

## DATA PROCESSING ANNEX

### 1 BACKGROUND AND PURPOSE

- 1.1 The terms of this Annex shall apply to the Agreement between Solibri Oy and/or its Subsidiary/Subsidiaries (Solibri Oy and the Subsidiaries are referred to as "**Solibri**") and the firm, company, corporation or other entity ("**Customer**") with whom Solibri has entered into an agreement regarding the provision of Solibri's software and/or services ("**Agreement**") if Personal Data is Processed by Solibri and/or its Subcontractors based on the Agreement.
- 1.2 The Parties acknowledge and agree that with regard to the Processing of the Personal Data under this Annex, the Customer is the Controller and Solibri is the Processor.
- 1.3 This Annex does not apply to the Processing of the Personal Data which belongs to Solibri's Customer, Prospect and Partner Register. Solibri is the Controller of Solibri's Customer, Prospect and Partner Register.

### 2 DEFINITIONS

As used in this Annex the following terms shall have the following meanings:

- "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.
- "Laws"** means mandatory laws in force from time to time in Finland ("**Country**") relating to the protection of Personal Data and the Processing, including but not limited to the EU General Data Protection Regulation 2016/679 ("**GDPR**"), and all binding EU and national data protection legislation in force in the Country.
- "Personal Data"** means any information relating to an identified or identifiable natural person ("**Data Subject**") which information is Processed under the Agreement on behalf of the Customer. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- "Personal Data Breach"** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed.
- "Process" or "Processing"** means any operation or set of operations which is performed on the Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

<b>“Processor”</b>	means a natural or legal person, public authority, agency or other body, which Processes the Personal Data on behalf of the Controller.
<b>“Separate Pricing”</b>	is defined in Section 3.
<b>“Service” or “Services”</b>	means the responsibilities of Solibri under the Agreement to provide Solibri’s software and/or services to the Customer.
<b>“Subcontractor”</b>	means the third parties that Solibri uses in the performance of its contractual duties under the Agreement.
<b>“Subsidiary/Subsidiaries”</b>	means Solibri Oy’s subsidiaries: Solibri UK Ltd and Solibri DACH GmbH.

### **3 PROCESSING**

- 3.1 The types of the Personal Data and categories of the Data Subjects of Personal Data can be the Customer’s users’:
- (a) name;
  - (b) user name;
  - (c) title;
  - (d) position;
  - (e) address;
  - (f) employer or other organization;
  - (g) language;
  - (h) phone number;
  - (i) possible Personal Data in email address;
  - (j) possible Personal Data in IP address;
  - (k) possible Personal Data in computer name;
  - (l) possible Personal Data in MAC address;
  - (m) possible Personal Data in host ID; and
  - (n) possible Personal Data in disk ID.
- 3.2 Solibri and any person acting under the authority of Solibri, who has access to the Personal Data, may Process the Personal Data only on documented instructions from the Customer, including with regard to transfers of Personal Data to a country outside the European Economic Area (EEA) and European Union (EU) or an international organisation, unless required to do so by EU or EU member state law to which Solibri is subject; in such a case, Solibri shall inform the Customer of that legal requirement before the Processing, unless that law prohibits such information on important grounds of public interest. Such instructions are hereby given by the Customer to Solibri and include and are limited to: the Customer gives Solibri instructions to Process the Personal Data in order for Solibri and the Subcontractors to provide the Services to the Customer in accordance of the Service specification of Solibri as amended by Solibri from time to time. If the Customer desires to amend the documented instructions or give new documented instructions to Solibri, the amended and new instructions are subject to Solibri’s written consent and may be priced in accordance with the Separate Pricing.
- 3.3 Solibri shall:

- 3.3.1 ensure that persons authorised to process the Personal Data on its behalf have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
  - 3.3.2 in accordance with the Separate Pricing, taking into account the nature of the Processing, assists the Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer's obligation to respond to requests for exercising the Data Subject's rights laid down in the Laws;
  - 3.3.3 in accordance with the Separate Pricing, assist the Customer in ensuring compliance with the obligations pursuant to the Laws, in the performance of data protection impact assessments and consultations with the supervisory authorities as required pursuant to the Laws;
  - 3.3.4 in accordance with the Separate Pricing, as requested by the Customer in writing, delete or return all Personal Data to the Customer after the end of the provision of the Services relating to the Processing, and delete existing copies unless EU or EU member state law requires storage of the Personal Data; and
  - 3.3.5 in accordance with the Separate Pricing, make available to the Customer information necessary to demonstrate compliance with the obligations laid down in the Laws and allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer to audit Solibri's compliance with this Annex. Solibri shall inform the Customer if, in its opinion, the Customer's instruction infringes the Laws. The Customer shall notify Solibri of the audit in writing at least thirty (30) days in advance. The auditor may not be a competitor of Solibri or other company in Nemetschek group of companies. The information regarding Solibri's operations learnt during the audits are Solibri's trade secrets. The Customer is liable for the auditor's compliance with the terms of the Agreement.
- 3.4 If based on the Laws or any other applicable legislation, regulations or decisions of authorities or the Customer's instructions, Solibri is at any time instructed or required to assist the Customer in performing the Customer's obligations to respond to requests for exercising the Data Subjects' rights or is otherwise required to perform any other tasks or activities relating to the Personal Data or the Processing that are not Solibri's Service duties, the Customer shall pay to Solibri a separate price for such tasks or activities on a time and material basis in accordance with Solibri's consultation price list in force from time to time (such prices payable by the Customer to Solibri are referred to as "**Separate Pricing**"). These tasks or activities can be e.g. providing information to a Data Subject on the Personal Data possessed by Solibri, or removing or transferring Personal Data or responding or reporting to data protection authorities or allowing audits or inspections.

