

Email: _____

IANA _ID: _____

Appendix B

Physical Deposit Transmittal Form

Date Deposit Sent: _____

Registrar Company Name: _____

Registrar Company IANA Number: _____

Deposit Media (Please Label All Media with Date Sent and IANA Number)

Media Type	Quantity		Media Type	Quantity
CD-ROM / DVD			Hard Drive / CPU	
DLT Tape				
DAT Tape				

Appendix C

Certification of Usage

By signing this certification, a duly authorized person (officer, owner, director, agent or representative) of the Escrow Agent with the requisite power and authority to act on its behalf, certifies that the Registrar Data Escrow Agreement template for the Escrow Agent currently posted on ICANN's website as of the Effective Date (the "Template") was used for the purposes of this Registrar Data Escrow Agreement, effective as of Effective Date by and among Registrar, ICANN, and the Escrow Agent (the "Agreement"). Additionally, the Agreement has not been edited or modified in any material respect from the Template. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Agreement.

We hereby certify that the above information is correct.

Escrow Agent

Name: _____

Title: _____

Date: _____

We hereby confirm that we have read and accepted the above information.

Registrar

Name: _____

Title: _____

Date: _____

Appendix D

Data Processing Agreement Template

[●] (hereinafter referred to as “**Registrar**”) and DENIC Services GmbH & Co. KG (hereinafter referred to as “**Escrow Agent**”) (jointly referred to as the “**Parties**” and each of them a “**Party**”) hereby enter into the following Data Processing Agreement (the “**DPA**”).

Whereas

(i) Registrar, Escrow Agent and Internet Corporation for Assigned Names and Numbers (ICANN) have entered into a Registrar Data Escrow Agreement governing the rights and obligations of Registrar and Escrow Agent with respect to the receipt, processing, verification, validation, storage, and release of domain name registration records by Escrow Agent (the “**Services**”).

(ii) Performance of the Services entails Processing of Personal Data by Escrow Agent, on behalf of Registrar, for the term of the DPA.

(iii) The Parties enter into this DPA according to Section 4.1.14 of the Registrar Data Escrow Agreement to support that the Processing of Personal Data by Escrow Agent in connection with the performance of the Services is in compliance with Applicable Data Protection Laws.

(iv) This DPA governs any Processing of Personal Data by Escrow Agent in connection with the Services and in the course of performance of the Registrar Data Escrow Agreement in relation to which Registrar acts as controller. The Processing of Personal Data by Escrow Agent in relation to which ICANN acts as controller is regulated by a separate Data Processing Agreement between Escrow Agent and ICANN.

NOW, THEREFORE the Parties agree as follows:

1. DEFINITIONS

1.1 In this DPA, the following expressions shall have the following meanings, unless the context otherwise requires:

“Agreement”	means the Registrar Data Escrow Agreement, dated [●] between ICANN, Registrar and Escrow Agent, including its appendices;
“Applicable Data Protection Laws”	means all applicable laws and regulations relating to the processing of Personal Data Processed in connection with the Agreement, including by way of example, the GDPR (as defined below) and the California Consumer Privacy Act (“CCPA”), as amended by the California Privacy Rights Act (“CPRA”) (Cal. Civ. Code § 1798.100 et seq.) (hereinafter “California Law”).

“Data Subject”	means an identified or identifiable natural person as defined in Article 4 (1) of the GDPR;
“GDPR”	means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);
“Personal Data”	means any information relating to a Data Subject as defined in Article 4 (1) of the GDPR and – in relation to the Services – disclosed to Escrow Agent, and/or Processed by Escrow Agent in the manner specified in Schedule 1 of the DPA.
“Personal Data Breach”	shall have the meaning as set forth in Article 4 (12) of the GDPR;
“Process”/“Processing”	shall have the meaning as set forth in Article 4 (2) of the GDPR; and
“Subprocessor”	means any Processor engaged by Escrow Agent (or by any Processor previously engaged by Escrow Agent) for carrying out specific Processing activities.
“SCCs C-t-P”	means the standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council pursuant to the Commission Implementing Decision (EU) 2021/914 of 4 June 2021 (Module Two: Transfer controller to processor) in Schedule 3 to this DPA.
Other Terms	Other relevant terms such as “business purpose”, “consumer”, “personal information”, “sale” (including the terms “sell”, “selling”, “sold”, and other variations thereof), “share” (including the terms “sharing”, “shared”, and other variations thereof), “service provider”, and “third party” have the meanings given to those terms under California Law.

