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# DATA PROCESSING AGREEMENT

This agreement is made by and between

Customer name:

Address:

Postal code and City:

CBR. no.:

(hereinafter referred to as the "Data Controller")

and

Simply.com A/S

Højvangen 4  
DK-8660 Skanderborg

CBR. no. 29 41 20 06

(hereinafter referred to as the "Data Processor")

(subsequently referred to collectively as "the Parties" and individually as "Party")

have concluded the following data processing agreement ("the Data Processing Agreement") concerning the Data Processor's processing of personal information on behalf of the Data Controller.

## 1 BACKGROUND INFORMATION, PURPOSE AND SCOPE

- 1.1 The Data Processor will handle the processing of personal information for which the Data Controller is responsible as part of the Data Processor's provision of hosting services ("Services").

1.2 The Data Processor will comply with currently applicable requirements for data processors set by law, including those taking effect on 25 May 2018 in the General Data Protection Regulation (GDPR)

(Regulation 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) with appertaining documents and secondary national legislation.

1.3 The GDPR legislation requires Parties to enter into a written agreement on their intended processing of data—what is known as a “data processing agreement”. This Data Processing Agreement will serve as one such agreement.

1.4 The Data Processing Agreement will cover all Services that the Data Controller receives from the Data Processor once the Data Processing Agreement has become effective, as well as those that are later obtained from the Data Processor. If the Data Processor’s provision of Services changes to the extent that the Data Controller’s instructions also change, then the Parties will have to conclude a new data processing agreement.

## 2 PERSONAL INFORMATION COVERED BY THE DATA PROCESSING AGREEMENT

2.1 The Data Processing Agreement and appertaining instructions cover all types of personal information that are released by the Data Controller to the Data Processor in accordance with the services provided by the Data Processor. This may include the following types of information:

General data	Sensitive data
<ul style="list-style-type: none"> <li>• Any other kind of information that is not sensitive data</li> </ul>	<ul style="list-style-type: none"> <li>• Information revealing race or ethnic origin</li> <li>• Political, religious or philosophical beliefs</li> <li>• Trade-union membership</li> <li>• Data concerning health</li> <li>• Information revealing sex life or sexual orientation</li> <li>• Information revealing criminal offenses</li> <li>• (In the future, genetic and biometric data as well)</li> </ul>

2.2 Classifications of people whom the personal information pertains to may, for example, be users, employees, applicants, candidates, customers, consumers, patients or similar individuals.

### 3 GEOGRAPHIC REQUIREMENTS

3.1 The processing of personal data undertaken by the Data Processor by agreement with the Data Controller must only be undertaken by the Data Processor or one of its sub-processors, cf. Sec. 5, within the European Economic Area (EEA). Under no circumstances does the Data Processor have the right to allow the data processing to be undertaken outside of the EEA without obtaining the Data Controller's written consent, unless it is required by EU law or the national law of the Member States. In such case, the Data Processor must inform the Data Controller of such legal obligations before processing the data, unless the law in question forbids the Data Processor from informing the Data Controller for reasons that are of major public interest.

### 4 INSTRUCTIONS

4.1 The primary form of data processing that the Data Processor will perform is that of storing the data that the Data Controller releases to the Data Processor. If the Data Controller has a need for other forms of data processing that are unrelated to the Services provided by the Data Processor, then the Data Controller must provide the Data Processor with clearly documented instructions in this regard.

4.2 The Data Processor will solely operate in accordance with the documented instructions from the Data Controller. The Data Processor must ensure that the personal information it is entrusted with is used for no other purpose or treated in any other way than that specified in the Data Controller's instructions.

4.3 If the Data Processor interprets part of the instructions as being in conflict with the law, the Data Processor must inform the Data Controller of such conflict.

4.4 If the Data Processor processes some or all of the personal information remotely—including in home offices—then the Data Processor must establish guidelines for its employees when processing personal information from remote locations. Such guidelines must also meet the requirements set by the Data Processing Agreement.

4.5 The Data Processor must assist the Data Controller as far as possible with fulfilling the Data Controller's obligations to respond to registered individuals' requests to exercise their rights if the Data Processor is the one that processes such personal information. Such requests may concern accessing, correcting, restricting or deleting personal information. The Data Processor will inform the Data Controller when the

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Data Processor receives such enquiries from registered individuals.

