

## SCHEDULE 4: DATA PROCESSING AGREEMENT

### DEFINITIONS

The terms “**Data Controller**”, “**Data Processor**”, “**Personal Data**”, “**Data Subject**” and “**processing**” shall have the meanings set out in the Data Protection Legislation.

**Data Protection Legislation:** any laws and regulations relating to privacy or the use or processing of data relating to natural persons applicable in the United Kingdom, including: (a) the General Data Protection Regulation ((EU) 2016/679); (b) the Data Protection Act 2018 (the DPA); and (c) the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

**DP Regulator:** any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Legislation.

**Relevant Personal Data:** Personal Data other than Nebula-Controlled Data (as defined in paragraph 1.3 below).

### 1. DATA PROTECTION

1.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This paragraph 1.1 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

1.2 In relation to Relevant Personal Data, the parties acknowledge that for the purposes of the Data Protection Legislation, Reseller is the Data Controller and Nebula is the Data Processor. This processing shall be in respect of the types of Relevant Personal Data, categories of Data Subjects, nature and purposes, and duration, set out in the Appendix 1 to this Schedule 4.

1.3 Nebula is the Data Controller only in respect of:

1.3.1 the login information (comprising a name, corporate email address and password) collected when issuing a user licence/user account at the outset or during the Agreement; and

1.3.2 the details of the Reseller support contacts (comprising a name, corporate email address and telephone number);

(together, the “**Nebula-Controlled Data**”). Nebula shall only use the Nebula-Controlled Data for the purposes of this Agreement and in compliance with all applicable requirements of the Data Protection Legislation.

1.4 Without prejudice to the generality of paragraph 1.1, Reseller shall:

1.4.1 ensure that any instructions it issues to Nebula shall comply with the Data Protection Legislation; and

- 1.4.2 have sole responsibility for the accuracy, quality and legality of Relevant Personal Data and the means by which it acquired Relevant Personal Data and shall establish the legal basis for processing under Data Protection Legislation, including providing all notices and obtaining all consents to individuals as may be required under Data Protection Legislation in order for Nebula to process the Relevant Personal Data as otherwise contemplated by this Schedule.
- 1.5 Without prejudice to the generality of paragraph 1.2, Nebula shall, in relation to any Relevant Personal Data processed in connection with the performance by Nebula of its obligations under this Agreement:
  - 1.5.1 Process that Relevant Personal Data only to the extent and in such a manner as is necessary for the purposes of providing the Products, the Software, and other services under this Agreement and on Reseller's lawful written instructions;
  - 1.5.2 Ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Relevant Personal Data and against accidental loss or destruction of, or damage to, Relevant Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Relevant Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Relevant Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
  - 1.5.3 Ensure that persons authorised to process the Relevant Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality and take steps to ensure that such persons only act on Nebula's instructions in relation to the processing;
  - 1.5.4 Not transfer such Relevant Personal Data outside the UK or the European Economic Area without Reseller's prior written consent, save that transfers shall be permitted where the transfer:
    - (i) is based on an adequacy decision (as per GDPR Article 45);
    - (ii) is subject to appropriate safeguards on condition that enforceable data subject rights and effective legal remedies for data subjects are available (as per GDPR Article 46); or
    - (iii) fits within one of the derogations for specific situations (as per GDPR Article 49);
  - 1.5.5 Take such steps as are reasonably required to assist Reseller in ensuring compliance with its obligations pursuant to GDPR Articles 32 to 36 (inclusive);
  - 1.5.6 Notify Reseller without undue delay on becoming aware of a Relevant Personal Data breach;
  - 1.5.7 At Reseller's written direction, and except as required by law or in order to defend any actual or possible legal claims, take reasonable steps to delete or return

Relevant Personal Data and copies thereof on termination or expiry of the Agreement;

