



Open Text Data Processing Addendum Amendment

This Data Processing Addendum Amendment (“**Amendment**”) is entered into by and between Customer as identified in the signature block below (the “**Customer**”) and Open Text entity having entered into the Principal Agreement (as defined below) (“**Open Text**” or “**OT**”) as of the date of the last signature of both parties with respect to the period on and after that date. Customer and Open Text hereinafter separately referred to as “**Party**” and jointly as “**Parties**”.

Whereas:

- a) The Parties have previously entered into an agreement (the “**Principal Agreement**”) for the provision of certain services by OT.
- b) That Principal Agreement includes a Data Processing Addendum (the “**DPA**”).
- c) The Parties now desire to amend and/or supplement the terms of the DPA as set out in this Amendment.
- d) For the purposes of the Standard Contractual Clauses (as defined below), the Customer will be considered the data exporter and Open Text will be considered the data importer.

Now therefore, in consideration of the mutual covenants of the parties contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, and notwithstanding anything to the contrary contained in the DPA and/or Principal Agreement, the parties agree that the DPA is amended as set forth in this Amendment.

THIS AMENDMENT, INCLUDING ALL OF ITS SCHEDULES, ANNEXES, APPENDICES AND THE LINKS IN IT, AMENDS THE DPA WHICH SUPPLEMENTS AND FORMS PART OF THE PRINCIPAL AGREEMENT AS FOLLOWS:

1 Definitions.

- a) Capitalized terms used in this Amendment, but not defined in this Amendment, shall have the meaning assigned to them in the Principal Agreement and/or DPA, as applicable.
- b) The following terms shall be amended and/or added, as applicable, to the Definitions section of the DPA:
- i. **"Data Protection Legislation"** means, (i) the GDPR (and any laws of Member States of the European Economic Area ("EEA") implementing or supplementing the GDPR), (ii) UK Data Protection Law, and (iii) data protection or privacy laws of Switzerland, in each case, to the extent applicable to the Processing of Personal Data under this DPA and the Principal Agreement,
 - ii. **"EEA Standard Contractual Clauses"** means the EEA Controller to Processor SCCs and EEA Processor to Processor SCCs;
 - iii. **"EEA Controller to Processor SCCs"** means the clauses set out at <https://www.opentext.com/assets/documents/en-US/pdf/opentext-eea-controller-to-processor-clauses-module-2-en.pdf> (and also referred to as Appendix 4) which are incorporated into this DPA by reference, as may be amended, updated or replaced from time to time.
 - iv. **"EEA Processor to Processor SCCs"** means the clauses set out at <https://www.opentext.com/assets/documents/en-US/pdf/opentext-eea-processor-to-processor-clauses-module-3-en.pdf> (and also referred to as Appendix 5) which are incorporated into this DPA by reference, as may be amended, updated or replaced from time to time.
 - v. **"Restricted Transfer"** means a transfer of Personal Data which, subject to the paragraph below, is:
 1. From an exporter subject to GDPR which is only permitted in accordance with GDPR if a Transfer Mechanism is applicable to that transfer ("**EEA Restricted Transfer**");
 2. from an exporter subject to UK Data Protection Law which is only permitted in accordance with UK Data Protection Law if a Transfer Mechanism is applicable to that transfer ("**UK Restricted Transfer**"); and/or
 3. from an exporter subject to Data Protection Legislation applicable in Switzerland which is only permitted under that law if a Transfer Mechanism is applicable to that transfer ("**Swiss Restricted Transfer**");

Transfers of Personal Data will not be considered as a Restricted Transfer where:

- i. the jurisdiction to which the personal data is transferred has been approved by the European Commission under Article 45 of the GDPR or, as applicable, an equivalent provision under UK or Swiss Data Protection Law, as ensuring an adequate level of protection for the processing of Personal Data ; or
 - ii. the transfer falls within the terms of a derogation as set out in Article 49 of the GDPR, equivalent under Swiss Data Protection Law or the UK GDPR (as applicable).
- vi. **"Standard Contractual Clauses"** means each of the EEA Standard Contractual Clauses and the UK Standard Contractual Clauses. References in the DPA to "EU Model Clauses" shall be amended to refer to the "Standard Contractual Clauses" as defined in the preceding sentence;
 - vii. **"Transfer Mechanism"** means the Standard Contractual Clauses or any other appropriate safeguards under Article 46 of the GDPR or equivalent under Swiss or UK Data Protection Law applicable to a relevant transfer of Personal Data that has the effect of permitting that transfer;
 - viii. **"UK Data Protection Law"** means UK GDPR (as defined in the UK Data Protection Act 2018) and the UK Data Protection Act 2018;
 - ix. **"UK Controller to Processor SCCs"** means the UK International Data Transfer Addendum which is made up of the provisions set out at <https://www.opentext.com/assets/documents/en-US/pdf/opentext-uk-international-data-transfer-addendum-en.pdf>, (and also referred to as Appendix 6) which are incorporated into this DPA by reference, as may be amended, updated or replaced from time to time, incorporating the EEA Controller to Processor SCCs;
 - x. **"UK Processor to Processor SCCs"** means the UK International Data Transfer Addendum which is made up of the provisions set out at <https://www.opentext.com/assets/documents/en-US/pdf/opentext-uk-international-data-transfer-addendum-en.pdf>, (and also referred to as Appendix 6) which are incorporated into this DPA by reference, as may be amended, updated or replaced from time to time, incorporating the EEA Processor to Processor SCCs; and
 - xi. **"UK Standard Contractual Clauses"** means the UK Controller to Processor SCCs and UK Processor to Processor SCCs (each as amended, updated, or replaced from time to time).