4.6 The Data Controller is responsible for covering all costs incurred by the Data Processor in connection with such assistance, cf. Sec. 4.5, including the cost of sub-processors. The price for the Data Processor's assistance will be calculated according to the currently applicable hourly rate for the performance of such work.

## 5 USE OF SUB-PROCESSORS

5.1 The Data Controller will consent to the Data Processor's use of sub-processors, provided that the provisions set out in the Data Processing Agreement are complied with. The Data Controller can check at any time to see the Data Processor's sub-processors by visiting the Data Processor's website at [www.simply.com/en/compliance](http://www.simply.com/en/compliance), which is where the Data Processor reports any changes in the sub-processors it uses.

5.2 Sub-processors must follow the Data Processor's instructions. The Data Processor has entered into a written data processing agreement with each sub-processor, which ensures that the sub-processor meets the requirements corresponding to those that the Data Controller has set for the Data Processor in pursuance of the Data Processing Agreement.

5.3 Costs in connection with setting out contractual terms with sub-processors, including the cost of drawing up data processing agreements and establishing a basis for transfers to third countries, shall be covered by the Data Processor, and as such are no concern of the Data Controller.

5.4 If the Data Controller wishes to give direct instruction to the sub-processors, it should not do so until it has been discussed with and via the Data Processor. If the Data Controller gives direct instructions to the sub-processors, then the Data Controller must inform the Data Processor of such instructions and relevant background information either beforehand or at the time the instructions are given. When the Data Controller gives direct instructions to the sub-processors, a) the Data Processor will be exempt from all responsibilities and any consequences of such instructions will be the sole responsibility of the Data Controller, b) the Data Controller will be responsible for covering all costs that the instructions may cause the Data Processor to incur and the Data Processor will also have the right to charge the Data Controller its standard hourly rate for time spent on all work that such instructions would entail for the Data Processor and c) the Data Controller is responsible for any costs, fees or other payments for the sub-processors incurred by such direct instructions.

5.5 By entering into the present Data Processing Agreement, the Data Controller acknowledges that the Data Processor is entitled to replace sub-processors, provided that a) any new sub-processors comply with the corresponding provisions set out in this Sec. 5 for current sub-processors and that b) the Data Controller will be notified via email about any new sub-processors by no later than the date on which the sub-

processor begins processing personal information for which the Data Controller is responsible.

- 5.6 If the Data Controller does not wish for the Data Processor to use a new sub-processor about which it was notified, cf. Sec. 5.5, then the Data Controller must lodge an objection against the use of the new sub-processor in writing to the Data Processor no later than 14 days after the Data Controller received notification or became aware of the sub-processor by visiting the Data Processor's website. In the event that the Data Processor is unable to accommodate the Data Controller's objection against a new sub-processor, it must notify the Data Controller as soon as possible. In such case, the Data Controller can then cancel its products with one month's notice starting on the first day of the month. The objection must be objectively justified before it can result in such a notice of cancellation.

## 6 PROCESSING AND DISCLOSURE OF PERSONAL INFORMATION

- 6.1 The Data Controller guarantees that it has the authority needed to process personal information covered by the present Data Processing Agreement.
- 6.2 The Data Processor must not disclose information to third parties without the written consent of the Data Controller, unless such disclosure is provided for by law or a binding request from a judicial authority or a data protection authority, or is specified in this Data Processing Agreement.

## 7 SECURITY

- 7.1 The Data Processor shall take appropriate technical and organisational security measures to prevent personal information from being accidentally or illegally destroyed, lost or damaged, as well as measures to prevent the information from being transmitted to unauthorised persons, misused or otherwise handled in a manner contrary to the law, cf. Sec. 1.2 above.
- 7.2 The Data Processor shall implement and maintain the security measures described in Appendix 1.
- 7.3 The Data Processor is always entitled to implement alternative security measures, provided that such security measures as a minimum are equivalent to or provide greater security than the security measures described in Appendix 1. The Data Processor cannot reduce the level of security without the Data Controller's prior written authorisation.
- 7.4 If the Data Processor is established in another EU Member State, then the provisions
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for security measures that are provided for under the legislation of the EU Member State in which the Data Processor is established shall apply for the Data Processor as well. If the Data Processor is established in another EU Member State, then the Data Processor must meet both the security requirements of the applicable legislation in Denmark and the security requirements in the Data Processor's own country. The same applies for sub-processors.

