

DATA PROCESSING AGREEMENT

Between

....., a company registered underlaws, having its registered office at....., registered at theTrade and Company Register under number

– hereinafter the “**Data Controller**”–

And

Proximus Luxembourg S.A. a company registered under the Grand Duchy of Luxembourg laws, having its registered office at 18, rue du Puits Romain, L-8070 Bertrange, Grand Duchy of Luxembourg and registered at the Luxembourg Trade and Company Register under number B19.669

the “**Data Processor**”–

Data Processor and Data Controller shall be individually referred to as a “Party” and collectively as the “Parties”.

1. DEFINITIONS

“Data Protection Laws” means Regulation 2016/679 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (“**GDPR**”) and any national laws implementing or supplementing the same and any updated, additional, modified or replacement laws, provisions, directives, guidance or regulations thereto even as may be promulgated after the effective date of this DPA.

In this Data Processing Agreement (hereinafter “DPA”) the capitalized terms and any other expressions have the meaning given to them in article 4 of the GDPR.

2. SUBJECT OF THE DPA

- (1) Data Processor provides services to Data Controller, either in the form of an offer, purchase order or a written executed agreement between the Parties (hereinafter together the “Agreement”).
- (2) Data Processor is entitled, on the basis of documented instructions provided by Data Controller to process Personal Data in accordance with applicable Data Protection Laws; unless required to do so by Union or Member State law to which the processor is subject; in such a case, the processor shall inform the Data Controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest.
- (3) This DPA constitutes an integral part of all the business and contractual relationships between Data Processor and Data Controller.
- (4) It is agreed between the Parties that, in the context of this DPA, Data Controller and Data Processor will process some personal data of each other’s employees and/or representatives, for the specific needs of their communications related to their business relationship, in the context of which each Party will act as Data Controller (in the sense of the GDPR).
- (5) Except as provided in paragraph (4) above, the following provisions of this DPA are intended to cover obligations under Article 28 of the GDPR to the extent that the Data Processor would act as a "data processor" within the meaning of the GDPR.

3. OBLIGATIONS OF THE DATA CONTROLLER

- (1) Data Controller and Data Processor are separately responsible for complying with all Data Protection Laws;
- (2) Data Controller bears primary responsibility for ensuring that processing activities are done in accordance with any Data Protection Laws;
- (3) Data Controller is responsible for:
 - Providing Data Processor with the relevant instructions, specified in Annex 1 of this DPA;
 - Maintaining a record of processing under its responsibility;
 - Implementing, reviewing and updating either directly or through its service providers' appropriate technical and organizational measures to ensure adequate level of protection of Personal Data.

4. OBLIGATION OF THE DATA PROCESSOR

- (1) Data Processor is aware of the relevant Data Protection Laws and has implemented internal operating procedures to be compliant with it.
- (2) Data Processor shall only process Personal Data entrusted by the Data Controller and exclusively in accordance with Data Controller's instructions and for the specific purposes described in Annex 1 of this DPA.
- (3) Where Data Processor considers that Data Controller instruction infringes the Data Protection Laws, Data Processor shall inform the Data Controller without undue delay.
- (4) Data Processor is responsible for:
 - (A) Ensuring strict confidentiality of the Personal Data and impose confidentiality obligations, under an appropriate statutory obligation of confidentiality, on all persons authorized to process the Personal Data (employees, consultants, subprocessors, etc.);
 - (B) Properly documenting any act of Personal Data Processing carried out when providing the services;
 - (C) Ensuring the security of the Personal Data it processes by implementing appropriate technical and organizational measures as required by article 32 of the GDPR or any other applicable Data Protection Laws and taking into account the state of the art, the appropriate standards, the costs of implementation as further described in the Agreement in relation to the services performed by the Data Processor and the nature and associated risks of the personal data processing;
 - (D) Assisting Data Controller for the fulfilment of its obligations to respond to data subject requests. For the avoidance of doubt, Data Processor shall not itself respond to any data subject requests, unless expressly required by applicable law;
 - (E) Notifying Controller about any Personal Data Breach without undue delay.

Any work performed by Data Processor or subcontractors whilst complying with clause 4 (C) and (D) may be invoiced to the Data Controller.

