

Data Processing Service Schedule - IND Version (Fiduciary – Processor)

1 PURPOSE OF DOCUMENT

1 ARKANCE IN PRIVATE LIMITED A COMPANY WITH CORPORATE IDENTIFICATION NUMBER IS (CIN) U72200KA1995PTC018704 AND HAVING ITS REGISTERED OFFICE LOCATED AT NO. 6, 2ND FLOOR, SERVICE ROAD, 2ND STAGE, WEST OF CHORD ROAD, MAHALAKSHMIPURAM, BANGALORE, KARNATAKA, INDIA – 560086

1.1 (ARKANCE) endeavours to adopt a best practice approach to collecting, using, disclosing and protecting *Personal Data*.

1.2 This *Data Processing Service Schedule* and its *Data Processing Annexure(s)* is entered into between ARKANCE and the Customer and forms part of the Agreement entered into between them.

1.3 This *Data Processing Service Schedule* and its *Data Processing Annexure(s)* records agreed practices and arrangements between ARKANCE and the Customer concerning matters of data protection.

2 DURATION

2.1 The rights and obligations in this document shall subsist as they relate to the Services for the applicable Term concerning and as contemplated by any one or more relevant *Data Protection Annexure(s)*.

3 STATUS OF PARTIES

3.1 The parties agree that, where a law makes a distinction (if any) between a data fiduciary and data processor (or equivalent), ARKANCE is a Processor and the Customer (and/or its relevant end customer or other person) is the fiduciary with respect to all *Personal Data* contemplated by the relevant Services for the Term concerning the *Data Protection Annexure(s)*.

3.2 Accordingly, the Fiduciary shall exercise overall control over the purpose for which and the manner in which such *Personal Data* is Processed by ARKANCE in connection with such arrangements but ARKANCE may treat an instruction from the Customer as an instruction of any relevant data fiduciary.

4 COMPLIANCE WITH LAWS

4.1 Each party agrees and warrants to the other party that, in the performance of its obligations and the exercise of its rights under the Agreement as it relates to the Services, it shall comply with all Data Protection Laws and Regulations applicable to it in relation to *Personal Data* that is Processed under, or in connection with, the Services.

4.2 Without limiting clause 4.1:

4.2.1 subject to clauses 4.2.2 and 4.3, the parties shall comply with the data protection principles (DPPs) set out in section 8 of the Digital Personal Data Protection Act 2023 (hereinafter the “DPDP Act”) as applicable to them; and

4.3 The parties acknowledge that an action taken by ARKANCE for legitimate uses as described under section 7 of the DPDP Act in relation to *Personal Data* does not breach any of the DPPs if the action is required for compliance with any judgment or decree or order issued under any law for the time being in force in India, or any judgment or order relating to claims of a contractual or civil nature under any law for the time being in force outside India;

5 ARKANCE OBLIGATIONS

5.1 In respect of any *Personal Data* to be Processed by ARKANCE pursuant to this *Data Processing Service Schedule*, ARKANCE shall as it relates to the relevant Services for the relevant Term concerning the Customer pursuant to the *Data Processing Annexure(s)*:

5.1.1 Process such *Personal Data* and information only in accordance with the Customer or relevant data fiduciary 's (which may given by the Customer on its behalf) documented instructions (in accordance with the *Data Processing Annexure*) as may be relevant or applicable, provided that the Processor may Process *Personal Data* otherwise than in accordance with the Customer or relevant data fiduciary 's documented instructions only to the limited extent otherwise required by the Data Protection Laws and Regulations, and that, in such circumstances, the Processor shall use reasonable commercial endeavours to inform the Customer or relevant data fiduciary of the relevant legal requirement prior to such Processing, unless prohibited by applicable law (including on any grounds of important public interest);

5.1.2 not engage a Sub-processor (of ARKANCE) to Process such *Personal Data* without the prior written authorisation (which may be set out in the *Data Processing Annexure*) of the Customer or relevant data fiduciary (and where the Customer provides any written authorisation the Processor shall inform the Customer or relevant data fiduciary in advance of any changes concerning the addition or replacement of such Sub-processor, including the identity and country of location of the Sub-processor), provided that notwithstanding any such consent the Processor shall remain responsible for performance of the obligations in this document in relation to those activities that are performed on its behalf by any such Sub-processor (ARKANCE shall submit the request for specific authorisation at least 30 days prior to the engagement of the sub-processor);