#### **4 USE OF SUBCONTRACTORS**

- 4.1 Solibri may engage Subcontractors i.e. sub-Processor(s) for the purpose of the Processing. The Subcontractors provide e.g. ICT, event management, payment and financial services or user and license identification services and Process the Personal Data on Solibri's behalf for the purpose of providing the Services. A Solibri entity has entered into data processing agreement(s) with the Subcontractors, or the Processing by the Subcontractors can be based on Solibri's legitimate interest where applicable under the Laws. The Subcontractors may use also their affiliates and/or subcontractors in the Processing of the Personal Data. The current Subcontractors are:
- (i) Salesforce.com Emea Limited.
  - (ii) The Rocket Science Group LLC d/b/a MailChimp.
  - (iii) Accountor Finago Oy.
  - (iv) Lyyti Oy.
  - (v) Agilis Software LLC.

(vi) Solibri's subsidiary Solibri LLC, 17470 N. Pacesetter Way Scottsdale, Arizona 85255, U.S.A.

(vii) Solibri's parent company Nemetschek SE, headquartered in Munich.

(viii) Amazon Web Services, Inc.

(ix) ADYEN B.V.

4.2 Solibri will on the Customer's request provide information on the then current Subcontractors.

4.3 Also, Solibri Oy and the Subsidiaries may use each other as Subcontractors.

## **5 CUSTOMER'S DUTIES**

5.1 The Customer acts as the Controller in relation to all Personal Data. The Customer is (among other things) liable for the correctness of the Personal Data and the lawfulness of the Processing of the Personal Data and for other duties and liabilities of the Controller.

5.2 The Customer shall take backup copies of the Personal Data before providing the Personal Data to Solibri or its sub-Processors.

5.3 The Customer warrants to Solibri that: (a) the Personal Data has been obtained lawfully; (b) the Services to be provided by Solibri and its sub-Processors will be consistent with and appropriate to the specified and lawful purposes for which the Customer is engaged in relation to the Personal Data; (c) the Customer has not and will not disclose the Personal Data or any part thereof to Solibri or its sub-Processors in a manner incompatible with applicable legislation; and (d) Solibri and its sub-Processors are authorized under applicable legislation to Process the Personal Data.

5.4 The Customer undertakes that the Personal Data will not contain anything unlawful and that the Personal Data or its storage or other Processing by Solibri and its sub-Processors for the provision of the Services does not infringe any rights of third parties.

## **6 SECURITY**

Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the Customer and Solibri shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including inter alia as appropriate: (a) in accordance with the Separate Pricing and as reasonably instructed by the Customer, the pseudonymisation and encryption of the Personal Data, (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services; (c) the ability to restore the availability and access to the Personal Data in a timely manner in the event of a physical or technical incident; and (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing.

## **7 NOTIFICATION OF PERSONAL DATA BREACH**

7.1 Solibri shall notify the Customer without undue delay after becoming aware of a Personal Data Breach.

7.2 Solibri shall in accordance with the Separate Pricing, assist the Customer in ensuring compliance with the Customer's obligations pursuant to Laws to notify the Personal Data Breach to the supervisory authority and/or to the Data Subjects, taking into account the nature of the Processing and the information available to Solibri.

## **8 TRANSFER OF PERSONAL DATA TO THIRD COUNTRIES**

- 8.1 Solibri and the Subcontractors might transfer the Personal Data to countries outside the European Economic Area (EEA) and European Union (EU) ("**Third Country**") for the purposes set out in this Annex.
- 8.2 The legal basis for the transfer of the Personal Data to Third Countries is Solibri's or the Subcontractors' Binding Corporate Rules, European Commission's Standard Contractual Clauses for the transfer of Personal Data to processors established in third countries ("**Standard Contractual Clauses**"), the EU-U.S. Privacy Shield Framework, alternative data export mechanisms for the lawful transfer of Personal Data (as recognized under EU data protection laws) or other legal basis.
- 8.3 Also, the Customer or a user of the Customer might use Solibri's software or Services in Third Countries or the Customer or a user might contact Solibri in Service matters from locations in Third Countries. In such situations, it is deemed that the Customer has consented to the transfer of the relevant Personal Data to Third Countries.

## **9 LIABILITY FOR DAMAGES**

- 9.1 Without limiting the validity of limitations of liability or disclaimer of warranties in the Agreement, Solibri shall have no liability for any indirect, incidental, consequential, special or exemplary damages, such as loss of profit, revenue or goodwill, business interruption, or punitive damages, cost of cover purchase or loss of data or for damages payable to third parties, even if Solibri has been advised of the possibility of such damages.
- 9.2 Without limiting the validity of limitations of liability or disclaimer of warranties in the Agreement, in no event shall Solibri's aggregate maximum liability (including but not limited to price refunds and/or price discounts) arising out of or related to the Agreement and the Annex for any and all causes of action occurred during any calendar year exceed the amount of the net prices (without VAT or other taxes or duties) paid by the Customer to Solibri during the said calendar year.
- 9.3 Solibri shall not be liable for any failures or damages caused by (i) the non-performance or delay by the Customer or (ii) the inaccuracy, incorrectness or illegality of the Personal Data, materials, information, data or instructions provided by the Customer to Solibri or its sub-Processor.