



DATA PROCESSING ADDENDUM (GLOBAL)

This Data Processing Addendum (“**DPA**”) supplements any agreement (including but not limited to statements of work, attachments, schedules, exhibits) between Avaya and Company for the purchase of services, products or other technology solutions from Avaya to the extent Avaya Processes Personal Data on behalf of Company as Data Processor (collectively the “**Agreement**”).

This DPA applies to all activities related to the Agreement where employees of Avaya or third parties commissioned by Avaya may Process Personal Data on behalf of Company as Data Processor. For clarification, it does not apply where and to the extent Avaya acts as Controller of Personal Data (including inter alia the provision of publicly available telecommunication services such as siptrunking services, internet access services, services that enable direct interpersonal and interactive exchange of information via electronic communications networks). This DPA contains, in conjunction with the Agreement, the documented instructions for the Processing of Personal Data as well as the subject-matter, duration, nature, purpose of the Processing, and shall govern the rights and obligations of the parties in connection with the Processing of Personal Data.

1. Definitions

- 1.1 For the purpose of this DPA (i) “**Avaya**” means the Avaya entity signing this DPA and/or the respective Avaya Affiliate(s) Processing Personal Data on behalf of Company as per the Agreement; (ii) “**Company**” means the entity signing this DPA and/or its Affiliate(s) on whose behalf Avaya is Processing Personal Data as per the Agreement; (iii) “**Affiliate**” means, with respect to either party, an entity that is directly or indirectly controlling, controlled by, or under common control with a signatory of this DPA. For purposes of this definition, “**control**” means the power to direct the management and policies of such party, directly or indirectly, whether through ownership of voting securities, by contract or otherwise; and the term “**controlled**” has the meaning correlative to the foregoing. Upon request, each party will provide any other party with a list of all respective Affiliates relevant for this DPA; (iv) “**Data 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; (v) “**Data Processor**” means a natural or legal person, public authority, agency or other body which processes Personal Data on behalf and per the instructions of a Data Controller; (vi) “**Personal Data**” means any information relating to an identified or identifiable natural person (“**Data Subject**”) or household; 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; (vii) “**Processing**”, “**Process**”, “**Processed**” means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction; (viii) “**Sell**” means any sharing or disclosure of Personal Data to a third party in exchange for monetary or other valuable consideration; (ix) “**Transfer**” means intentional sending of personal data, or making it accessible.

2. Processing Personal Data on behalf of Company

- 2.1 Any Processing of Personal Data by Avaya under this DPA shall occur only:
- 2.1.1 On behalf of Company (including when Processing is initiated by Company’s users); and
- 2.1.2 in accordance with the Agreement; and
- 2.1.3 for the purpose of fulfilment of Company’s instructions.
- 2.2 Without limiting the generality of sections 2.1.1 through 2.1.3, Avaya agrees that it shall not: (i) Sell the Personal Data; (ii) retain, use, or disclose the Personal Data for any purpose other than for the specific purpose of performing functions under the Agreement, including retaining, using, or disclosing the Personal Data for a commercial purpose other than performing functions under the Agreement; (iii) retain, use, or disclose the Personal Data outside of the direct business relationship between Avaya and Company; (iv) combine Personal Data received from Company or collected on behalf of Company with any other Personal Data, unless instructed so by Company. Avaya hereby certifies that it understands the restrictions set forth in sections 2.1 and 2.2 and will comply with them.
- 2.3 Company’s instructions for the Processing of Personal Data shall comply with the applicable data protection laws and regulations. Company shall have sole responsibility for the legitimacy, adequacy and accuracy of Personal Data and the means by which Company acquired or collected Personal Data. If Avaya considers that an instruction of Company may violate applicable data protection regulations, it shall notify Company accordingly without any undue delay. This section 2.3 does not create an obligation of Avaya to actively monitor Company instructions for legal compliance.
- 2.4 This DPA and the Agreement are Company’s complete and final instructions at the time of signature of this DPA to Avaya for the Processing of Personal Data. However, such instructions may be amended, supplemented or replaced by Company in documented form at any time (new instruction), including when such new instructions are necessary to ensure Avaya only Processes Personal Data in a manner consistent with Company’s obligations under the applicable data protection laws and regulations. If such new instructions from Company exceed the scope of the Agreement, they shall be considered as a request to amend the Agreement and the parties shall commence good faith negotiations on this change request.