5.1.3 ensure that any Sub-processor that is engaged to Process such *Personal Data* by the Processor (as may be permitted by clause 5.1.2 is subject to data protection obligations that are substantively the same as those applicable to the Processor under this *Data Processing Service Schedule* to the extent required by the Data Protection Laws and Regulations, and must enter into a written agreement with each Sub-processor containing data protection obligations compliant with relevant Data Protection Laws and Regulations in relation to the protection of *Personal Data* (as relevant);

5.1.4 upon expiry or termination of the relevant Term, delete or return such *Personal Data* to the Customer or relevant data fiduciary as directed (save to the extent required to retain such *Personal Data* under the Data Protection Laws and Regulations);

5.1.5 allow the Customer or relevant data fiduciary (or its appointed third party auditor) on reasonable notice during Business Days to conduct (at its cost and expense) an audit of compliance with this *Data Processing Service Schedule* and contribute to such audit;

5.1.6 maintain a record of its Processing activities in accordance with Data Protection Laws and Regulations (including, if relevant, Article 30(2) of the GDPR);

5.1.7 reasonably co-operate and participate in a data protection impact assessment (DPIA) in respect of the Processing activities and provide assistance to the Customer and relevant data fiduciary in consulting with the relevant regulator in relation to high-risk Processing, as reasonably or lawfully required from time to time by the Customer and relevant data fiduciary;

5.1.8 promptly notify the Customer and relevant data fiduciary as soon as it has received a complaint from any individual regarding the way his or her *Personal Data* has been Processed and cooperate with the Customer and relevant data fiduciary when the Customer or relevant data fiduciary is investigating any claim related to individual complaints;

5.1.9 comply with any specific rules in respect of employees' *Personal Data* in the employment context, as applicable;

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5.1.10 taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk of the relevant Processing (including the risk of accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to *Personal Data* transmitted, stored or otherwise Processed) and take all other measures required by relevant Data Protection Laws and Regulations that are applicable to ARKANCE;

5.1.11 oblige all persons, including but not limited to its employees, who access the Processed *Personal Data* in the course of the Processing operations carried out by ARKANCE to comply with confidentiality obligations and access restrictions with regards to the Processing of *Personal Data* (ensuring that only such employees have access to *Personal Data* who have received training and/or instruction in the care and handling of *Personal Data*);

5.1.12 taking into account the nature of the Processing, provide reasonable assistance to the Customer (and relevant data fiduciary) with using appropriate technical and organisational measures, insofar as possible, in connection with the fulfilment of the Customer and data fiduciary (as relevant) obligation to respond to requests for the exercise of Data Principals' rights pursuant to Data Protection Laws and Regulations; and

5.1.13 provide the Customer and relevant data fiduciary with reasonable assistance in ensuring compliance with provisions of relevant Data Protection Laws and Regulations concerning security of processing, DPIAs, and prior consultation with supervisory authorities to the extent applicable to the Customer or relevant data fiduciary, taking into account the nature of the Processing and the information available to ARKANCE.

5.2 Unless stated to the contrary in the Agreement, the Customer shall pay to ARKANCE on demand any time costs (at applicable Standard Rates) and disbursements incurred by it in respect of its compliance with the obligations in this *Data Processing Service Schedule*.

6 OVERSEAS TRANSFER + PROCESSING

6.1 ARKANCE shall not Process any *Personal Data* of the Customer or relevant data fiduciary (as relevant) outside India or transfer such *Personal Data* outside India without the prior written consent of the Customer (which it may give on behalf of the relevant data fiduciary) in compliance with the requirements of clause 6.3 (as applicable) and at all times ensuring compliance of the provisions of Chapter IV of the Digital Personal Data Protection Act 2023 with respect to international data transfers.

6.2 The Customer and relevant data fiduciary gives its consent pursuant to clause 6.1 above if the *Data Processing Annexure* so contemplates the transfer or Processing of *Personal Data* outside India. However, in such circumstances the Customer and data fiduciary (as relevant) shall only have given its consent to the extent of the transfer or Processing as contemplated in the relevant *Data Processing Annexure* or otherwise expressly consented in writing.

6.3 If the Customer or data fiduciary (as relevant) gives its consent to the transfer or Processing of *Personal Data* outside India, ARKANCE may (subject to compliance with the requirements of clause 6.2) transfer (including allowing access to, whether remote or otherwise) *Personal Data* or Process such *Personal Data* outside India to the extent permitted.