5. SUB-PROCESSING

- (1) Data Controller hereby grants a generic written authorization to Data Processor to use subcontractors for the processing of personal data by subsequent data processors (i) to the extent necessary for Data Processor to fulfil its contractual obligations under the Agreement and (ii) as far

as Data Processor remains responsible for any act or omission of its subcontractors as if performed by Data Processor. The list of subcontractors processing personal data is available upon request.

- (2) Where Data Processor subcontract its obligations to subprocessors, it will do so by an agreement that imposes the same confidentiality and security obligations between Data Processor and Data Controller.
- (3) Notwithstanding any authorization of Data Controller, Data Processor shall remain liable towards its subprocessors in case of failure of these latter to fulfil their data protection obligations.

6. TRANSFER OF DATA

- (1) Data Processor shall not transfer Personal Data outside the European Union or the European Economic Area to a country or organization which does not offer an adequate level of protection by the European standards, without the prior consent of Data Controller and to the extent that appropriate safeguards for such transfers as provided for under Data Protection Laws have been put in place (this authorization may be given by simple email).
- (2) Nonetheless, the Data Processor may transfer Personal Data a third country or an international organisation if required to do so by Union or Member State law to which the Data Processor is subject; in such a case, the Data Processor shall inform the the Data Controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;

7. DATA CONTROLLER RIGHT'S OF AUDIT

- (1) Data Processor shall provide Data Controller with the reasonable documentation to demonstrate compliance with its obligations under this DPA.
- (2) Data Processor undertakes to assist the Data Controller in accordance with applicable Data Protection Laws on queries by the Controller, the Data Controller's auditors or supervisory authorities for audits or inspections. Such assistance is subject to the audit conditions already provided in the contractual documentation or if these do not already exist, with the Data Processor internal audits protocols and procedures.
Data Processor may invoice the Data Controller with all related reasonable costs and expenses.

8. DELETION OR RETURN OF PERSONAL DATA

Upon expiration of the services provided under the main agreement, or as the case may be, where no further processing is required, Data Processor shall, at the Data Controller's choice, either delete, anonymized or return all Personal Data, provided there is no legal obligation to keep records for retention periods set by any applicable law. In this latter case, Data Processor shall ensure the confidentiality and security of the Personal Data.

9. FINAL PROVISIONS

- (1) This DPA supersedes any provision of the Agreement to the extent that such provision relates to the privacy, confidentiality or security of Personal Data.
- (2) Any modifications, amendments and supplements to this DPA must be done in writing between the Parties.
- (3) Should a provision of this DPA become unenforceable, that shall not affect the validity or enforceability of any other provision of this DPA.

(4) All other terms and conditions of the Agreement remain valid.

For Proximus Luxembourg S.A.,

For

Name:
Title:
Date:

Name:
Title:
Date:

Name:
Title:
Date:

ANNEX 1: PERSONAL DATA *[TO BE COMPLETED BY THE DATA CONTROLLER]*

1. Categories of Personal Data

DATA CATEGORIES	DESCRIPTION
Identification data
Financial data
Personal characteristics
Physical data
Life habits
Psychometric data
Family data
Leisure and interests
Memberships
Judicial data
Consumption habits
Accommodation
Health data
Studies and formation
Professional data
National registry number
Racial or ethnic data
Sexual orientation
Political orientation
Union membership
Philosophical conviction and religion
Image recording
Sound recording
Other categories of data

2. Categories of Data subjects

CATEGORIES OF DATA SUBJECTS	DESCRIPTION
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3. Nature, purpose and subject matter of data processing(s)

The subject matter and purpose of the processing is the provision of goods and/or services by the Data Processor to Data Controller under the Agreement.

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4. Data retention

Data Controller must provide data retention instructions.

The processed data is retained for a period of

5. Notices and Contact Person for Data Privacy issues

In case of any questions and/or respective notifications relating to the Personal Data, contact persons are :

Data Controller

- (i) Postal address:
- (ii) For the attention of:
- (iii) Email address:

Data Processor

- (i) Postal address: 18, rue du Puits Romain, L-8070 Bertrange, Grand Duchy of Luxembourg
- (ii) For the attention of: Legal & Regulatory Department (DPO Office)
- (iii) Email address: dpo@proximus.lu
