

DATA PROCESSING ADDENDUM FOR PROS SUBSCRIPTION AND PROFESSIONAL SERVICES

1. DEFINITIONS

Unless otherwise defined below, all capitalized terms have the meaning given to them in the Terms (as hereinafter defined).

"Authorized Affiliate" means any Customer Affiliate which is (i) subject to Data Protection Laws, and (ii) permitted to use the Services pursuant to the Terms, but has not signed its own Order or SOW, and is not a 'Customer' as defined under the Terms.

"CCPA" means the California Consumer Privacy Act, California Civil Code sections 1798.100 et seq., as amended by the California Privacy Rights Act, together with all regulations implementing or supplementing the same.

"Customer Personal Data" means any Customer Data relating to an identified or identifiable natural person where such information is protected as personal data, personal information, or personally identifiable information under applicable Data Protection Laws.

"Data Breach" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer Personal Data.

"Data Protection Laws" means the data protection and privacy laws and regulations of the European Union, the European Economic Area and their member states, Switzerland, the United Kingdom, Canada, the United States and its states, Australia, New Zealand, and Singapore as they apply to the processing of Customer Personal Data under the Terms.

"European Data Protection Law" means: (i) the General Data Protection Regulation (EU) 2016/679 ("GDPR"); (ii) in respect of the United Kingdom, the Data Protection Act 2018 and the GDPR as saved into United Kingdom law by virtue of Section 3 of the United Kingdom's European Union (Withdrawal) Act 2018; and (iii) the Swiss Federal Data Protection Act.

"Sell" or "Sale" means selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing or by electronic or other means, Customer's Personal Information to a third party for monetary or valuable consideration.

"Services" means the PROS Subscription Service and/or Professional Services, as applicable.

"Sub-processor" means any Processor engaged by PROS or a PROS Affiliate to process Customer Personal Data.

"Supervisory Authority" means (a) an independent public authority which is established by a Member State pursuant to Article 51 GDPR; and (b) any similar regulatory authority responsible for the enforcement of Data Protection Laws.

"Terms" means the Master Subscription Agreement (or other such titled written or electronic agreement addressing the same subject matter) between PROS and Customer for the purchase of Services from PROS.

The terms **"business"**, **"Controller"**, **"Data Subject"**, **"de-identify(ied)"**, **"personal information"**, **"Processor"**, **"process"**, **"processing"**, **"personal data"** and **"Service Provider"** have the meanings given to them in applicable Data Protection Laws.

2. SCOPE OF THIS DPA

This Data Processing Addendum ("DPA") applies where and only to the extent that PROS processes Customer Personal Data on behalf of Customer in the course of providing Services to Customer pursuant to the Terms. The DPA does not apply where PROS determines the purpose and means of the processing of Customer Personal Data for contract management, payment processing, service offering and support, marketing activities, business development and such other purposes as set out in the PROS Privacy Policy available at <https://pros.com/privacy/privacy-policy/>. If there is any conflict or inconsistency between this DPA and the Terms, this DPA shall prevail.

3. PROCESSING OF CUSTOMER PERSONAL DATA

3.1 PROS shall comply with all Data Protections Laws applicable to PROS in its role as Processor or service provider. PROS shall only process Customer Personal Data for the purposes of the Terms and for the specific purposes in each case as set out in Annex 1 (Details of Processing of Customer Personal Data) and as otherwise directed by Customer by documented instructions. PROS will immediately inform the Customer if, in its opinion, an instruction infringes Data Protection Laws. PROS will promptly, and without undue delay, notify Customer if PROS determines it can no longer meet its obligations under Data Protection Laws. Upon Customer's reasonable written notice, Customer may take reasonable and appropriate steps to stop and remediate unauthorized use of Customer Personal Data to the extent required of Customer under Data Protection Laws.

3.2 For the purposes of this DPA, PROS acts as a Processor, and Customer and its Authorized Affiliates act as Controllers. Customer is solely responsible for obtaining any relevant authorizations, consents and permissions for the processing of Customer Personal Data in accordance with this DPA. Customer represents that it is authorized to issue instructions and make and receive communications or notifications in relation to this DPA on behalf of its Authorized Affiliates.