- 2.5 If, for any reason, Avaya is unable to comply with an agreed instruction, Avaya will inform Company of this fact without undue delay. Company may then suspend the transfer of Personal Data to Avaya, restrict the access to it, request all Personal Data to be returned to Company and / or terminate the Agreement as per the terms of the Agreement.
- 2.6 Company is responsible as Data Controller for compliance with the applicable data protection laws and regulations, unless the applicable laws and regulations specifically impose an obligation on Avaya (acting as Data Processor), in which case Avaya shall comply with such applicable data protection laws and regulations.
- 2.7 Avaya will Process Personal Data as necessary to perform the services and / or deliver products and / or other technology solutions pursuant to the Agreement and as further instructed by Company in its use of the above.
- 2.8 Avaya will Process Personal Data for the duration of the Agreement, unless otherwise agreed upon in writing or required / allowed by applicable law.
- 2.9 The categories of data subjects affected by the Processing of Personal Data on behalf of Company within the scope of this DPA result from the Agreement and in particular from Company's individual usage of services / products / or other technology solutions provided by Avaya. They typically include: employees, agents, advisors, freelancers and business partners of Company (who are natural persons); natural persons (employees etc.) of customers and prospective customers of Company, as well as of Company's customer's customers, etc.
- 2.10 The types of Personal Data affected by the Processing on behalf of Company within the scope of this DPA result from the Agreement and in particular from Company's individual usage of (and input into) the services / products / or other technology solutions provided by Avaya. They typically include: name, contact information (company, title / position, email address, phone number, physical address), call (recordings) data and technical data (e.g. IP addresses) necessary to operate the solution.

3. Avaya's personnel

- 3.1 All employees involved in Processing of Personal Data on behalf of Company have committed themselves to confidentiality in writing or are under an appropriate statutory obligation of confidentiality, are prohibited from Processing Personal Data without authorization and have received appropriate training on their responsibilities. Avaya shall appoint a country / global data protection officer, to the extent required by the applicable law, and publish the contact details.

4. Security of processing

- 4.1 Avaya has implemented and maintains (i) technical and organizational security measures that are appropriate with respect to the Processing of Personal Data that is undertaken on behalf of Company, and (ii) a level of security appropriate to the risk of varying likelihood and severity for the rights and freedoms of natural persons and regularly check their abidance.
- 4.2 Avaya shall be entitled to modify its technical and organizational measures as long as an at least equivalent level of security appropriate to the risk of varying likelihood and severity for the rights and freedoms of natural persons is maintained. Avaya's current technical and organizational measures are available at <https://www.avaya.com/en/privacy-toms-customers-24778>. Additional technical and organizational measures and information concerning such measures may be specified in the Agreement.

5. Sub-processors

- 5.1 Avaya may engage sub-processors to Process Personal data on behalf of Company and shall comply with any applicable data privacy law regarding the engagement of sub-processors. Avaya shall make sure that at least equivalent data protection obligations, as set out in this DPA, are imposed on all sub-processors Processing Personal Data on behalf of Company by way of a contract or other legal act, in particular providing sufficient guarantees to implement appropriate technical and organizational measures.
- 5.2 A list of sub-processors that may be engaged by Avaya to Process Personal Data on behalf Company is available at <https://www.avaya.com/en/privacy-subcontractors>. At least twenty (20) calendar days before Avaya engages any new sub-processor, Avaya will update the directory on the website above. Company is entitled to object to the use of new sub-processor(s) for any Processing of Personal Data on its behalf within ten (10) business days after such new sub-processors are listed on aforementioned website. This objection shall be sent by e-mail to dataprivacy@avaya.com (i) referencing the full legal name (and other credentials) of Company and the affected Agreement, (ii) including the copy of the respective purchase order, and (iii) providing the reason for the objection. If Company exercises its right to objection, Avaya shall at its choice and sole discretion:
- 5.2.1 refrain from using the objected sub-processor to Process Personal Data on behalf of Company and confirm this to Company in writing, or
- 5.2.2 contact Company and seek for an agreement on mitigation of the reason for the objection. If an agreement between the parties is reached, Company shall revoke the objection, or
- 5.2.3 have the right to terminate the Agreement entirely or only with respect to the Processing on behalf of Company for which the objected new sub-processor shall be engaged.

6. International Personal Data transfers

- 6.1 Avaya shall comply with any applicable data privacy law regarding international transfers of Personal Data.
- 6.1.1 Transfers of Personal Data between Avaya Affiliates shall be governed by Avaya's Binding Corporate Rules. The Avaya Binding Corporate Rules Processor Policy is available at www.avaya.com/privacy-BCRprocessor and is incorporated herein by reference.
- 6.1.2 Further details on Avaya's international transfer compliance are available at <https://www.avaya.com/en/privacy-international-transfer-15170/> (updated from time to time where required by law) and incorporated herein by reference.

7. Requests from Data Subjects

- 7.1 Avaya shall, in accordance with applicable laws, promptly notify Company if Avaya receives a request from Data Subjects to exercise their privacy rights, such as: right of access, right to rectification, restriction of Processing, erasure ("right to be forgotten"), data portability, objection to the Processing, or right not to be subject to an automated individual decision making, etc. Taking into account the nature of the Processing, Avaya shall assist Company by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of Company's obligation to respond to Data Subject requests under the applicable data protection laws and regulations, including complying with a Personal Data deletion request if required by law. In addition, to the extent Company, in its use of the services and / or products and / or other technology solutions provided by Avaya, does not have the ability to address a Data Subject request, Avaya shall upon Company's request assist Company in responding to such Data Subject request, to the extent Avaya is legally permitted to do so and the response to such Data Subject request is required under the applicable data protection laws and regulations. To the extent legally permitted, Company shall be responsible for any costs arising from Avaya's provision of such assistance.