6.4 If ARKANCE Processes *Personal Data* in the EEA and ARKANCE's Processing of *Personal Data* is subject to the GDPR, ARKANCE shall only transfer or Process that *Personal Data* outside the EEA:

6.4.1 to or in a country identified by the relevant authorities in the EEA as providing adequate data protection;

6.4.2 pursuant to the 2021 Standard Contractual Clauses;

6.4.3 pursuant to approved Binding Corporate Rules;

6.4.4 under an approved certification mechanism or approved code of conduct; or

6.4.5 on such other grounds or pursuant to such other transfer mechanisms permitted by the relevant authorities in the EEA.

7 LAWFUL BASIS + CONSENTS

7.1 If the Customer provides, transmits, transfers or grants access to any *Personal Data* to ARKANCE or a permitted Sub-processor (if any) under or in connection with this *Data Processing Service Schedule* to the Customer warrants, represents and undertakes to ARKANCE that it has and shall, throughout the Term, have the right and a lawful basis to do so and allow:

7.1.1 ARKANCE; and

7.1.2 each Sub-processor (including as may be detailed in the *Data Processing Annexure*);

to Process such *Personal Data* in accordance with this *Data Processing Service Schedule* and *Data Processing Annexure*.

7.2 The Customer shall ensure that it shall obtain and procure that any relevant third party (including a data fiduciary) shall obtain all necessary consents and permissions as well as give all notices as may be relevant or required for ARKANCE or its permitted (if any) Sub-processors to fulfil their obligations under or in connection with this *Data Processing Service Schedule* and relevant *Data Processing Annexure(s)*.

7.3 For the avoidance of doubt, the Customer shall seek to procure on a reasonable commercial endeavours basis (to the extent required by Data Protection Laws and Regulations) that all relevant persons, customers, employees, independent contractors, staff, any other relevant data fiduciary and Data Principals of relevance to the Services, this *Data Processing Service Schedule* and the matters contemplated by it and the relevant *Data Processing Annexure(s)* are informed of, and give their Consent when required by Data Protection Laws and Regulations to such Processing (including any consents required in relation to transfer and Processing of *Personal Data*).

7.4 The parties shall comply with Data Protections Laws and Regulations applicable to them respectively concerning any Processing of Special Categories of Data (e.g. requiring the relevant Data Principal to have given Consent to the Processing of such Special Categories of Data for one or more specified purposes).

7.5 The Customer shall within a reasonable period (as it relates to any relevant data fiduciary) advise ARKANCE in writing if it becomes actually aware that any relevant person or Data Principal has withdrawn any relevant Consent with respect to the Processing of his or her *Personal Data*.

8 COMPLIANCE RIGHTS

8.1 If ARKANCE is required by relevant laws, the Customer, any other data fiduciary, a Data Principal or other person (including, without limitation, any regulatory body, commission, data privacy organisation or court of competent jurisdiction) to disclose, delete, erase (including under a right to be forgotten), amend, render anonymous or otherwise similarly Process *Personal Data* then it may do so.

9 DATA BREACHES

9.1 If a party has knowledge of any:

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9.1.1 accidental loss or destruction of, or unauthorised disclosure of or access to *Personal Data* in connection with the provision of the Services; or

9.1.2 a data security breach on any of the systems (including those of an affiliate or permitted Sub-processor) that are used in or concern the provision of the Services which has or may have impacted or related to the *Personal Data*,

that party must:

9.1.3 expeditiously report such incident to the other party in writing (which may include by email to an address provided for the purpose of security incidents or data breaches);

9.1.4 mitigate, to the extent practicable, any harmful effect of such disclosure or access that is known to the party and to the extent within its reasonable control;

9.1.5 cooperate with the other party in providing any notices to individuals regarding the incident; and

9.2 cooperate with any investigation into the incident that is subsequently undertaken by any data privacy authority or the relevant designated Government department in India, in consultation with the other party.

9.3 The provisions of this clause 9 shall not displace any obligation of a relevant party, to the extent lawful, to notify the data breach to competent authorities or data protection officials as required by applicable Data Protection Laws and Regulations.

10 CHANGES TO LAWS

10.1 The parties shall negotiate in good faith from time to time to amend the provisions of this *Data Processing Service Schedule* and/or any relevant *Data Processing Annexure* (as may be necessary, convenient or relevant) in order to reflect any relevant changes to the provisions of the relevant Data Protection Laws and Regulations as they may apply from time to time.