3.3 Customer shall comply with all Data Protection Laws applicable to Customer as Controller. Customer shall, in its use of the Services, process Customer Personal Data in accordance with the requirements of Data Protection Laws, including any applicable requirements to provide notice to Data Subjects of the use of PROS as a Processor or service provider. For the avoidance of doubt, Customer's instructions for the processing of Customer Personal Data shall comply with Data Protection Laws. Customer shall have sole responsibility for the accuracy, quality, and legality of Customer Personal Data and the means by which Customer acquired Customer Personal Data.

3.4 For the avoidance of doubt, to the extent processing of Customer Personal Data is subject to CCPA, the parties agree that Customer is the "Business" and PROS is the "Service Provider" (as those terms are defined by CCPA).

4. PROS PERSONNEL

PROS shall require that its employees who may have access to Customer Personal Data are subject to confidentiality undertakings or professional or statutory obligations of confidentiality which shall survive the termination of employment. PROS will regularly train its employees having access to Customer Personal Data in applicable data security and data privacy measures.

5. SECURITY OF PROCESSING

PROS shall implement appropriate technical and organisational measures designed to protect Customer Personal Data against accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access as further detailed in PROS Security Exhibit, <https://pros.com/pros-security-exhibit>. Customer acknowledges that PROS may update the Security Exhibit from time to time to reflect technical progress and development, provided that such updates do not decrease the overall security of the Services purchased by the Customer.

6. SUB-PROCESSORS

- 6.1** Customer agrees that PROS may engage Sub-processors (which are additional Processors or service providers) in order to provide the Services, provided that PROS (i) has entered into a written agreement with the Sub-processor that is no less protective than this DPA; and (ii) will remain liable for the acts and omissions of its Sub-processors to the same extent as if the acts and omissions were performed by PROS.
- 6.2** PROS' up-to-date Sub-processor list is maintained on PROS' website at <https://pros.com/subprocessor-list>. PROS customer portal, PROS Connect, provides Customer with a mechanism to subscribe to new Sub-processor notifications. If Customer has subscribed to these notifications, PROS will inform Customer 30-days in advance of any intended additions or replacements to its Sub-processor list ("Sub-processor Notice Period").
- 6.3** If, during the Sub-processor Notice Period, Customer has legitimate reason to object to a new Sub-processor, Customer may object by sending an email to privacy@pros.com. If Customer objects, PROS and Customer will discuss a commercially reasonable resolution. If no commercially reasonable resolution can be reached within 60 days from PROS' initial notification of the new Sub-processor, Customer will have an additional 5-days during which time it may terminate the applicable Order to the extent that it requires use of the proposed Sub-processor. If Customer does not object within the Sub-processor Notice Period, Customer is deemed to have accepted the new Sub-processor.

7. DATA SUBJECT RIGHTS

- 7.1** PROS shall, to the extent legally permitted, promptly notify Customer if it receives a request from a Data Subject and provide full details of that request. PROS shall not respond to a Data Subject request itself, except to promptly redirect the Data Subject request to Customer.
- 7.2** To the extent Customer is unable to independently address a Data Subject request through the Service, PROS shall provide commercially reasonable efforts to assist Customer in responding to such Data Subject request. To the extent legally permitted, Customer shall be responsible for PROS' reasonable costs arising from PROS' provision of such assistance.

8. GOVERNMENT ACCESS REQUESTS

Unless prohibited by applicable law or a legally binding request of law enforcement, PROS shall promptly notify Customer of any request by a government agency or law enforcement authority for access to Customer Personal Data.

9. DATA BREACH

- 9.1** PROS shall notify Customer without undue delay after becoming aware of a Data Breach and will provide Customer with regular updates. To the extent Customer requires additional information from PROS to meet its Data Breach reporting obligations under Data Protection Laws, PROS will reasonably assist by providing such information considering the nature of the processing and information available to PROS.
- 9.2** The notification shall:
 - 9.2.1** describe the nature of the Data Breach including where possible, the categories and approximate number of data subjects concerned, and the categories and approximate number of Customer Personal Data records concerned;
 - 9.2.2** communicate the name and contact details of the PROS contact point;
 - 9.2.3** describe the likely consequences of the Data Breach; and
 - 9.2.4** describe the measures taken or proposed to be taken by PROS to address the Data Breach, including, where appropriate, measures to mitigate its possible adverse effects.