2 International Transfers.

Section 5 is deleted in its entirety and replaced with the following:

5. International Transfers

- 5.1 Personal Data may be processed in the EEA, the UK and Switzerland (each a “**Designated Country**”) and in countries outside of a Designated Country (“**Other Countries**”) by Open Text or its sub-processors. The transfer to Other Countries shall be in accordance with Data Protection Legislation (to the extent it applies).
- 5.2 The Parties shall have in place a Transfer Mechanism in respect of any Restricted Transfer:
- 5.2.1 In the event of an EEA Restricted Transfer where Personal Data is transferred from Customer as data exporter acting as a Controller or Processor (as applicable), to Open Text as data importer acting as a Processor, the Parties shall, as part of this DPA, comply with the EEA Controller to Processor SCCs where the Customer acts as a Controller and the EEA Processor to Processor SCCs where the Customer acts as a Processor.
- 5.2.2 In the event of a UK Restricted Transfer, where Personal Data is transferred from Customer as data exporter acting as a Controller or Processor (as applicable) to Open Text as data importer acting as a Processor, the Parties shall, as part of this DPA, comply with the UK Controller to Processor SCCs where the Customer acts as a Controller and the UK Processor to Processor SCCs where the Customer acts as a Processor.
- 5.2.3 In the event of a Swiss Restricted Transfer, whereby Personal Data is transferred from Customer as data exporter, acting as a Controller or Processor (as applicable), to OpenText as data importer acting as a Processor, the Parties shall, as part of this DPA, comply with the corresponding module of the EEA Standard Contractual Clauses.
- 5.2.4 The Standard Contractual Clauses will not apply to a Restricted Transfer to the extent that Open Text has adopted Binding Corporate Rules for Processors or an alternative recognized compliance standard for lawful Restricted Transfers.
- 5.3 Where pursuant to the Standard Contractual Clauses Open Text attempts to redirect a request from a public authority, including judicial authorities (“**Government Request**”) to the Customer, and/or determines that a requirement to challenge or appeal a Government Request regarding Customer’s Personal Data exists, Customer agrees to participate in and support such challenge as reasonably requested. Where possible, the Customer itself will seek a protective order or other appropriate remedy in response to the Government Request.

3 Technical and Organizational Measures.

In clause 10.2 the words “Annex 1” are deleted and replaced with the words “Appendix 3” and the Annex named “Technical and Organizational Measures” (Annex 1) in the DPA is deleted in its entirety and replaced with the following:

“Appendix 3: the applicable technical and organizational measures available at the following link: <https://www.opentext.com/assets/documents/en-US/pdf/opentext-technical-and-organizational-measures-en.pdf>, which are incorporated into this DPA by reference, as may be amended, updated or replaced from time to time.”

4 Other Appendices.

In clause 2.3 the words “Annex 2” are deleted and replaced with the words “Appendix 1”. The Annex named “Details of Processing of Customer Personal Data” (Annex 2) in the DPA is deleted in its entirety and replaced with a new Appendix 1 (Details of Processing of Customer Personal Data) and a new Appendix 2 (Description of Transfer), as set out in Annex 1 to this Amendment.

5 Effect of Amendment.

In the event of a conflict between the provisions of the DPA, the Principal Agreement and this Amendment, the provisions in this Amendment shall prevail to the extent of such conflict or inconsistency. Except as expressly set forth in this Amendment, the provisions of the DPA are not otherwise amended, and they shall be construed together with the provisions of this Amendment.

<p>(Open Text)</p> <p>Name:</p> <p>Title:</p> <p>Date:</p> <p>Address:</p>	<p>(Customer)</p> <p>Name:</p> <p>Title:</p> <p>Date:</p> <p>Address:</p>
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ANNEX 1 TO THE AMENDMENT

The following is added as a replacement Appendix 1 and new Appendix 2 to the DPA:

APPENDIX 1

DETAILS OF PROCESSING OF CUSTOMER PERSONAL DATA

See Appendix 2 of this DPA for each of following: *Subject matter and duration of the Processing of Personal Data, the nature and purpose of the Processing of Personal Data, the types of Personal Data to be processed, special categories of data (if appropriate) and the categories of Data Subject to whom the Customer Personal Data relates*

APPENDIX 2

DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred

Unless provided otherwise by the Customer, Data Subjects may include Customer employees, contractors, business partners or other individuals having Personal Data stored, transmitted to, made available to, accessed or otherwise processed by Open Text.

Categories of personal data transferred

Customer determines the categories of Personal Data which are processed by Open Text in connection with the Services in accordance with the terms of the Principal Agreement (and documentation governed by it). Customer submits Personal Data for processing after careful evaluation of compliance with applicable laws. The Personal Data may include the following categories of data: name, phone numbers, e-mail address, time zone, address data, company name, plus any application-specific data.

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.

None.

The choice and type of Personal Data that will be processed using the Open Text Services remains solely within the discretion and choice of the Customer. In selecting the Personal Data of any categories, the Customer shall ensure that such Personal Data is suitable for processing with and through the Services in compliance with applicable data protection laws. Open Text disclaims all liabilities in relation to the selection of data performed by Customer for use with the Services.

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

Transfers shall be made on a continuous basis.

Nature of the processing

Open Text offers Services to the Customer. Open Text requires to process Personal Data to deliver the Services to the Customer.

The Personal Data is subject to the basic processing activities as set out in the Principal Agreement which may include:

- a) use of Personal Data to provide the Services;
- b) storage of Personal Data;
- c) computer processing of Personal Data for data transmission; and
- d) execution of instructions of Customer in accordance with the Principal Agreement and DPA.

Purpose(s) of the data transfer and further processing

See "nature of processing" above.

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

The duration of the Processing of the Personal Data is set out in the Principal Agreement (and documentation governed by it) and this DPA.

Subject matter, nature and duration of the processing for transfer to (sub-) processors

As above.