- 1.5.8 Maintain records of all processing operations under its responsibility that contain at least the minimum information required by the Data Protection Legislation;
- 1.5.9 Allow for audits by Reseller or its designated representative on reasonable notice, subject to the following requirements:
- (i) Reseller may perform such audits no more than once per year or more frequently if required by Data Protection Legislation;
  - (ii) Reseller may use a third party to perform the audit on its behalf, provided such third party executes a confidentiality agreement acceptable to Nebula before the audit;
  - (iii) audits must be conducted during regular business hours, subject to Nebula's policies, and may not unreasonably interfere with Nebula's business activities;
  - (iv) Reseller must provide Nebula with any audit reports generated in connection with any audit at no charge unless prohibited by applicable law. Reseller may use the audit reports only for the purposes of meeting its audit requirements under Data Protection Legislation and/or confirming compliance with the requirements of this Schedule. The audit reports shall be confidential;
  - (v) to request an audit, Reseller must first submit a detailed audit plan to Nebula at least 4 (four) weeks (or as otherwise mutually agreed) in advance of the proposed audit date. The audit must describe the proposed scope, duration and start date of the audit. Nebula will review the audit plan and inform Reseller of any concerns or questions (for example, any request for information that could compromise Nebula's confidentiality obligations or its security, privacy, employment or other relevant policies). Nebula will work cooperatively with Reseller to agree a final audit plan;
  - (vi) nothing in this paragraph 1.5.9 shall require Nebula to breach any duties of confidentiality owed to any of its clients, employees or third-party providers; and
  - (vii) all audits are at Reseller's sole cost and expense;
- 1.5.10 Notify Reseller as soon as reasonably practicable if Nebula receives a request from a Data Subject to exercise its rights under the Data Protection Legislation in relation to that person's Relevant Personal Data; and
- 1.5.11 Provide Reseller with reasonable co-operation and assistance in relation to any request made by a Data Subject to exercise its rights under the Data Protection Legislation in relation to that person's Relevant Personal Data provided that Reseller shall be responsible for Nebula's reasonable costs and expenses arising from such co-operation and assistance.
- 1.6 In relation to the appointment of sub-processors:
- 1.6.1 Reseller generally agrees that Nebula may engage a third party including any advisers, contractors, or auditors (such third party referred to as a "**Sub-Processor**") to process Relevant Personal Data;

- 1.6.2 Reseller agrees that Nebula may appoint the Sub-Processors listed in Appendix 2 to this Schedule 4;
- 1.6.3 If Nebula engages a new Sub-Processor ("**New Sub-Processor**"), Nebula shall inform Reseller of the engagement, and where Reseller objects to the additional or replacement sub-processor, provided such objection is based on reasonable grounds relating to data protection, the parties shall discuss the objection in good faith;
- 1.6.4 Nebula shall ensure that its contract with each New Sub-Processor shall impose obligations on the New Sub-Processor that are materially equivalent to the obligations to which Nebula is subject to under this Schedule; and
- 1.6.5 Any sub-contracting by Nebula to Sub-Processors pursuant to this paragraph 1.6 shall not relieve Nebula of any of its liabilities, responsibilities and obligations to Reseller under this Schedule, and Nebula shall remain liable for the acts and omissions of its Sub-Processors.
- 1.7 If either party receives any complaint, notice or communication which relates directly or indirectly to the processing of Relevant Personal Data by the other party or to either party's compliance with the Data Protection Legislation, it shall as soon as reasonably practicable notify the other party and it shall provide the other party with commercially reasonable co-operation and assistance in relation to any such complaint, notice or communication.

## APPENDIX 1: DATA PROCESSING DETAILS

The Relevant Personal Data processing activities carried out by Nebula under this Agreement may be described as follows:

### 1. Subject matter of processing

Nebula shall process the Relevant Personal Data supplied by Reseller for the purposes of the provision of the Products, Software or other services as laid out in the Reseller Agreement.

### 2. Duration of processing

The Relevant Personal Data will be processed for the duration of this Agreement.