Where it is not possible to provide the information at the same time, the information may be provided in phases.

10. DELETION AND RETURN OF CUSTOMER PERSONAL DATA

Upon termination of the Services, PROS shall return and delete Customer Data, including Customer Personal Data, in accordance with the relevant provisions of the Terms. Until Customer Data is deleted or returned, PROS shall continue to comply with this DPA.

11. AUDIT RIGHTS

- 11.1** Customer agrees that PROS' most recently completed SOC1 and SOC2 audit reports, or comparable industry-standard successor report, prepared by PROS' independent third-party auditor will, to the extent applicable, be used to satisfy any audit or inspection requests by or on behalf of Customer. PROS will make such audit reports and relevant certifications available to Customer upon request subject to the confidentiality obligations set forth in the Terms. PROS will also respond to any reasonably requested written audit or security related questions submitted to it by Customer.

- 11.2** Customer may request an on-site audit of procedures relevant to the processing of Customer Personal Data by PROS ("**On-Site Audit**") if:
- 11.2.1** the information available pursuant to PROS SOC 1 and SOC 2 audit reports and certifications is not sufficient to demonstrate compliance with the obligations set out in this DPA; or
 - 11.2.2** Customer has received notice of a Data Breach from PROS; or
 - 11.2.3** the On-Site Audit is formally requested by Customer's Supervisory Authority or required by applicable Data Protection Law.
- 11.3** An On-Site Audit may be conducted by Customer or through its independent third-party auditor subject to the following limitations:
- 11.3.1** Customer gives PROS reasonable written notice, which shall not be less than 30 days (unless a Supervisory Authority requires shorter notice, or a Data Breach has occurred);
 - 11.3.2** it is conducted during PROS' regular business hours, and no more than once per calendar year (unless required or requested by a Supervisory Authority);
 - 11.3.3** the scope of the On-Site Audit is mutually agreed in advance by PROS and Customer acting reasonably and in good faith;
 - 11.3.4** where an independent auditor is involved, they have entered into a non-disclosure agreement containing confidentiality provisions no less protective than those set forth in the Terms to protect PROS Confidential Information; and
 - 11.3.5** Customer bears the reasonable costs of the On-Site Audit unless such audit reveals a material breach by PROS of this DPA, then PROS shall bear its own expenses of an audit. Any costs will be agreed by PROS and Customer in advance.
- Any On-Site Audits will be limited to Customer Data processing and storage facilities operated by PROS or its Affiliates. Customer acknowledges that the Subscription Service is hosted by PROS Sub-processors who maintain independently validated security programs (including SOC 1, SOC 2 and ISO 27001).
- 11.4** Reports following from the On-Site Audit will be treated as PROS' Confidential Information and subject to the confidentiality obligations of the Terms. Customer shall promptly provide PROS with information about any actual or suspected non-compliance discovered during an On-Site Audit, which PROS will promptly remedy at its own cost.

12. DATA PROTECTION IMPACT ASSESSMENT

If Customer is required to perform a data protection impact assessment or prior consultations to a Supervisory Authority, PROS shall provide reasonably requested information regarding the Services to enable Customer to fulfil its obligation under Data Protection Law, to the extent that the relevant information is available to PROS and Customer does not otherwise have access to the information.

13. AUTHORIZED AFFILIATES

- 13.1** To the extent PROS processes Customer Personal Data for which an Authorized Affiliate qualifies as the Controller, Customer enters into this DPA on behalf of itself and in the name and on behalf of its Authorized Affiliate. For the avoidance of doubt, an Authorized Affiliate is not and does not become a party to the Terms and is only a party to this DPA.
- 13.2** An Authorized Affiliate may exercise its rights and enforce the terms of this DPA directly against PROS, subject to the following:
- 13.2.1** except where Data Protection Law requires that the Authorized Affiliate itself exercise a right or enforce a claim, Customer will exercise any such right or claim directly against PROS on behalf of such Authorized Affiliate; and
 - 13.2.2** Customer will exercise any rights under the DPA in a combined manner for itself and all Authorized Affiliates together rather than separately.

