

# Data Processing Agreement

This data processing agreement (the “**DPA**”) forms part of a contract for services (“**Principal Agreement**”) between Etain AS, a Norwegian limited liability company with registration number 920 998 704 (the “**Etain**”), and Etain’s customer (the “**Customer**”).

Etain and the Customer are hereinafter jointly referred to as the “**Parties**”, and each a “**Party**”.

This DPA shall be effective on the date it has been fully executed by the Customer and returned to Etain in accordance with the instructions below (the “**Effective Date**”). As of the Effective Date, this DPA shall be deemed part of the Principal Agreement.

To the extent of any conflict or inconsistency between this DPA and the Principal Agreement, this DPA will prevail.

## HOW TO EXECUTE

This DPA has been pre-signed by Etain. To execute and make this DPA a legally binding part of the Principal Agreement, please do the following

1. Fill in the empty fields under the headline “Customer:” in the bottom of this document,
2. Sign the document (electronic signature is fine), and
3. Send the signed document to [e-mail address].

Upon receipt by Etain, Etain will confirm that the signed DPA is deemed part of the Principal Agreement. Since the DPA has been pre-signed by Etain, no changes in the pre-signed version (made by pen or similar) shall be deemed agreed upon by Etain without the explicit written acceptance by Etain.

## 1 Definitions and Interpretation

Unless otherwise defined herein, capitalized terms and expressions used in this DPA shall have the following meaning:

- |                                     |  |
|-------------------------------------|--|
| <b>1.1. DPA</b>                     | means this data processing agreement;  |
| <b>1.2. Customer Personal Data</b>  | means any Personal Data Processed by Etain or a Contracted Processor on behalf of the Customer pursuant to or in connection with the Principal Agreement;  |
| <b>1.3. Contracted Processor</b>    | means a Subprocessor;  |
| <b>1.4. Data Protection Laws</b>    | means EU Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;   |
| <b>1.5. EEA</b>                     | means the European Economic Area;  |
| <b>1.6. EU Data Protection Laws</b> | means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR; |
| <b>1.7. GDPR</b>                    | means EU General Data Protection Regulation 2016/679;  |
| <b>1.8. Data Transfer</b>           | means (a) a transfer of Customer Personal Data from the Customer to a Etain or a Contracted Processor; or (b) an onward transfer of the  |

Customer Personal Data from a Contracted Processor to a Subcontracted Processor, or between two establishments of a Contracted Processor, in each case, where such transfer would be prohibited by Data Protection Laws (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Data Protection Laws);

**1.9. Subprocessor** means any person appointed by or on behalf of Etain to process Personal Data on behalf of the Customer in connection with this DPA.

In addition, the terms, "Commission", "Controller", "Data Subject", "Member State", "Personal Data", "Personal Data Breach", "Processing" and "Supervisory Authority" shall have the same meaning as in the GDPR, and their cognate terms shall be construed accordingly.

## **2 Processing of the Customer Personal Data**

The Customer hereby instructs Etain to process the Customer Personal Data necessary for Etain to fulfill its obligations pursuant to the Principal Agreement and any other agreements entered into by the Parties.

Etain shall:

- (i) comply with all applicable Data Protection Laws in the Processing of the Customer Personal Data;
- (ii) not Process the Customer Personal Data other than such Customer Personal Data provided to Etain by or on behalf of the Customer; and
- (iii) only Process Customer Personal Data in accordance with agreements with the Customer or in accordance with the Customer's documented instructions, including (without limitation) as set out in the Principal Agreement and other agreement documents applicable for the Parties.

The Customer may at any time amend or withdraw the instruction to Process the Customer Personal Data, including by way of instruction to delete specific Customer Personal Data. Upon instruction to delete Customer Personal Data clause 9 applies accordingly.

## **3 Etain Personnel**

Etain shall take reasonable steps to ensure the reliability of any employee, agent or contractor of any Contracted Processor who may have access to the Customer Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant the Customer Personal Data, as strictly necessary for the purposes of the Principal Agreement, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

## **4 Security**

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, Processor shall in relation to the Customer Personal Data implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.

In assessing the appropriate level of security, Etain shall take account in particular of the risks that are presented by Processing, in particular from a Personal Data Breach.

## **5 Subprocessing**

The Customer acknowledges and accepts that Etain uses Subprocessors to Process the Customer Personal Data, provided that such Subprocessors (a) Process the Customer Personal Data within the EEA and (b) that the

Subprocessor in the opinion of Etain has implemented reasonable and adequate measures to protect the Customer Personal Data in accordance with all applicable laws and regulations.