10.2 This *Data Processing Service Schedule* is governed by the laws of the Republic of India.

11 DICTIONARY + INTERPRETATION

11.1 Defined terms in any applicable 2021 Standard Contractual Clauses shall apply as contemplated in the same for the purposes of that agreement or document.

11.2 In this document, unless otherwise provided, the following terms shall have their meaning as specified:

11.2.1 **2021 Standard Contractual Clauses** means the relevant EU Standard Contractual Clauses for the transfer of personal data to third countries adopted by the European Commission, under *Commission Implementing Decision (EU) 2021/914* of 4 June 2021 Or its equivalent as and when issued by the relevant Authority under the the Digital Personal Data Protection Act 2023 and the Rules made thereunder.

11.2.2 **Agreement** means the agreement of which this *Data Processing Service Schedule* forms part.

11.2.3 **Indian Data Protection Laws** means all laws relating to data protection, the processing of personal data, privacy and/or electronic communications in force from time to time in India, including the Digital Personal Data Protection Act 2023 . .

11.2.4 **Biometric Data** means *Personal Data* resulting from specific technical processing relating to the physical, physiological or behavioural characteristics of a natural person, which allow or confirm the unique identification of that natural person, such as facial images or dactyloscopic data.

11.2.5 **Consent** of the Data Principal means any freely given, specific, informed and unambiguous indication of the Data Principal 's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of *Personal Data* relating to him or her.

11.2.6 "Data Fiduciary" means any person who alone or in conjunction with other persons determines the purpose and means of processing of personal data . This may be the Customer or an end customer of the Customer or another relevant person.

11.2.7 **Customer Data** means each of the following:

- (a) data, metadata, records and information or derivatives of such data, metadata, records and information concerning the Customer (**Provided Data**); and
- (b) data, metadata, records and information created in the course of the provision of the Services by ARKANCE derived from Provided Data.

11.2.8 **Data Processing Annexure(s)** means the Annexure(s) to the *Data Processing Service Schedule*.

11.2.9 **Data Processing Service Schedule** means this document.

11.2.10 **Data Protection Laws and Regulations** means any and all applicable laws and regulations (as may be amended from time to time) relating to the Processing of *Personal Data*, data security and privacy. This includes applicable Rules, guidance, codes of practice and codes of conduct that may be issued by the Data Protection Board on India or the Central Government in India as per provisions of Section 40 of the DPDP Act, any other relevant supervisory authority,.

11.2.11 "Data Principal" means the individual to whom the personal data relates and where such individual is— (i) a child, includes the parents or lawful guardian of such a child; (ii) a person with disability, includes her lawful guardian, acting on her behalf..

11.2.12 **EEA** means the European Economic Area.

11.2.13 **EU** means the European Union.

11.2.14 **GDPR** means *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, repealing *Directive 95/46/EC (General Data Protection Regulation)*.

11.2.15 **Genetic Data** means *Personal Data* relating to the inherited or acquired genetic characteristics of a natural person which give unique information about the physiology or the health of that natural person and which result, in particular, from an analysis of a biological sample from the natural person in question.

11.2.16 **Personal Data** means any data about an individual who is identifiable by or in relation to such data; This includes, where the context so requires or is relevant, *Personal Information* and/or Customer Data.

11.2.17 **Personal Information** means any information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in material form or not, about an individual whose identity is apparent, or can be reasonably ascertained, from the information or opinion. It also includes, for the avoidance of doubt, information relating to a death that is maintained by the relevant government authority/ department in India relating to *Births, Deaths, Marriages, Registration under the appropriate law for the time being in force in India*.

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11.2.18 **Processing** means in relation to personal data, means a wholly or partly automated operation or set of operations performed on digital personal data, and includes operations such as collection, recording, organisation, structuring, storage, adaptation, retrieval, use, alignment or combination, indexing, sharing, disclosure by transmission, dissemination or otherwise making available, restriction, erasure or destruction;

11.2.19 “Data Processor” means any person who processes personal data on behalf of a Data Fiduciary..

11.2.20 **Services** means a service provided to the Customer in accordance with the Agreement.

11.2.21 **Special Categories of Data** means *Personal Data* revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or affiliations, trade-union (or political or trade body) membership, Genetic Data, Biometric Data, *Personal Data* concerning health, sex life or sexual orientation, or criminal convictions and offenses and such other *Personal Data* as may be considered special categories of data under applicable Data Protection Laws and Regulations, such as national identification numbers.

11.2.22 **Sub-processor** means any Processor engaged by ARKANCE.

11.2.23 **Term** means the relevant duration or terms of the Services.