

ACCUCOMS DATA PROCESSING AGREEMENT

This Data Processing Agreement (“DPA”) is made by and between ACCUCOMS (“Processor”) and Customer (“Controller”) for ensuring adequate safeguards with respect to the protection of Personal Data, including as may be required by the General Data Protection Regulation (Regulation (EU) 2016/679). ACCUCOMS Data Processing Agreement stipulates the rights and obligations in the context of processing personal data on behalf of a controller in accordance with Chapter 4 of the EU General Data Protection Regulation (GDPR).

The effective date of this DPA shall be May 25, 2018 and it shall remain in effect until the Agreement expires or is otherwise terminated and all services provided thereunder have ceased. The obligations set forth in this DPA respecting the protection of Personal Data by ACCUCOMS shall survive any termination or expiration of this DPA.

I. Definitions

- a. Controller means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data.
- b. Data Protection Law means all applicable legislation relating to data protection and privacy including without limitation the EU Data Protection Directive 95/46/EC and all local laws and regulations which amend or replace any of them, including the GDPR, together with any national implementing laws in any Member State of the European Union or, to the extent applicable, in any other country, as amended, repealed, consolidated or replaced from time to time. The terms “process”, “processes” and “processed” will be construed accordingly.
- c. Data Subject means the individual to whom Personal Data relates.
- d. Instruction means the written, documented instruction, issued by Customer to ACCUCOMS, and directing the same to perform a specific action with regard to Personal Data (including, but not limited to, depersonalizing, blocking, deletion, making available).
- e. Personal Data means any information relating to an identified or identifiable individual where such information is contained within Customer data and is protected similarly as personal data or personally identifiable information under applicable Data Protection Law.
- f. Personal Data Breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.
- g. Processing means any operation or set of operations which is performed on Personal Data, encompassing the collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction or erasure of Personal Data.

- h. Processor means a natural or legal person, public authority, agency or other body which processes Personal Data on behalf of the Controller.

II. Controller Responsibility

The parties acknowledge and agree that Customer is the Controller of Personal Data and ACCUCOMS is the Processor of that data. Within the scope of the Agreement and in its use of the services, Customer shall be solely responsible for complying with the statutory requirements relating to data protection and privacy, regarding the disclosure and transfer of Personal Data to ACCUCOMS and the Processing of Personal Data. For the avoidance of doubt, Customer's instructions for the Processing of Personal Data shall comply with the Data Protection Law.

This DPA is a complete and final instruction to ACCUCOMS in relation to Personal Data and that additional instructions outside the scope of DPA would require prior written agreement between the parties. Instructions shall initially be specified in the Agreement and may, from time to time thereafter, be amended, amplified or replaced by Customer in separate written instructions (as individual instructions).

Controller shall inform ACCUCOMS without undue delay and comprehensively about any errors or irregularities related to statutory provisions on the Processing of Personal Data.

III. Obligations of ACCUCOMS as a Processor

- a. Compliance with Instructions. ACCUCOMS shall collect, process and use Personal Data only within the scope of Customer's Instructions. If ACCUCOMS believes that an Instruction of the Customer infringes the Data Protection Law, it shall immediately inform the Customer without delay. If ACCUCOMS cannot process Personal Data in accordance with the Instructions due to a legal requirement under GDPR, Accucoms will notify the Customer of that legal requirement before the relevant Processing to the extent permitted by the Data Protection Law; and cease all Processing until the Customer issues new instructions with which ACCUCOMS is able to comply. If this provision is invoked, ACCUCOMS will not be liable to the Customer under the Agreement for any failure to perform the applicable services until the Customer issues new instructions regarding the Processing.

The type of Personal Data processed pursuant to this DPA; the need for the data; the categories of relevant Data Subjects about whom Personal Data may be processed; and the subject matter, duration, nature and purpose of the processing are described in Appendix 1 to this DPA.

- b. Security. With respect to all Personal Data, ACCUCOMS shall:
1. implement all appropriate technical and organizational measures to ensure a level of security appropriate to the risks presented by the processing of Personal Data, and to protect against any accidental or unlawful destruction, loss, alteration, unauthorized disclosure, or unauthorized access to Personal Data;
 2. limit the processing and storage of personal data to Zoho One system (Zoho Corporation) and business software Office 365 (Microsoft). Both Zoho Corporation and Microsoft participates in and has certified its compliance with the General Data Protection Regulation (GDPR) and U.S. Privacy Shield Framework.
 3. ensure that only authorized personnel have access to the Personal Data processing system (physical access control);
 4. prevent Personal Data processing system from being used without authorization (logical access control);
 5. ensure that persons entitled to use a Personal Data Processing system gain access only to such Personal Data as they are entitled to accessing in accordance with their access rights, and that, in the course of Processing or use and after storage, Personal Data cannot be read, copied, modified or deleted without authorization (data access control);
 6. certify that Personal Data cannot be read, copied, modified or deleted without authorization during electronic transmission, transport or storage on storage media, and that the target entities for any transfer of Personal Data by means of data transmission facilities can be established and verified (data transfer control),
 7. ensuring the establishment of an audit trail to document whether and by whom Personal Data have been entered into, modified in, or removed from Personal Data Processing systems (entry control); and
 8. ensuring that Personal Data is Processed solely in accordance with the Instructions (control of instructions).
- c. Confidentiality. ACCUCOMS shall ensure that personnel authorized to have access to Personal Data is obligated to protect the confidentiality of such Personal Data at all times.
- d. Personal Data Breaches. ACCUCOMS will notify Customer, as soon as aware, of any breach of security that leads to the accidental or unlawful destruction, loss, alternation, unauthorized disclosure, or unauthorized access to Personal Data transmitted, stored or otherwise processed by ACCUCOMS.

