

MODULE DPAP
DATA PROTECTION AGREEMENT: PROCESSOR

1. Definitions

- 1.1. The terms, "Controller", "Data Subject", "Personal Data", "Processor", "processing" and "Supervisory Authority" shall have the same meaning as in the GDPR.

"Approved Country" means:

- a. in the case of EU personal data, any country, territory, sector or international organisation in respect of which an adequacy decision under Art.45 GDPR is in force;
- b. in the case of UK personal data, any country, territory, sector or international organisation in respect of which an adequacy decision under United Kingdom adequacy regulations is in force; and

"Data Protection Legislation" means, to the extent the UK GDPR (as defined in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018) applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data; to the extent the General Data Protection Regulation ((EU) 2016/679) applies, the law of the European Union or any member state of the European Union to which the party is subject, which relates to the protection of personal data, the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data.

"GDPR" means, in each case to the extent applicable to the processing activities: (i) Regulation (EU) 2016/679 ("**EU GDPR**"); and (ii) UK GDPR.

"Processor Activities" means, in relation to the Services, activities for which Kinto processes Personal Data as a Processor for Customer, as further described in Schedule 1 of this DPA.

"Protected Area" means:

- a. where EU GDPR applies, the members states of the European Union and the European Economic Area; and
- b. where UK GDPR applies, the United Kingdom.

"Security Breach" means any accidental, unauthorised or unlawful destruction, loss, alteration, or disclosure of, or access to the Personal Data that Kinto processes in the course of the Processor Activities.

"Standard Contractual Clauses" means

- a. where EU GDPR applies, the standard contractual clauses set out in the Annex of Commission Implementing Decision (EU) 2021/914 of 4 June 2021; or
- b. where UK GDPR applies, the International Data Transfer Addendum to the EU Commission Standard Contractual Clauses as issued by the Information Commissioner's Office under S119A(1) of the Data Protection Act 2018.

"Sub-Processor" means any third party that processes Personal Data on behalf of Kinto.

2. Processing of Personal Data

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- 2.1. The parties agree and acknowledge that for the purpose of the Data Protection Legislation:
 - a. Customer is the Controller and Kinto is the Processor in relation to the Processor Activities;
 - b. the Customer retains control of the Personal Data and remains responsible for its compliance obligations under applicable Data Protection Legislation;
 - c. Schedule 1 describes the subject matter, duration, nature and purpose of the processing and the Personal Data categories and Data Subject types in respect of which Kinto undertakes Processor Activities.
- 2.2. When Kinto processes Personal Data for Processor Activities, Kinto: (i) processes the Personal Data only in accordance with documented instructions from Customer agreed between the parties from time to time. If Kinto is required to process the Personal Data for any other purpose by applicable laws to which Kinto is subject, Kinto will inform Customer of this requirement first, unless such law(s) prohibit this; and (ii) will inform Customer if in Kinto's reasonable opinion, an instruction infringes applicable Data Protection Legislation.
- 2.3. The subject-matter of processing of Personal Data by Kinto is the performance of the Services pursuant to the Agreement and the provisions set out in this DPA. The duration of the processing, the nature and purpose of the processing, the types of Personal Data and categories of Data Subjects under this DPA are further specified in Schedule 1 to this DPA.

3. Data Subject Requests

Taking into account the nature of the processing, Kinto shall assist Customer by appropriate technical and organizational measures, insofar as this is possible, for the fulfillment of Customer's obligation to respond to a requests from data subjects exercising their rights in relation to Processor Activities.

4. Kinto Personnel

Kinto will ensure that its employees and personnel are bound by confidentiality obligations in respect of the Personal Data.

5. Sub-Processors

- 5.1. Customer acknowledges and agrees that Kinto may each engage third-party Sub-Processors in connection with the provision of the Services.
- 5.2. A list of authorised Sub-Processors is available on Kinto website and/or upon request.
- 5.3. Kinto may only authorise a new third-party Sub-Processor to process the Personal Data if:
 - a. Customer is provided with an opportunity to object to the appointment of each new Sub-Processor within 15 days after Kinto provides Customer with details of the new Sub-Processor; and
 - b. Kinto enters into a written contract with the Sub-Processor that provides, in substance, at least the level of data protection required of Kinto by this DPA.

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- 5.4. Those Sub-Processors approved as at the commencement of this Agreement are as set out in Schedule 1.
- 5.5. Where the Sub-Processor fails to fulfil its obligations under the written agreement with Kinto, Kinto remains fully liable to Customer for the Sub-Processor's performance of its agreement obligations.