1.2 Any capitalized terms not otherwise defined in this DPA shall carry the meanings ascribed to them under the Applicable Data Protection Laws and/ or the Agreement. Any reference to “writing” or “written” includes faxes and any non-transitory form of visible reproduction of words (like emails), unless expressly indicated to the contrary.

2. PURPOSE AND CATEGORIES OF PERSONAL DATA AND DATA SUBJECTS

2.1 The details of the Processing (i.e. the nature and purpose of the processing, the types of Personal Data, the categories of Data Subjects and duration of Processing) are set out in Schedule 1 to this DPA.

2.2 For the avoidance of doubt, the Parties agree that the reimbursement of the Escrow Agent for all costs incurred in the context of performance of this DPA, including costs for implementing and keeping up-to-date the necessary technical and organizational measures as well as assisting with Data Subjects requests, shall be considered to be part of Escrow Agent's fees for the Services, as set forth in the Master Data Escrow Services Agreement between ICANN and Escrow Agent.

3. DATA PROCESSING

3.1 Escrow Agent agrees to Process the Personal Data in accordance with the terms and conditions set out in this DPA, and in particular Escrow Agent agrees and warrants: to Process the Personal Data on behalf of Registrar, only to the extent required for the provision of the Services, at all times in compliance with this DPA and the Agreement, Registrar's instructions based on this DPA, and all Applicable Data Protection Laws. All instructions must be given in writing, including via email. If Escrow Agent cannot provide such compliance for whatever reasons, it agrees to promptly notify Registrar of its inability to comply with Registrar's instructions, in which case Registrar is entitled, at its discretion, to require Escrow Agent to cease Processing of Personal Data and/or terminate this Agreement. Where Escrow Agent believes that compliance with any instructions by Registrar would result in a violation of Applicable Data Protection Laws, Escrow Agent shall notify Registrar thereof in writing without delay. In case of a conflict between ICANN's instructions and instructions received by Escrow Agent from the Registrar, Registrar and Escrow Agent agree that ICANN's instructions in relation to the release of the Deposits and the related duration of Processing shall be prevailing. ICANN's instructions to the Escrow Agent in relation to any other circumstances shall be prevailing over the instructions of the Registrar if and to the extent this is stipulated in the Agreement;

3.2 that Escrow Agent shall take throughout the term of the DPA all appropriate technical and organizational measures to protect the integrity, availability and confidentiality of the Personal Data in accordance with the requirements of the Applicable Data Protection Laws and any pertinent industry standards. Such measures shall include at least the measures required under Section 4.1.11 of the Agreement as well as those listed in Schedule 2 attached to this DPA. Escrow Agent regularly monitors compliance with these measures. Registrar may anytime, at its discretion, request additional measures, if and to the extent this is required to ensure compliance with Applicable Data Protection Laws;

3.3 to ensure that any personnel entrusted with the Processing of the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality. Said obligation shall survive the termination of the respective employment relationship. Escrow Agent shall also ensure that authorized personnel comply with all requirements and obligations set out in this DPA, the Applicable Data Protection Laws and Registrar's instructions;

3.4 not to divulge the Personal Data whether directly or indirectly, to any person, firm or company or otherwise, unless this is required under applicable laws and Registrar has been notified thereof, if and to the extent permitted under applicable laws, except to those of its employees, agents and Sub-processors who (i) are engaged in the Processing of the Personal Data and need to know that information only in connection with and for the purposes relating to the performance of the Services and (ii) are subject to the binding obligations referred to in Section 3.3 above or except as may be required by any law or regulation. Obligations under Section 5.2 of the Agreement shall remain unaffected;

3.5 that it will promptly notify Registrar at the email address [●] about:

3.5.1 any legally binding request for disclosure of the Personal Data, order, investigation or audit by a law enforcement or regulatory authority, which refer to Processing in relation to which Registrar acts as controller, unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation. In such case, Escrow Agent shall follow the process outlined in Section 4.2 of the Agreement;

3.5.2 any substantial disruption of the Processing, any infringements by Escrow Agent or its employees, agents and Sub-processors, of Applicable Data Protection Laws or of this DPA, or any material irregularity in relation to the Processing of the Personal Data;

3.5.3 any actual or suspected Personal Data Breach affecting Personal Data in relation to which Registrar acts as controller. Such notification shall include, taking into account the nature of the Processing and the information available to Escrow Agent, any information relevant to assist Registrar with its own notification obligations under Applicable Data Protection Laws, including at a minimum:

- (a) a description of the nature of the Personal Data Breach, including, where possible, the categories and approximate number of Data Subjects concerned and the categories and approximate number of Personal Data records concerned;
- (b) the name and contact details of the Data Protection Officer, if appointed, or a contact point where more information can be obtained;
- (c) a description of the likely consequences;
- (d) a description of the measures taken or proposed to be taken to address the Personal Data Breach, including, where appropriate, measures to mitigate its possible adverse effects; and
- (e) where, and in so far as, it is not possible to provide the information according to subclause 3.5.3 (a)-(d) at the same time, Escrow Agent shall provide the information in phases without further undue delay. Escrow Agent shall (and shall procure that any Sub-processor will do the same) take steps to investigate the Personal Data Breach and provide Registrar with all reasonable assistance requested. Escrow Agent shall maintain an up-to-date record of all Personal Data Breaches discovered;

3.5.4 any request relating to the exercise by Data Subjects of their rights under Applicable Data Protection Laws, which is directed directly to Escrow Agent, but refers to Processing in relation to which Registrar acts as controller. In that event, Escrow Agent shall not respond to that request and shall procure that any Sub-processor does not respond as well, unless it has been otherwise authorized to do so in writing by Registrar or as otherwise set forth by mandatorily Applicable

Data Protection Laws. Taking into account the nature of the Processing, Escrow Agent further agrees to assist Registrar with its obligation to respond to such requests by implementing appropriate technical and organizational measures and providing any information requested. Escrow Agent shall maintain electronic records of such requests;

3.5.5 where Personal Data becomes subject to search and seizure, an attachment order, confiscation during bankruptcy or insolvency proceedings, or similar events or measures by third parties while being Processed;

3.6 to deal promptly and properly with all inquiries from Registrar relating to its Processing of the Personal Data, including making available to Registrar all information necessary to demonstrate compliance with the obligations laid down in this DPA and the Applicable Data Protection Laws as well as to enable Registrar to verify and procure such compliance;

3.7 to allow for and contribute to audits, including inspections, conducted by Registrar or another auditor mandated by Registrar, as set forth in Section 7 of this DPA;

3.8 that any Processing carried out by a Sub-processor will be carried out in accordance with Section 8 of this DPA;

3.9 that Escrow Agent has appointed a Data Protection Officer, to the extent this is required by Applicable Data Protection Laws. The Escrow Agent will provide to Registrar the contact details of the appointed person and notify the latter of any changes thereof; and

3.10 to assist Registrar in ensuring compliance with Applicable Data Protection Laws, including, where applicable, with its obligations in relation to data security, Personal Data Breach notifications (as further detailed in Section 3.5.3 above), Data Protection Impact Assessments and prior consultations with supervisory authorities, taking into account the nature of the Processing and the information available to the Escrow Agent.

4. TERMINATION

4.1 This DPA will become effective simultaneously with its execution and will terminate automatically upon the later of (a) termination or expiry of the Escrow Agent's obligations in relation to the DPA or (b) the cessation of Processing of the Personal Data by Escrow Agent or (c) the termination of the Agreement.

4.2 On termination of this DPA or any time earlier as requested by Registrar, Registrar acknowledges that Escrow Agent (and its Sub-processors, if any) according to ICANN's instructions shall securely return to ICANN or to any third party designated by ICANN and thereafter destroy and delete, in accordance with the provisions of Section 6.3 of the Agreement, all the Personal Data in its possession or under its control, including any existing copies thereof, unless applicable law requires further storage of the Personal Data.

4.3 Registrar shall be entitled to terminate this DPA forthwith by notice in writing to Escrow Agent if:

4.3.1 Escrow Agent is in a material breach of any provision of this DPA which, in the case of a breach capable of remedy, shall not have been remedied within ten (10) days from the date of receipt by Escrow Agent of a notice from Registrar identifying the breach and requiring its remedy; and/or

4.3.2 Registrar receives notice from Escrow Agent in accordance with Section 3.1 of this DPA.

5. LIABILITY

5.1 To the extent permitted under Applicable Data Protection Laws, each Party's liability arising out of or related to this DPA, including Clause 12 (a) of the SCCs C-t-P, but excluding Clauses (b), (c), (d), (e) and (f) of the SCCs C-t-P, whether in contract, tort or under any other theory of liability, is subject to the limitations of liability set forth in Section 10 of the Agreement.