As a Processor, ACCUCOMS shall provide Customer reasonable cooperation and assistance with respect to any security breach affecting Personal Data, providing all information concerning such breach, including:

1. possible causes of the breach and potential consequences for the relevant Data Subjects;
2. the categories of Personal Data involved in the breach;

3. identification of any known unauthorized recipients of Personal Data; and
4. all measures to be taken by ACCUCOMS to rectify the breach and mitigate any damage caused therefrom.

ACCUCOMS will not make any public announcement about any security breach relating to Personal Data without the prior written consent of Customer, unless required to do so by applicable law.

- e. Data Subject Requests. ACCUCOMS will notify Customer if ACCUCOMS receives any request from an individual to access, rectify, object, erase, transport or that otherwise affects the processing of that individual's Personal Data.
- f. Sub-Processors. ACCUCOMS do not engage affiliates or third-party entities as sub-Processors for the performance of the services under the Agreement.
- g. Data Transfers. Customer acknowledges and agrees that, in connection with the performance of the services under the Agreement, Personal Data may be transferred to ACCUCOMS, in order to implement appropriate safeguards for such transfers pursuant to Article 46 of the GDPR.
- h. Deletion or Retrieval of Personal Data. ACCUCOMS will delete all Personal Data processed pursuant to this DPA within six months after the termination or expiration of the Agreement between Customer and ACCUCOMS or otherwise specified by the Customer. If unable to delete Personal Data for technical or other reasons, ACCUCOMS will apply measures to ensure that Personal Data is blocked from any further Processing.

IV. Audit and Records

ACCUCOMS shall, upon Customer's written request and within a reasonable period of time, provide Customer with all information necessary for such audit, to the extent that such information is within ACCUCOMS' control and ACCUCOMS is not precluded from disclosing it by applicable law, a duty of confidentiality, or any other obligation owed to a third party.

The individual at ACCUCOMS who shall be responsible for responding to all issues regarding Personal Data and the GDPR is Jaap van der Plas, Operations Manager, jaap@accucoms.com.

V. General Provisions

This DPA is without prejudice to the rights and obligations of the Parties under the Agreement, which shall continue in full force and effect.

As set forth in the GDPR, each Party shall be responsible for any fines or damages incurred as a result of an infringement of the GDPR for which it is responsible. As the GDPR mandates, either Party may be held liable for the entire damage caused by processing, but when either Party has paid full compensation for any damage suffered, it shall be entitled to recover from the other Party the portion of the damage which corresponds to that Party's portion of responsibility for the damage. Notwithstanding any provision to the contrary, this recovery shall not be subject to any limitation of liability or indemnity limitation which may be set forth in the Agreement.

This DPA is the exclusive and final agreement of the Parties with respect to the subject matter hereof. No modification or waiver of any provision of this DPA will be effective unless in writing and signed by an authorized signatory of each Party. This DPA may be executed in counterparts, each of which shall be deemed to be an original but all of which, taken together, shall constitute one and the same agreement. Each person signing below represents and warrants that he/she is duly authorized to execute this DPA on behalf of the Party.

IN WITNESS WHEREOF, each Party has caused this DPA to be executed and delivered by its duly authorized representative.

APPENDIX 1

Details of Processing of Personal Data

1. Personal Data means all data which is defined as '*personal data*' in the GDPR and which is accessed, stored or otherwise used by ACCUCOMS to provide the services called for in the Agreement between ACCUCOMS and Customer.
2. The Type of Personal Data processed by ACCUCOMS is limited to contact Information, such as name, address, phone number and email address, the extent of which is determined and controlled by the Customer in its sole discretion.
3. The Categories of Data Subjects to be processed under this DPA may concern the following
 - a. Prospective customers, customers, members, attendees, donors, vendors, suppliers, contractors, subcontractors, business partners, agents or subscribers of the Controller (who are natural persons); and
 - b. Any other natural persons who may authorize the Controller to perform actions on their behalf.
4. The Nature of the Processing shall consist of the activities necessary for ACCUCOMS to provide the services called for in the Agreement between ACCUCOMS and Customer that involves the Processing of Personal Data.
5. The Purpose of the Processing is the provision of the services called for in the Agreement between ACCUCOMS and Customer.
6. The Duration of the Processing will be until the earliest of:
 - a. Six months after the termination or expiration of the Agreement between Customer and ACCUCOMS; or
 - b. Otherwise specified by the Customer.