

# General Terms & Conditions

## GDPR Addendum

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Ref.: 250518 – V1.1



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# 1. Addendum

## 1.1. PARTIES

Art. 1 The GDPR Addendum supplements the General Terms & Conditions of BDE Group and forms an integral part of any Service Agreement entered into or that may be entered into between the following parties:

**BDE GROUP** (the Processor)

BDE Group specialises in IT infrastructure management, user support, consulting services in the field of information management, support for organisational change, information system security and data protection.

BDE Group is made up of the following entities:

**Bisoft S.A.**, with registered headquarters at 1200 Woluwé-Saint-Lambert, chaussée de Roodebeek 331, registered with Banque Carrefour des Entreprises under number BE 0459.160.980;

**Ecologic S.A.**, with registered headquarters at 1332 Genval, Avenue Albert 1er 6, registered with Banque Carrefour des Entreprises under number BE 0415.053.003;

**I.B.S. Consulting**, with registered headquarters at 1332 Genval, Avenue Albert 1er 6, registered with Banque Carrefour des Entreprises under number BE 0445.667.785.

Hereafter "BDE Group".

**The Customer** (the Controller).

Art. 2 By accepting these General Terms & Conditions, or any other Service Agreement with BDE Group, the Customer explicitly accepts the application of the following clauses on the processing of Personal Data by BDE Group.

Art. 3 The contact person at BDE Group is:

- The Data Protection Officer, DPO:
- Privacy@bde-group.be

## 1.2. OBJECT

Art. 4 The GDPR Addendum corresponds to a processing agreement setting out the respective rights and obligations of the Parties in accordance with the legislation referred to in Art.5.

## 1.3. DEFINITIONS

Art. 5 **Legislation:**

- **General Data Protection Regulation or GDPR:** 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, applicable with effect from 25 May 2018.
- **Supervisory authority:** the Data Protection Authority.

Art. 6 **Agreements:**

- **Service agreement:** All agreements entered into with BDE Group for the implementation of solutions, SAAS services, hosting, support, consulting, provision of resources.

Art. 7 **Those concerned:**

- **Data Subject:** the identified or identifiable natural person whose Personal Data are subject to processing.
- **Categories of persons:** the customers, users, employees concerned by the processing operations.
- **Controller:** the natural or legal person putting in place and determining the means of processing Personal Data.
- **Processor:** the natural or legal person processing the Personal Data on behalf of and on the instructions of the Controller.
- **Personnel:** the persons designated by the Parties to perform the agreement and who are placed under their direct authority.

Art. 8 **Data:**

- **Personal Data:** any information relating to a natural person identified or identifiable by a name, identification number, location data, online identifier, or to one or more factors specific to the identity of the natural person.
- **Categories of Personal Data:** Last name, first name, physical address, date of birth, e-mail address, sex, age, IP address, financial data, images.
- **Processing:** any operation or set of operations which is performed on Personal Data or sets of Personal Data, whether or not by automated means, such as collection, recording, qualification, storage, adaptation, retrieval, consultation, use, disclosure, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
- **Data breach:** any security breach resulting, accidentally or unlawfully, in the disclosure, modification, destruction of or unauthorised access to Personal Data.

## 2. Undertakings

### 2.1. PROCESSING OPERATIONS CONCERNED

- Art. 9 The Processor undertakes to process Personal Data only on written instructions from the Controller as part of the Service Agreement entered into.
- Art. 10 The Processor is authorised to process, on behalf of the Controller, the Personal Data necessary to deliver the services strictly provided for in the Service Agreement entered into between the Parties.
- Art. 11 For the duration of the Processing Agreement, the Personal Data shall be subject to the Processing operations listed in the definition in Art. 8.

### 2.2. RIGHTS AND OBLIGATIONS OF THE CONTROLLER

- Art. 12 The Controller shall:

- bear full responsibility for the processing of Personal Data carried out by members of its Personnel.
- provide the Data Subjects of processing with the information referred to in articles 13 and 14 of the GDPR.
- keep a record of processing activities carried out under its responsibility, in accordance with the arrangements provided for in article 30(1) of the GDPR.