5.2 Nothing in this section will affect the remaining terms of the Agreement relating to liability, including any specific exclusions from any limitation of liability.

6. AUDITS

Registrar may during regular business hours, without unreasonably interfering with the business operations of the Escrow Agent, and after a reasonable prior notice, personally audit Escrow Agent, or appoint a third-party auditor being subject to confidentiality obligations to carry out such audit. In case of an audit in the event of an actual or suspected Personal Data Breach no prior notice is necessary. In the context of the audit, the Escrow Agent shall provide to Registrar access to premises and systems and all information which is necessary to carry out an audit of the Processing. The Parties shall bear their own costs incurred in relation to audits under this Section 6, unless the audit reveals irregularities on part of the Escrow Agent, in which case Escrow Agent shall bear the cost for the audit and remediation of any audit findings.

7. APPOINTMENT OF SUB-PROCESSORS

7.1 Registrar gives a general written authorization to Escrow Agent with respect to the appointment of Sub-processors. The list of Sub-processors currently used can be found in Schedule 1 of this DPA.

7.2 Escrow Agent shall inform the Registrar of any intended changes concerning the addition or replacement of authorized Sub-processors, by way of written notice, at least thirty (30) days in advance. If Registrar objects and a compromise cannot be reached within fifteen (15) calendar days following Registrar's objection, Escrow Agent shall not proceed with the appointment of this new Sub-processor.

7.3 Any such Processing by a Sub-processor shall be done pursuant to a signed agreement that is no less restrictive than this DPA, and Escrow Agent shall promptly send a copy of any Sub-processor agreement it concludes under this DPA to Registrar.

7.4 In no way will Processing by a Sub-processor release Escrow Agent from its responsibility for its obligations under this DPA, and Escrow Agent will be fully liable for the acts and omissions of each of its Sub-processors.

8. INTERNATIONAL DATA TRANSFERS

8.1 Any transfer of Personal Data by Escrow Agent to a third party in the course of the provision of Services, which is subject to cross-border data transfer restrictions under Applicable Data Protection Laws, shall be done only on the basis of documented instructions from Registrar or in order to fulfil a specific requirement under the laws applicable to Escrow Agent, and shall take place in compliance with the requirements of the Applicable Data Protection Laws.

8.2 As regards transfers of Personal Data from Registrar to Escrow Agent, which are subject to cross-border data transfer restrictions under the GDPR, the Parties hereby agree to enter into the SCCs C-t-P, attached as Schedule 3 to this DPA.

8.3 As regards transfers of Personal Data from Registrar to Escrow Agent, which are subject to cross-border data transfer restrictions under Applicable Data Protection Laws other than the GDPR, the Parties agree to exert their best efforts to negotiate and establish any necessary mechanisms to legitimize such cross-border data transfers under said law.

9. MISCELLANEOUS PROVISIONS

9.1 This DPA, including its Schedules, constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior representations or oral or written agreements between the Parties.

9.2 Amendments or additions to this DPA must be made in writing to be effective. This shall also apply to amendments of this written form requirement. The written form requirement in this clause does not include faxes or any non-transitory form of visible reproduction of words (like emails).

9.3 Should any provision of this DPA be or become invalid, this shall not affect the validity of the remaining terms. The Parties shall in such an event be obliged to cooperate in the creation of terms which achieve such legally valid result as comes closest commercially to that of the invalid provision. The above shall apply accordingly to the closing of any gaps in the DPA.

9.4 Any controller obligations arising from statutory provisions or according to a judicial or regulatory decision shall remain unaffected by this DPA.

9.5 This DPA forms part of and shall be incorporated into the Agreement as Appendix D.

9.6 In the event of conflict or inconsistency between this DPA and any of the provisions of the Agreement with respect to data processing obligations of the Escrow Agent toward Registrar, this DPA will be given precedence. In the event of conflict or inconsistency between the main body of this DPA and any of the provisions of the SCCs C-t-P in Schedule 3, the SCCs C-t-P will be given precedence.

9.7 This DPA shall be governed by the same law that is governing the Agreement. Any dispute, controversy or claim arising out of or in connection with this DPA, or its subject matter shall be regulated according to the Agreement.