6. Security and Audits

- 6.1. Kinto shall implement and maintain appropriate technical and organisational measures to protect the personal data against unauthorised or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure. These measures shall be appropriate to the harm which might result from any such events and having regard to the nature of the Personal Data which is to be protected.
- 6.2. Upon Customer's reasonable notice following occurrence of a data breach and no more than once every 12 months, and subject to strict confidentiality undertakings by Customer, Processor shall make available to Customer (or Customer's independent third-party auditor that is not a competitor of Kinto) information necessary to demonstrate compliance with this DPA, and allow for and contribute to audits, including inspections, conducted by them (provided, however, that such information, audits, inspections and the results therefrom, including the documents reflecting the outcome of the audit and/or the inspections, shall only be used by Customer to assess compliance with this DPA, and shall not be used for any other purpose or disclosed to any third party without Kinto's prior written approval.
- 6.3. In the event of an audit or inspections as set forth above, Customer shall ensure that it (and each of its auditors) will not cause (or, if it cannot avoid, minimize) any damage, injury or disruption to Kinto's premises, equipment, personnel and business while conducting such audit or inspection.
- 6.4. If Customer's request for information or access relates to a Sub-Processor, or information held by a Sub-Processor which Kinto cannot provide to Customer itself, Kinto will promptly submit a request for additional information in writing to the relevant Sub-Processor(s). Customer acknowledges that access to the Sub-Processor's premises or to information about the Sub-Processor's previous independent audit reports is subject to agreement from the relevant Sub-Processor, and that Kinto cannot guarantee access to that sub-processor's premises or audit information in all circumstances.

7. Data Breach

- 7.1. In the event of a Security Breach, Kinto will:
 - a. take action immediately to investigate the suspected Security Breach and to identify, prevent and mitigate the effects of the suspected Security Breach and to remedy the Security Breach; and
 - b. notify Customer without undue delay and provide Customer with a detailed description of the Security Breach according to the information it has available, including:
 - 7.1.b.1. the likely impact of the Security Breach;

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- 7.1.b.2. the categories and approximate number of data subjects affected and their country of residence and the categories and approximate number of records affected;
- 7.1.b.3. the risk posed by the Security Breach to individuals; and
- 7.1.b.4. the measures taken or proposed to be taken by Kinto to address the Security Breach.

8. Return of Data

Following termination of the Agreement and subject thereto, or when Personal Data is no longer needed for the purpose for which it was provided, Kinto shall, at the request of Customer, delete or return to Customer all the Personal Data it processes solely on behalf of Customer in the manner described in the Agreement (if specified), and Kinto shall delete existing copies of such Personal Data unless applicable law requires otherwise.

9. Data Transfers

- 9.1. Personal Data may be transferred from EU Member States, the three other EEA member countries (Norway, Liechtenstein and Iceland) (collectively, “**EEA**”), and the United Kingdom (“**UK**”) to countries that offer an adequate level of data protection under or pursuant to the adequacy decisions published by the relevant data protection authorities of the EEA, the European Union, the Member States or the European Commission and/or the UK as relevant (“**Adequacy Decisions**”), as applicable, without any further safeguard being necessary.
- 9.2. For the avoidance of doubt, Kinto will transfer Personal Data originating from the EEA or UK to countries that have not been subject to a relevant Adequacy Decision only subject to the Standard Contractual Clauses or an alternative recognized compliance mechanism for the lawful transfer of personal data outside the EEA or the UK as set out in applicable Data Protection Legislation.

10. Authorised Affiliates

- 10.1. The Parties acknowledge and agree that, by executing the DPA, the Customer enters into the DPA on behalf of itself and, as applicable, in the name and on behalf of its Authorized Affiliates, in which case each Authorized Affiliate agrees to be bound by the Customer’s obligations under this DPA, if and to the extent that Processor Processes Personal Data on the behalf of such Authorized Affiliates, thus qualifying them as the Controller. All access to and use of the Klario Platform by Authorized Affiliates must comply with the terms and conditions of the Agreement and this DPA and any violation of the terms and conditions therein by an Authorized Affiliate shall be deemed a violation by Customer.
- 10.2. Customer shall remain responsible for coordinating all communication with Processor under the Agreement and this DPA and shall be entitled to make and receive any communication in relation to this DPA on behalf of its Authorized Affiliates.

11. Further Compliance

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- 11.1. Upon Customer's reasonable request, Kinto shall provide Customer, at Customer's cost, with reasonable cooperation and assistance needed to fulfil Customer's obligation under GDPR to carry out a data protection impact assessment related to Customer's use of the Services in relation to Processor Activities, to the extent Customer does not otherwise have access to the relevant information, and to the extent such information is available to Kinto. Kinto shall provide reasonable assistance to Customer in the cooperation or prior consultation with the supervisory authority in the performance of its tasks relating to this Section 11.1, to the extent required under GDPR, as applicable.

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Schedule 1: Details of Processor Activities

1. Nature and Purpose of Processing

1. Providing the Services to Customer;
2. Performing the Agreement, this DPA and/or other contracts executed by the parties;
3. Acting upon Customer's instructions, where such instructions are consistent with the terms of the Agreement;

2. Duration and Frequency of Processing

Subject to any section of the DPA and/or the Agreement dealing with the duration of the Processing and the consequences of the expiration or termination thereof, Kinto will process Personal Data pursuant to the DPA and Agreement on a continuous basis for the duration of the Agreement, unless otherwise agreed upon in writing.

3. Type of Personal Data

Customer may submit Personal Data to the Kinto Zero Platform, the extent and nature of which is determined and controlled by Customer in its sole discretion. This data typically includes Customer's personnel's name, contact information, and position.

Kinto may process incidental Personal Data in the course of the Consultancy Services. This data typically includes Customer's personnel's name, contact information, and position.

4. Categories of Data Subjects

Personal Data relating to the following categories of Data Subjects: employees, agents, advisors, contractors of Customer (who are natural persons).

5. Approved Sub-contractors

Details per Kinto website and/or provided on request