Art. 13 The Controller shall:

- make available to the Processor the Personal Data covered by this Processing Agreement and determine the resources for and purposes of processing.
- also guarantee the lawfulness of processing, in particular the transfer of the Personal Data to the Processor.
- provide the Processor with written instructions regarding the processing and guarantees that these instructions are compliant with the Data Protection Legislation.
- retain ownership of the Personal Data, information and equipment made available by the Processor in the performance of the Processing Agreement.
- notify any Personal Data Breach to the supervisory authority.

## 2.3. RIGHTS AND OBLIGATIONS OF THE PROCESSOR

Art. 14 The Processor:

- shall process only the Personal Data strictly necessary to the performance of the Service Agreement and solely for the purposes defined in the Processing Agreement and determined by the Controller.
- undertakes to process the Personal Data in accordance with the written instruction of the Controller and with the provisions of this Processing Agreement.
- shall verify that the designation of persons authorised to process the Personal Data is strictly limited to what is necessary for the performance of the Service Agreement and that such persons have received training in the protection of Personal Data.
- shall inform the controller when an instruction constitutes a breach of the legislation.
- may not carry out any processing operations outside the European Economic Area.
- shall immediately forward requests from Data Subjects to exercise their rights to the Controller, who shall be responsible for further action on the request.
- shall process the Personal Data for as long as is necessary for the performance of its contractual obligations. The Processor shall subsequently take care to put an end to any processing of the Personal Data, apart from its deletion or return to the Controller.

Art. 15 The Processor undertakes to carry out the following tasks in consideration of the remuneration agreed with the Controller in the financial section of the Service Agreement:

- Making of copies and/or backups of the Personal Data, should this prove necessary to the performance of the principal Agreement. The Personal Data concerned shall enjoy the same protection as the original Personal Data.
- Assistance to the Controller in conducting data protection impact assessments and conducting the prior consultation of the supervisory authority and responding to requests from the supervisory authority or to the DPO designated by the Controller or to any other natural or legal person mandated by the Controller.
- As part of the Service Agreement covering the implementation of Web applications, the Processor undertakes to assist the Controller to fulfil its obligation to respond to requests from Data Subjects to exercise their rights: right of access, right to rectification, right to erasure, right to object, right to restriction of processing, right to data portability, right not to be subject to an individual decision based solely on automatic processing (including profiling).
- The Processor shall keep a record in writing of the processing activities carried out on behalf of the Controller. This record must contain all the information mentioned in article 30(2) of the GDPR.

## 3. General provisions

### 3.1. CONFIDENTIALITY

Art. 16 The Processor undertakes to inform its Personnel regarding the legislation on Personal Data protection and the provisions of the Processing Agreement.

Art. 17 The Processor is bound by an obligation of confidentiality regarding all the Personal Data processed by and communicated to the Processor under the Processing Agreement.

This obligation of confidentiality shall apply in the same manner to the personnel of the Processor and to any future Processors and to their personnel.

This obligation of confidentiality shall take effect as from the negotiation of the Service Agreement and is not limited in time.

Art. 18 This obligation of confidentiality shall not apply when:

- the Processor is required to disclose the Personal Data to the supervisory authority.
- the information is already in the public domain.
- the disclosure of the Personal Data has been authorised by the Controller who is assured of having legal grounds for so doing.

### 3.2. SECURITY MEASURES

Art. 19 The Controller and the Processor undertake to implement security measures to protect the Personal Data against accidental or unlawful destruction, dissemination, access, collection or any subsequent unauthorised processing, especially when the processing includes data transmission on a network.

Art. 20 The Processor is required to inform the Controller of adaptations to the security measures and of their costs when major modifications must be made to the technologies used to secure the data.

If the Controller refuses to implement these measures, the Processor may not be held liable in the event of a data breach attributable to an omission on the part of the Controller. The Controller shall bear full liability for the payment of any administrative fine and/or indemnity that might result.

### 3.3. NOTIFICATION OF A DATA BREACH

Art. 21 The Processor shall notify the Controller of any Personal Data Breach without delay, and not later than 24 hours after having become aware of it.

This deadline is extended to 48 hours when the breach does not pose a risk to the rights and freedom of the Data Subjects.

Art. 22 At a subsequent stage, the Processor shall provide all useful documentation to enable the Controller to notify this breach to the Data Protection Authority and /or to the Data Subjects, including in particular:

- the nature of the Personal Data breach;
- the categories and approximate number of Data Subjects;
- the categories and approximate volume of Personal Data concerned;
- the likely consequences of the Personal Data breach;
- the measures taken to remedy the Personal Data breach or to mitigate any negative consequences.