### 3. Nature and purpose of processing

Nebula may access, collect and process Relevant Personal Data from time to time:

- (a) in conjunction with Reseller's licensing and use of Nebula's software pursuant to the Reseller Agreement; and/or
- (b) to the extent necessary to enable Nebula to perform its obligations pursuant to the Reseller Agreement.

Nebula may also use Relevant Personal Data to generate anonymous statistical data for general commercial use by Nebula.

### 4. Categories of Relevant Personal Data

The types of Relevant Personal Data to be Processed commonly include, but not limited to, the following:

- 4.1: Contact and user account information:
  - 4.1.1: Names
  - 4.1.2: Postal addresses (delivery address and billing address if these are different)
  - 4.1.3: Telephone numbers, including landlines and mobiles
  - 4.1.4: E-mail addresses
  - 4.1.5: Usernames
  - 4.1.6: Business profile information (eg job titles)
- 4.2: Call, messaging and meeting data
  - 4.2.1: Real-time audio streams
  - 4.2.2: Call and meeting recordings, including recordings and transcriptions
  - 4.2.3: Voicemail messages, including recordings and transcriptions
  - 4.2.4: Instant messages (chat)
  - 4.2.5: SMS messages
  - 4.2.6: Call logs
  - 4.2.7: Any Personal Data voluntarily disclosed by an end-user or a third party with whom an end-user communicates
- 4.3: Usage data and analytics
  - 4.3.1: Feature usage
  - 4.3.2: Call quality metrics
  - 4.3.3: Activity logs

- 4.4: Device information
  - 4.4.1: IP addresses
  - 4.4.2: Device types
  - 4.4.3: Operating systems
  - 4.4.4: Activity logs

## 5. Categories of Data Subjects

The Relevant Personal Data processed relates to the following categories of Data Subjects:

- Employees, contractors, and representatives of the Reseller who are authorised to administer and use the services.
- End-users who are customers of the Reseller.
- Third parties who communicate with the end-users of the services.

## APPENDIX 2: APPROVED SUB-PROCESSORS

The following sub-processors are approved under Clause 1.6.2 of this Agreement:

- Infrastructure / cloud service providers:

Sub-processor	Location	Categories of Relevant Personal Data (from Appendix 1)	International transfer mechanism
Google	UK, EU	4.1, 4.2, 4.3, 4.4	EU-UK adequacy decision
Amazon Web Services	UK, EU	4.1, 4.2, 4.3, 4.4	EU-UK adequacy decision
Cockroach Labs	UK, EU	4.1, 4.2, 4.3, 4.4	EU-UK adequacy decision

- IT / technical support / customer support service providers:

Sub-processor	Location	Categories of Relevant Personal Data (from Appendix 1)	Transfer mechanism
Salesforce	USA	4.1	Certified under UK Extension to the EU-U.S. Data Privacy Framework
Hubspot	USA	4.1	Certified under UK Extension to the EU-U.S. Data Privacy Framework
Microsoft	UK	4.1, 4.2, 4.3, 4.4	N/A

- Carriers:

Sub-processor	Location	Categories of Relevant Personal Data (from Appendix 1)	Transfer mechanism
Colt	UK	4.1, 4.2	N/A
Gamma Communications	UK	4.1, 4.2	N/A
Simwood eSMS Ltd	UK	4.1, 4.2	N/A

- Other software providers:

Sub-processor	Description	Location	Categories of Relevant Personal Data (from Appendix 1)	Transfer mechanism
VoIPMonitor	Call quality monitoring	UK, EU	4.1, 4.2, 4.3, 4.4	EU-UK adequacy decision
The Rocket Science Group (Mailchimp)	SMS messaging	USA	4.1, 4.2.5	Certified under UK Extension to the EU-U.S. Data Privacy Framework
Twilio	SMS messaging	USA	4.1, 4.2.5	Certified under UK Extension to the EU-U.S. Data Privacy Framework
Vonage	SMS messaging	UK	4.1, 4.2.5	N/A
Call Cabinet	Call recording and analytics	UK	4.1, 4.2, 4.3, 4.4	N/A