9.8 California Law. Where Escrow Agent processes any personal information of California consumers, Escrow Agent acts as a service provider. Registrar discloses personal information to Escrow Agent solely for valid business purposes. Escrow Agent agrees that it shall not (i) sell or share the personal information; (ii) retain, use, or disclose the personal information for a business purpose other than providing the Services; (iii) retain, use, or disclose the personal information outside of the direct business relationship as defined in the Agreement; or (iv) combine disclosed personal information from Registrar with any personal information Escrow Agent receives from, or on behalf of, another person or persons. Escrow Agent will immediately notify Registrar and ICANN in writing if it determines or reasonably suspects its inability to comply with its obligations set forth in this Section.

The Parties' authorized signatories have duly executed this DPA.

Registrar

Signature: _____

Legal Name: _____

Print Name: _____

Title: _____

Date: _____

Escrow Agent

Signature: _____

Legal Name: _____

Print Name: _____

Title: _____

Date: _____

Schedule 1

Details of Processing Activities

Nature of Processing	Collection, use, storage and disclosure of Personal Data in the context and for the purpose of performance of the Agreement
Duration of Processing	For the term of the Agreement
Processing Purposes	<p>Escrow Agent Processes Personal Data in the course of providing its Services in relation to the following purposes identified in EPDP Team Recommendation #1 of the “Final Report of the Temporary Specification for gTLD Registration Data Expedited Policy Development Process”:</p> <ul style="list-style-type: none"> ● Contribute to the maintenance of the security, stability, and resiliency of the domain name system in accordance with ICANN’s mission; ● Provide mechanisms for safeguarding registered name holders’ registration data in the event of a business or technical failure of a registrar or registry operator, or unavailability of a registrar, as described in registry agreements, the Registrar Accreditation Agreement, and the Agreement respectively; ● Handle contractual compliance monitoring requests and audit activities consistent with the terms of the Agreement, the registry agreements, the Registrar Accreditation Agreements, and any other applicable data processing agreements, by Processing specific data only as necessary;
Personal Data	<p>The categories of data (which may or may not include Personal Data) that are Processed pursuant to this DPA are:</p> <ul style="list-style-type: none"> ● Domain name; ● Registrar registration expiration date;

	<ul style="list-style-type: none"> ● Registrar IANA ID; ● Registrant name; ● Registrant street; ● Registrant city; ● Registrant state/province; ● Registrant postal code; ● Registrant country; ● Registrant phone; ● Registrant email; ● Registrant organization; ● Reseller; ● Registrant phone ext.; ● Registrant fax; ● Registrant fax ext.; ● Tech name; ● Tech phone; ● Tech email. ● The name, postal address, e-mail address, and voice telephone number provided by the customer of any privacy service or licensee of any proxy registration service, in each case, offered or made available by registrar or its affiliates in connection with each registration.
<p>Categories of Data Subjects</p>	<p>The categories of Data Subjects affected by the Processing set out in this DPA are:</p> <ul style="list-style-type: none"> ● Domain name registrants, where such registrant is a natural person; ● Natural persons who are identified as points of contact for domain name registrants who are legal persons; ● Domain name resellers who are natural persons; and ● Customers of Privacy and Proxy Service Providers, as defined in the Registrar Accreditation Agreement and the Specification on Privacy and Proxy Registrations, to the extent such customer is a natural person or identifies a natural person as a point of contact.
<p>Sub-processors (including a specification of subject matter, nature and duration of the Processing)</p>	<p><i>To be completed</i></p>

Schedule 2

Description of the technical and organisational security measures

1. **Identification of Personal Data Items** - Have an inventory of assets and locations that process and store Personal Data. Be able to provide information at any given time on:

- The assets that are connected to our environment at any given time.
- Determine if said assets process or store any Personal Data.
- Provide information on what services and protocols are used to transmit or access Personal Data.

2. **Identify and Monitor Users with access to Personal Data** - Have a system of Access Controls in place for users with access to Personal Data. This should include:

- Devise proper access controls and restrict Personal Data access.
- Grant Personal Data handling access only on an “as-needed” basis to privileged users.

3. **Assess Security Controls** – Have a documented process for regularly testing, assessing, and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing. This should involve:

- Manual assurance through audits, assurance reviews, penetration testing and red-team activities.
- Consolidated and integrated security products, so that fewer point products need to be managed and reported on.
- Automated assurance technologies.

4. **Assess Risks to Data Subjects** – Have conducted and at appropriate intervals conduct a risk assessment pursuant to Article 32 GDPR.

- The review should utilize an information security framework such as NIST, CSF, ISO / IEC 27001 or similar industry acceptable standard.
- In the event of a data breach, can demonstrate appropriate security controls were in place.
- Understand the threats our organization faces and the likelihood of them materializing.
- Documented understanding of which systems and businesses units are high risk.
- Can be carried out by Escrow Agent or an independent third party appointed by Escrow Agent who shall implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk.