14. LIMITATION OF LIABILITY

The maximum aggregate liability of either Party together with its respective Affiliates arising out of or related to this DPA (whether in contract, tort or otherwise) is subject to the '*Limitation of Liability*' Section of the Terms, and any reference in such Section to the liability of a Party means the aggregate liability of that Party and all of its Affiliates under the Terms and this DPA together. For the avoidance of doubt, PROS' and its Affiliates' total aggregate liability for all claims from Customer and all Authorized Affiliates arising out of or related to the Terms (including this DPA) shall apply in the aggregate for all claims under both the Terms and this DPA, including by Customer and all Authorized Affiliates.

15. EUROPE SPECIFIC PROVISIONS

- 15.1 International data transfers.** The parties agree and acknowledge that if, in the performance or use of the Services, Customer Personal Data that is subject to European Data Protection Law is transferred to a country which is not subject to an adequacy decision by the European Commission, or the competent UK or Swiss authorities (as applicable), the transfer will be subject to the EU Standard Contractual Clauses (together with the UK and Swiss Addendums) located at https://pros.com/standard_contractual_clauses, which are incorporated herein by reference and can be directly enforced by the parties to the extent such transfers are subject to European Data Protection Law. If there is any conflict or inconsistency between this DPA and the EU Standard Contractual Clauses, the EU Standard Contractual Clauses shall prevail.

16. CCPA SPECIFIC PROVISIONS

- 16.1** If PROS is processing Customer Personal Data within the scope of CCPA, PROS makes the following additional commitments to Customer. PROS shall not:

- 16.1.1** retain, use, or disclose Customer's personal information in any manner outside of the direct business relationship between Customer and PROS;
 - 16.1.2** Sell Customer's personal information; or
 - 16.1.3** combine Customer's personal information regarding an individual with personal information that PROS receives from or on behalf of any third party or collects from PROS' own interactions with another person, except as permitted by CCPA.
- 16.2** If PROS has any rights under the Terms to aggregate, de-identify or anonymize Customer's personal information, PROS shall (i) implement technical safeguards that prohibit the re-identification of any de-identified data; (ii) implement business processes to prevent the inadvertent release of de-identified data; and (iii) make no attempt to re-identify the de-identified data.
- 16.3** PROS certifies that it understands the restrictions on PROS' processing Customer's personal information as set forth in this section and will comply with them.

ANNEX 1: DETAILS OF PROCESSING OF CUSTOMER PERSONAL DATA***The nature and purpose of the Processing***

The processing will be carried out in accordance with the Terms, and any documented instructions given by Customer. PROS operates a global support network and operations facilities, and processing may take place in any jurisdiction where PROS or its Sub-processors operate such facilities.

Duration of the Processing

The data importer may retain Customer Personal Data for the Subscription Term. Upon expiration or termination of the data exporter's use of the Services, it will have a 30-day period within which it may request a copy of Customer Data and thereafter, the data importer will delete all Customer Data, including Customer Personal Data, in accordance with the applicable terms of the Terms.

Categories of Data Subjects and Personal Data Processed

Customer may submit personal data to the Subscription Service, the extent of which is determined and controlled by Customer in its sole discretion. Depending on the use case and the applicable Subscription Service, this may include, but is not limited to, the following categories of personal data and Data Subjects:

Data Subjects:

- Users of the Subscription Service. "**Users**" include Customer's employees, consultants, clients, external users, contractors, agents or other third parties authorized by Customer to use the Subscription Service and been assigned unique user identifications and passwords.
- Business partners and customers of Customer (who are natural persons).
- Employees or contact persons of Customers business partners end customers.

Categories of Personal Data transferred:

- Contact information: name, title, position, employee ID, email address, telephone number
- User log-in ID & credentials
- Log data with system or network activity details
- IP address
- Flight and Travel information

For a detailed up-to-date list broken down by Subscription Service, please see <http://pros.com/dpa-annex1-categories-of-personal-data-by-service>.