Art. 23 The decision on whether or not to inform the Data Subjects of a Personal Data breach lies with the Controller.

### 3.4. DELEGATION OF PROCESSING

Art. 24 The Processor may delegate all or part of its obligations to another Processor only with the prior and explicit agreement of the Controller, in writing.

The Controller may not refuse the Processor's request without invoking legitimate grounds for so doing.

Art. 25 The Processor remains the point of contact for the Controller and remains fully accountable to the Controller for the fulfilment of its obligations.

Art. 26 The undertakings provided for in Chapter 2 apply in full to the Processor. These obligations are stipulated in writing in a Processing Agreement.

The categories of undertakings concern:

- Satisfying requirements
- Data security and access
- Procedures
- Collaboration with other Processors
- Datacenter
- Audit, recording, control and documentation

### 3.5. DURATION AND TERM OF THE PROCESSING AGREEMENT

Art. 27 The Processing Agreement shall come into effect at the same time as the first Service Agreement and end at the same time as the final Service Agreement.

Art. 28 At the term of the final Service Agreement entered into with the Customer, the Processor shall return all the Personal Data to the Controller and shall also provide all information and documentation necessary for further processing of the data.

Art. 29 After returning the Personal Data to the Controller, the Processor shall immediately put an end to all processing of the Personal Data and destroy all existing copies in its information systems. The sole exception shall be backups made on removable media when the retention period for part of the information would not permit the total destruction of the content.

### 3.6. MODIFICATIONS TO THE GDPR ADDENDUM

Art. 30 BDE Group reserves the right to supplement or add further details to the GDPR Addendum on its own initiative, with the following obligations:

- not to remove any of the undertakings.
- to publish a new version whilst continuing to make previous versions accessible to the Customer.
- to inform the Customer.

## 4. Permanent measures

### 4.1. ORGANISATIONAL MEASURES

Art. 31 The following list includes, but is not limited to, the measures implemented by the Processor:

- A dedicated data protection team has been designated to take charge of data protection and the arrangements for implementation of the GDPR.
- A committee of experts in various fields assists the data protection team: legal, methodology, technical, IT risk governance and management.
- All employees are trained in compliance with the regulation and procedures.
- A record is kept of all Personal Data processing activities, according to the template proposed by the former Data Privacy Commission, which became the Data Protection Authority on 25 May 2018. This record is consolidated and kept up to date at all times.
- A data protection impact assessment (DPIA) is conducted for each activity likely to pose a risk to Personal Data.
- Recommendations are identified and constantly reviewed in order to reduce the risks of non-compliance.
- For each new recommendation, an implementation project is managed by the DPO.
- A Privacy Notice.

### 4.2. OPERATIONAL MEASURES

Art. 32 Security features have been put in place at the physical (protection of buildings and of the datacenter), organisational (procedures, compliance with directives) and technical levels in order to prevent or rapidly detect any incident and deal with it in accordance with the provisions of the GDPR.



These measures form part of the security management policy managed by the Processor's head of security.

- Art. 33 The following list includes, but is not limited to, the principal internal operating procedures relating to the security of Customer data:
- access management procedure
  - information Security management procedure
  - historical management of physical access to datacenters procedure

These procedures comply with and complement those of the managers of datacenters to which hosting and access services are subcontracted.

- Art. 34 The Processor shall use all means necessary to guarantee the constant confidentiality, integrity, availability and resilience of the data processing systems and services:
- confidentiality: access to the databases is restricted and controlled.
  - integrity: backups are made automatically and at frequent intervals;
  - availability: data export is available on request;
  - resilience: data can be restored rapidly.

Art. 35 The list of features and measures put in place by the Processor for the security of its infrastructure and of the infrastructure made available by the Customer shall appear in the Service Agreements concerned.

Art. 36 The Processor shall follow a procedure for testing, analysing and regularly evaluating the effectiveness of the technical and organisational measures for ensuring the security of the data processing.

## 5. Versions

Successive versions of the BDE Group document – General Terms & Conditions – GDPR Addendum

No.	Date	Object	Adaptations
V1.1	25/05/2018	Published version	