- 7.5 Upon further agreement with the Data Controller, the Data Processor shall, in so far as possible, assist the Data Controller in ensuring it meets its obligations under Article 32 (implementation of appropriate technical and organisational measures), Article 35 (carrying out a data protection impact assessment) and Article 36 (prior consultation) of the GDPR. If the Data Controller requires more assistance than what the Data Processor offers as standard procedure for complying with the aforementioned articles, then the Data Processor will be entitled to charge the Data Controller its standard hourly rate for time spent on all work that such an agreement would entail for the Data Processor. The Data Controller will also be responsible for paying for any sub-processors.

## 8 RIGHT OF INSPECTION

- 8.1 Upon request from the Data Controller, the Data Processor shall provide the Data Controller with sufficient information so that it can be assured that the Data Processor is meeting its obligations under Article 28 of the GDPR and the Data Processing Agreement.
- 8.2 In so far as the Data Controller's request extends to the processing being carried out by sub-processors, the Data Processor will be notified thereof. The Data Processor will then obtain sufficient information from the sub-processors.
- 8.3 If the Data Controller wishes to conduct an inspection as stated in this Sec. 8, the Data Controller must always notify the Data Processor at least 30 days ahead of time.
- 8.4 The Data Controller will cover all costs in connection with inspecting the security conditions of the Data Processor, as well as those of sub-processors. The Data Processor will also be entitled to charge the Data Controller its standard hourly rate for time spent on all work that such an inspection would entail for the Data Processor. The Data Controller will also be responsible for paying for any sub-processors.

## 9 PERSONAL DATA BREACH

- 9.1 If the Data Processor becomes aware of a personal data breach (a breach of security which leads to the accidental or illegal destruction, loss, alteration, unauthorised
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disclosure of or access to personal information which is transmitted, stored or processed in other ways), then the Data Processor is under the obligation to attempt to locate the breach and try to limit the resulting damage to the greatest extent possible, as well as restore any lost data where possible, without undue delay.

9.2 Furthermore, the Data Processor is obligated to inform the Data Controller after it has become aware that a personal data breach has occurred without undue delay. The Data Processor shall then, without undue delay and to the extent possible, notify the Data Controller in writing of the following as far as possible:

- a) A description of the nature of the breach, including the classifications and approximate number of affected registered individuals and records of personal information
- b) Name and contact information for the data protection officer
- c) A description of the likely consequences of the breach
- d) A description of the measures that the Data Processor or the sub-processor has taken or recommends to be taken for managing the breach, including measures to limit its potential adverse effects

9.3 Where it is not possible to provide the information stated in Sec. 9.2 all at once, the Data Processor can report the information in stages without any further undue delay.

9.4 Similarly, the sub-processors are required to inform the Data Processor in accordance with Sec. 9.2 and 9.3 without undue delay.

## 10 DUTY OF CONFIDENTIALITY

10.1 The Data Processor shall treat the personal information which it processes pursuant to the Data Processing Agreement with confidentiality, and is thus only entitled to use the personal information in pursuance of fulfilling its obligations and rights according to the Data Processing Agreement. The Data Processor shall impose confidentiality obligations on its employees and any other parties, including sub-processors, which are authorised to process the personal information covered by the Data Processing Agreement. Such confidentiality obligations shall also apply after the cessation of the Data Processing Agreement.

## 11 PRIMACY OF THE AGREEMENT

11.1 Unless otherwise specified by the Data Processing Agreement, the provisions of the Data Processing Agreement shall have primacy over similar provisions in other agreements or terms agreed between the Parties.

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12 DURATION AND TERMINATION OF THE DATA PROCESSING AGREEMENT

12.1 The Data Processing Agreement will take effect once signed by the Parties.

12.2 The present Data Processing Agreement will replace any previous data processing agreements concluded by the Parties.

12.3 The Data Processor will be bound by this Data Processing Agreement for as long as the Data Controller receives an active product from the Data Processor and the Data Processor processes personal information on behalf of the Data Controller. When the Data Controller cancels its products or they expire, the Data Processor will be entitled to delete all personal information that it has processed on behalf of the Data Controller. However, the Data Processor must always store the processed data if it is provided for by EU law or the national law of the Member States.

13 APPENDICES

Appendix 1: Security Environment (Simply.com)

14 SIGNATURES

14.1 The Parties hereby accept and make effective the foregoing upon signing.

Data Controller  
City: \_\_\_\_\_, date

Data Processor  
Skanderborg, 18-03-2023

\_\_\_\_\_  
Authorised officer

*Lotte Bendstrup*  
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Lotte Bendstrup