8. Notification and incidents

- 8.1 Avaya shall:
- 8.1.1 Notify Company of any 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 ("**Personal Data Breach**") without undue delay and in compliance with the applicable data privacy law after becoming aware of it;
- 8.1.2 Promptly provide Company with full cooperation and assistance in respect of any Personal Data Breach and all information in Avaya's possession concerning the Personal Data Breach, including the following: (i) the possible cause and consequences of the breach; (ii) the categories of Personal Data involved; (iii) a summary of the possible consequences for the relevant Data Subjects; (iv) a summary of the unauthorised recipients of Personal Data; and (v) the measures taken by Avaya to mitigate any related risk and / or loss or damage or (potential loss or damage);
- 8.1.3 Not make any announcement or publish or otherwise authorise any broadcast of any notice or information about a Personal Data Breach (the "**Breach Notice**") without the prior written consent from Company; and prior written approval by Company of the content, media and timing of the Breach Notice unless such Breach Notice is mandatory under the applicable law.

9. Assistance to Company

- 9.1 Where and to the extent an applicable data privacy law requires Avaya to assist Company in ensuring compliance with such law, Avaya shall provide such mandatory assistance to Company, subject to a separate agreement and subject to a reasonable remuneration.
- 9.2 Upon written request of Company and subject to reasonable remuneration which shall be subject to a separate agreement, Avaya shall assist Company in particular in ensuring compliance with any mandatory obligations applicable to Company with regards to implementing appropriate technical and organizational measures to ensure a risk appropriate level of security, conducting assessments of the impact of the envisaged processing operations on the protection of personal data (e.g. Data Protection Impact Assessments) and connected supervisory authority consultation procedures (e.g. Prior Consultation), taking into account the nature of processing performed by Avaya and the information available to Avaya.

10. Return and deletion of Company Personal Data

- 10.1 Personal Data (including any copy of it) shall not be kept longer than is required for the Processing purposes, unless (i) a longer retention period is required by applicable law or (ii) Company instructs Avaya in writing (a) to keep certain Personal Data longer and Avaya agrees to follow such instruction or (b) return or delete certain Personal Data earlier.
- 10.2 The return of any data storage medium provided by Company to Avaya shall be conducted without undue delay (i) after termination / expiration of the Processing activity or (ii) earlier as instructed by Company.

11. Audits

- 11.1 Upon prior written request by Company Avaya shall supply Company with all information necessary to effectively perform an audit on Avaya's compliance with the terms of this DPA.
- 11.2 Upon prior written notice and within a reasonable term Avaya shall grant Company access to its data Processing facilities, data files and documentation relevant for the Processing activities during its usual business hours without disturbances to the normal course of operations for the purpose of auditing Avaya's compliance with the terms of this DPA. For clarity purposes, Avaya is not under an obligation to provide Company with access to its systems which Process Personal Data of other Avaya customers or partners. The engagement of a third-party auditor to conduct the audit on behalf of Company shall be subject to Avaya's prior written consent, which may only be refused on due cause, and to an executed written confidentiality agreement between the third-party auditor, Company and Avaya. Company will provide Avaya any audit report(s) generated in connection with any audit under this Section 11.2. Company may use the audit report(s) only for the purposes of meeting its regulatory audit requirements and / or confirming compliance with the requirements of this DPA. The audit report(s) shall constitute confidential information of the parties under the terms of the Agreement. This right to audit may be exercised once a year, unless any specific cause requires exceptional further audits.

12. Miscellaneous

- 12.1 The term of this DPA corresponds to the term of the Agreement. The terms which by their nature are intended to survive termination or expiration of this DPA, will continue and survive any termination or expiration of this DPA.
- 12.2 Avaya shall notify Company if it determines it can no longer meet its obligations towards Company under the applicable laws.
- 12.3 Avaya's Global Privacy Policy (as updated from time to time) is available at <https://www.avaya.com/en/privacy/policy/>.

- 12.4
- Notwithstanding anything to the contrary in the Agreement, in the event of a conflict between the terms of this DPA and the terms of the Agreement, the terms of this DPA shall prevail.

- 12.5
- The effective date of this DPA is the date when Company countersigns this DPA.

Signed for itself and on behalf of its Affiliates:

.....
(full legal entity name of Company)

.....
(signature)

.....
(print name)

.....
(position)

.....
(date)

.....
(Contact Email Address)

Signed on behalf of Avaya Affiliates which are party to the Agreement:

AVAYA

.....
(signature)

.....
(print name)

.....
(position)

.....
(date)