5. **Manage Personal Data Lifecycle** – Understand and provide evidence of how Personal Data records are backed up. Understand and provide evidence of a system for restoring data and securely deleting records as needed.

6. **Monitor Personal Data Access** – Have a system for monitoring data flows within the organization. System should:

- Address data stored within local networks or processed in cloud environments.
- Have the ability to centralize, analyze, and store log data from relevant environments.
- Provide alerts in real time to any suspicious or anomalous activity.
- Have a way to securely store raw log data and to ensure its integrity.

7. **Detect Security Threats** – Have a process to identify and assess vulnerabilities in the IT systems. Process should include:

- Continuous scanning and monitoring of critical assets.
- Monitoring of cloud environments in addition to on-premises environments.
- When a vulnerability is discovered, have a means to determine 1) the number of personal records potentially exposed; 2) if any intrusions or exploits have been attempted on the vulnerable asset; and 3) how is the vulnerability being exploited by attackers in the wild.

8. **Incident Response Plan** – Have a documented incident response plan that ensures at a minimum:

- When an incident occurs that the impacted systems processing Personal Data are identified.
- That all relevant parties are informed in the event of a security incident according to this DPA.

Schedule 3

Standard Contractual Clauses

(Module Two: Transfer Controller to Processor)

SECTION I

Clause 1

Purpose and scope

a. The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)¹ for the transfer of personal data to a third country.

b. The Parties:

i. the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter “entity/ies”) transferring the personal data, as listed in Annex I.A. (hereinafter each “data exporter”), and

ii. the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A. (hereinafter each “data importer”)

have agreed to these standard contractual clauses (hereinafter: “Clauses”).

c. These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.

d. The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

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 8.1(b), 8.9(a), (c), (d) and (e);

iii. Clause 9(a), (c), (d) and (e);

iv. Clause 12(a), (d) and (f);

v. Clause 13;

vi. Clause 15.1(c), (d) and (e);

vii. Clause 16(e);

viii. 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. Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.

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 - Optional
Docking clause***

(Intentionally left blank.)

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 Annex I.B, unless on further instructions from the data exporter.

8.3 Transparency

On request, the data exporter shall make a copy of these Clauses, including the Appendix as completed by the Parties, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including the measures described in Annex II and personal data, the data exporter may redact part of the text of the Appendix to these Clauses prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information. This Clause is without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

8.4 Accuracy

If the data importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the data exporter without undue delay. In this case, the data importer shall cooperate with the data exporter to erase or rectify the data.

8.5 Duration of processing and erasure or return of data

Processing by the data importer shall only take place for the duration specified in Annex I.B. After the end of the provision of the processing services, the data importer shall, at the choice of the data exporter, delete all personal data processed on behalf of the data exporter and certify to the data exporter that it has done so, or return to the data exporter all personal data processed on its behalf and delete existing copies. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit return or deletion of the personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 14, in particular the requirement for the data importer under Clause 14(e) to notify the data exporter throughout the duration of the contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 14(a).

8.6 Security of processing

a. The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter “personal data breach”). In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter. In complying with its obligations under this paragraph, the data importer shall at least implement the technical and organisational measures specified in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.

b. The data importer shall grant access to the personal data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

c. In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. The data importer shall also notify the data exporter without undue delay after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), its likely consequences and the measures taken or proposed to address the breach including, where appropriate, measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same

time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

d. The data importer shall cooperate with and assist the data exporter to enable the data exporter to comply with its obligations under Regulation (EU) 2016/679, in particular to notify the competent supervisory authority and the affected data subjects, taking into account the nature of processing and the information available to the data importer.

8.7 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences (hereinafter "sensitive data"), the data importer shall apply the specific restrictions and/or additional safeguards described in Annex I.B.

8.8 Onward transfers

The data importer shall only disclose the personal data to a third party on documented instructions from the data exporter. In addition, the data may only be disclosed to a third party located outside the European Union⁴ (in the same country as the data importer or in another third country, hereinafter "onward transfer") if the third party is or agrees to be bound by these Clauses, under the appropriate Module, or if:

- i. the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;
- ii. the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 Regulation of (EU) 2016/679 with respect to the processing in question;
- iii. the onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or
- iv. the onward transfer is necessary in order to protect the vital interests of the data subject or of another natural person.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular, purpose limitation.