The Customer may at any time get a list of all Subprocessors used by Etain in Processing of the Customer Personal Data, and may at any time request certain Subprocessors to be excluded from the list of Subprocessors Processing Customer Personal Data. The Customer acknowledges and agrees that certain functionality in the services may be restricted due to such exclusion of Subprocessors.

## **6 Data Subject Rights**

Taking into account the nature of the Processing, Etain shall assist the Customer by implementing appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of the Customer obligations, as reasonably understood by the Customer, to respond to requests to exercise Data Subject rights under the Data Protection Laws.

Hereunder, Etain shall:

- (i) promptly notify the Customer if it receives a request from a Data Subject under any Data Protection Law in respect of the Customer Personal Data; and
- (ii) ensure that it does not respond to that request except on the documented instructions of the Customer or as required by Applicable Laws to which the Processor is subject, in which case Processor shall to the extent permitted by Applicable Laws inform the Customer of that legal requirement before the Contracted Processor responds to the request.

Extra services in this relation may be subject to fees upon mutual agreement.

## **7 Personal Data Breach**

Etain shall notify the Customer without undue delay upon Etain becoming aware of a Personal Data Breach affecting the Customer Personal Data, providing the Customer with sufficient information to allow the Customer to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the Data Protection Laws.

Etain shall co-operate with the Customer and take reasonable commercial steps as are directed by the Customer to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

## **8 Data Protection Impact Assessment and Prior Consultation**

Etain shall provide reasonable assistance to the Customer with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which the Customer reasonably considers to be required by article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to Processing of the Customer Personal Data by, and taking into account the nature of the Processing and information available to, the Contracted Processors.

## **9 Deletion or return of the Customer Personal Data**

Subject to this section 9, Etain shall promptly and in any event within 10 business days of the date of cessation of any services involving the Processing of the Customer Personal Data (the "**Cessation Date**"), delete and procure the deletion of all copies of such Customer Personal Data.

The obligation to delete does not apply to Customer Personal Data which is stored in back-up files provided that such Customer Personal Data is not used for any other purpose.

Etain may keep Customer Personal Data necessary for Etain to fulfill its obligations towards the relevant Data Subject, or oif otherwise requested by the Data Subject.

## **10 Audit rights**

Subject to this section 10, Etain shall make available to the Customer on request all information necessary to demonstrate compliance with this DPA, and shall allow for and contribute to audits, including inspections, by the Customer or an auditor mandated by the Customer in relation to the Processing of the Customer Personal Data by the Contracted Processors.

Information and audit rights of the Customer only arise under section 10.1 to the extent that the DPA does not otherwise give them information and audit rights meeting the relevant requirements of Data Protection Law.

## **11 Data Transfer**

The Processor may not transfer or authorize the transfer of Data to countries outside the EU and/or the European Economic Area (EEA) without the prior written consent of the Customer. If personal data processed under this DPA is transferred from a country within the European Economic Area to a country outside the European Economic Area, the Parties shall ensure that the personal data are adequately protected. To achieve this, the Parties shall, unless agreed otherwise, rely on EU approved standard contractual clauses for the transfer of personal data.

## **12 General Terms**

### **12.1 Confidentiality**

Each Party must keep this DPA and all information it receives about the other Party and its business in connection with this DPA (“**Confidential Information**”) strictly confidential and must not use or disclose that Confidential Information without the prior written consent of the other Party except to the extent that:

- (i) disclosure is required by law; or
- (ii) the relevant information is already in the public domain.

### **12.2 Notices**

All notices and communications given under this DPA must be in writing and will be delivered personally, sent by post or sent by email to the address or email address set out in the heading of this DPA at such other address as notified from time to time by the Parties changing address.

## **13 Governing Law and Jurisdiction**

This DPA is governed by the laws of Norway.

Any dispute arising in connection with this DPA, which the Parties will not be able to resolve amicably, will be submitted to the exclusive jurisdiction of the ordinary courts of Norway, with Oslo district court as agreed legal venue.

*The remainder of this page is intentionally left blank*

Accepted and agreed to by the authorized representatives of each Party:

**Etain AS**

**Customer:** \_\_\_\_\_

**Sign:** *Thomas Hansteen*

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**Sign:** \_\_\_\_\_

**Name:**  
THOMAS HANSTEEN

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**Name:**

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**Title:**  
HEAD OF LEGAL

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**Title:**

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**Place:**  
OSLO

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**Place:**

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**Date:**  
3 SEPTEMBER 2020

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**Date:**

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**Address:**  
Ryensvingen 7  
0680 Oslo  
Norway

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**Address:**

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**Principal agreement reference:**