8.9 Documentation and compliance

- a. The data importer shall promptly and adequately deal with enquiries from the data exporter that relate to the processing under these Clauses.
- b. The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer shall keep appropriate documentation on the processing activities carried out on behalf of the data exporter.

c. The data importer shall make available to the data exporter all information necessary to demonstrate compliance with the obligations set out in these Clauses and at the data exporter's request, allow for and contribute to audits of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non-compliance. In deciding on a review or audit, the data exporter may take into account relevant certifications held by the data importer.

d. The data exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the data importer and shall, where appropriate, be carried out with reasonable notice.

e. The Parties shall make the information referred to in paragraphs (b) and (c), including the results of any audits, available to the competent supervisory authority on request.

Clause 9 *Use of sub-processors*

a. The data importer has the data exporter's general authorization for the engagement of sub-processor(s) from an agreed list. The data importer shall specifically inform the data exporter in writing of any intended changes to that list through the addition or replacement of sub-processors at least within thirty (30) days in advance, thereby giving the data exporter sufficient time to be able to object to such changes prior to the engagement of the sub-processor(s). The data importer shall provide the data exporter with the information necessary to enable the data exporter to exercise its right to object.

b. Where the data importer engages a sub-processor to carry out specific processing activities (on behalf of the data exporter), it shall do so by way of a written contract that provides for, in substance, the same data protection obligations as those binding the data importer under these Clauses, including in terms of third-party beneficiary rights for data subjects. The Parties agree that, by complying with this Clause, the data importer fulfils its obligations under Clause 8.8. The data importer shall ensure that the sub-processor complies with the obligations to which the data importer is subject pursuant to these Clauses.

c. The data importer shall provide, at the data exporter's request, a copy of such a sub-processor agreement and any subsequent amendments to the data exporter. To the extent necessary to protect business secrets or other confidential information, including personal data, the data importer may redact the text of the agreement prior to sharing a copy.

d. The data importer shall remain fully responsible to the data exporter for the performance of the sub-processor's obligations under its contract with the data importer. The data importer shall notify the data exporter of any failure by the sub-processor to fulfil its obligations under that contract.

e. The data importer shall agree a third-party beneficiary clause with the sub-processor whereby – in the event the data importer has factually disappeared, ceased to exist in law or has become insolvent – the data exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

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' requests for the exercise of their rights under Regulation (EU) 2016/679. In this regard, 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 authorized to handle complaints. It shall deal promptly with any complaints it receives from a data subject.
- b. In case of a dispute between a data subject and one of the Parties as regards compliance with these Clauses, that Party shall use its best efforts to resolve the issue amicably in a timely fashion. The Parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them.
- c. Where the data subject invokes a third-party beneficiary right pursuant to Clause 3, the data importer shall accept the decision of the data subject to:
 - i. lodge a complaint with the supervisory authority in the Member State of his/her habitual residence or place of work, or the competent supervisory authority pursuant to Clause 13;
 - ii. refer the dispute to the competent courts within the meaning of Clause 18.
- d. The Parties accept that the data subject may be represented by a not-for-profit body, organisation or association under the conditions set out in Article 80(1) of Regulation (EU) 2016/679.
- e. The data importer shall abide by a decision that is binding under the applicable EU or Member State law.
- f. The data importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.

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 under these 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-material damages the data exporter or the data importer (or its sub-processor) causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter and, where the data exporter is a processor acting on behalf of a controller, to the liability of the controller under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable.
- d. The Parties agree that if the data exporter is held liable under paragraph (c) for damages caused by the data importer (or its sub-processor), it shall be entitled to claim back from the data importer that part of the compensation corresponding to the data importer's responsibility for the damage.
- e. Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.
- f. The Parties agree that if one Party is held liable under paragraph (e), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its / their responsibility for the damage.
- g. The data importer may not invoke the conduct of a sub-processor to avoid its own liability.

Clause 13
Supervision

- a. [Where the data exporter is established in an EU Member State:] The supervisory authority with responsibility for ensuring compliance by the data exporter with Regulation (EU) 2016/679 as regards the data transfer, as indicated in Annex I.C, shall act as competent supervisory authority. [Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) and has appointed a representative pursuant to Article 27(1) of Regulation (EU) 2016/679:] The supervisory authority of the Member State in which the representative within the meaning of Article 27(1) of Regulation (EU) 2016/679 is established, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) without however having to appoint a representative pursuant to Article 27(2) of Regulation (EU) 2016/679:] The supervisory authority of one of the Member States in which the data subjects whose personal data is transferred under these Clauses in relation to the offering of goods or services to them, or whose behaviour is monitored, are located, as indicated in Annex I.C, shall act as competent supervisory authority.

b. The data importer agrees to submit itself to the jurisdiction of and cooperate with the competent supervisory authority in any procedures aimed at ensuring compliance with these Clauses. In particular, the data importer agrees to respond to enquiries, submit to audits and comply with the measures adopted by the supervisory authority, including remedial and compensatory measures. It shall provide the supervisory authority with written confirmation that the necessary actions have been taken.

SECTION III – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES

Clause 14

Local laws and practices affecting compliance with the Clauses

a. The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.

b. The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:

- i. the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;
- ii. the laws and practices of the third country of destination— including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards¹²;
- iii. any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.

- c. The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.
- d. The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.
- e. The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a).
- f. Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and (e) shall apply.

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 them on request of the data exporter.

c. Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.).

d. The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.

e. Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

15.2 Review of legality and data minimisation

a. The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).

b. The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request.

c. The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

SECTION IV – FINAL PROVISIONS

Clause 16

Non-compliance with the Clauses and termination

a. The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.

b. In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).

c. The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:

i. the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;

ii. the data importer is in substantial or persistent breach of these Clauses; or

iii. the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

d. Personal data that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall at the choice of the data exporter immediately be returned to the data exporter or deleted in its entirety. The same shall apply to any copies of the data. The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.

e. Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

Clause 17 **Governing law**

These Clauses shall be governed by the law of one of the EU Member States, provided such law allows for third-party beneficiary rights. The Parties agree that this shall be the law of Belgium.

Clause 18 **Choice of forum and jurisdiction**

a. Any dispute arising from these Clauses shall be resolved by the courts of an EU Member State.

b. The Parties agree that those shall be the courts of Belgium.

- c. A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of the Member State in which he/she has his/her habitual residence.
- d. The Parties agree to submit themselves to the jurisdiction of such courts.

APPENDIX

EXPLANATORY NOTE:

It must be possible to clearly distinguish the information applicable to each transfer or category of transfers and, in this regard, to determine the respective role(s) of the Parties as data exporter(s) and/or data importer(s). This does not necessarily require completing and signing separate appendices for each transfer/category of transfers and/or contractual relationship, where this transparency can be achieved through one appendix. However, where necessary to ensure sufficient clarity, separate appendices should be used.

ANNEX I

(A) LIST OF PARTIES

Data exporter(s):

Name: [...]

Address: [...]

Contact person's name, position and contact details: [...]

Activities relevant to the data transferred under these Clauses: The data exporter assigns to the data importer the storage and release of domain name registration records.

Signature : [...] Date: [...]

Role (controller/processor): **Controller**

Data importer:

Name: DENIC Services GmbH & Co. KG

Address: Heinrich-Hertz-Str. 6

Darmstadt, Hesse, 64295, Germany

Activities relevant to the data transferred under these Clauses: The data importer undertakes the storage and release of domain name registration records.

Signature: [...] Date: [...]

Role (controller/processor): **Processor**

(B) DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred

Please refer to Schedule 1 of the Appendix D "Data Processing Agreement".

Categories of personal data transferred

Please refer to Schedule 1 of the Appendix D "Data Processing Agreement".

Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.

Not applicable.

The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).

Personal data is transferred on a continuous basis.

Nature of the processing

Please refer to Schedule 1 of the Appendix D “Data Processing Agreement”.

Purpose(s) of the data transfer and further processing

Please refer to Schedule 1 of the Appendix D “Data Processing Agreement”.

The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period

The data importer will retain the Personal Data only (i) as necessary to carry out the purposes of the Processing (listed in Schedule 1 of the Appendix D “Data Processing Agreement”) or otherwise instructed according to section 4.2 of the DPA or (ii) as permitted or required under applicable laws (including statutory data retention obligations).

For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing

Please refer to Schedule 1 of the Appendix D “Data Processing Agreement”.

(C) COMPETENT SUPERVISORY AUTHORITY

A current list of data protection supervisory authorities in the EU/EEA and their contact details is available at https://edpb.europa.eu/about-edpb/about-edpb/members_en.

ANNEX II

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

Please refer to Schedule 2 of this DPA.

ANNEX III

LIST OF SUB-PROCESSORS

Please refer to Schedule 1 of this DPA.