Data Processing Agreement for Client Companies

This data processing agreement for client companies is an essential element of our privacy policy, demonstrating our commitment to protecting your personal information and that of your employees.

It has been drawn up in accordance with the provisions of the Federal Law on the Protection of Personal Data ("FADP") of September 25, 2020, the Data Protection Ordinance ("DPO") of August 31, 2022 and the General Data Protection Regulation (EU) 2016/679 ("GDPR").

This data processing agreement presents the parties' common understanding of the conditions relating to **Processing** and security of **Personal data** that is subcontracted in accordance with the contract concluded between **Swibeco SA** and the **Client Company**, whose employees benefit from **Swibeco SA's Services**.

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1. What are the definitions of the terms used?

Capitalised terms used in this Data Processing Agreement shall have the same meaning as set out below and in the Data Protection Legislation.

In particular, the terms:

- **Personal data** means any information which, directly or indirectly, can identify a natural person,
- **Processing** means any operation or set of operations performed upon **Personal data**, whether or not by automated means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, use, disclosure by transmission, dissemination or otherwise making available of information, alignment or combination, blocking, erasure or destruction,
- **Data Controller** means any natural or legal person who, alone or jointly with others, determines the purposes and means of the **Processing** of **Personal data**,
- **Data Processor** means any natural or legal person who processes **Personal data** on behalf of the Data Controller,
- **Subprocessor** means a **Data Processor** subcontracted by the **Data Processor**. The **Subprocessor** processes **Personal data** on behalf of the Data Controller in accordance with the **Subprocessor's** obligation to provide services to the **Data Processor**,
- **Data Protection Legislation** designates the legislation applicable to data protection. Namely, the Swiss Federal Law of September 25, 2020 on Data Protection (FADP) and the Implementing Ordinance of August 31, 2022 of the Federal Law on Data Protection (DPO) and since May 25, 2018, the Regulation (EU) 2016/679 of the European Parliament from the April 27, 2016 Council on the protection of individuals with regard to the **Processing** of **Personal data** and on the free movement of such data (General Data Protection Regulation; the "GDPR").

In addition, as part of this agreement,

- **Services** refers to all services provided by **Swibeco SA**, in particular the **Platform** and the **Swibeco Card**,
- **Platform** refers to the https://name-client.swibeco.ch employee benefits platform,
- **Swibeco Card** refers to the **Swibeco Card** service offered by **Swibeco SA**,
- **User Account** refers to the personal space of users acting in a private capacity, enabling them to use our **Services**, in particular the **Platform** or the **Swibeco Card**,
- **Administrator Account** means the space created for each administrator to access the **Services** on behalf of the **Client Company**,
- **Client Company** means a company that has entered into a contract with **Swibeco SA** to provide its employees with one or more of the solutions offered by **Swibeco SA** from among its **Services**.

2. How do we process data?

2.1. Our role and responsibilities

It is agreed that with regard to **personal data** that is subcontracted:

- **Swibeco SA** and the **Client Company** will comply with their obligations under the Data Protection Legislation,
- **Swibeco SA** is considered the **Data Processor** and the **Client Company** is considered the **Data Controller** under the meaning of the Data Protection Legislation,
- The purpose and details of **Processing** are described in the following paragraph.

2.2. Purpose and details of the Processing we carry out

2.2.1. Data categories of subcontracted personal data:

The list of data categories processed under this Agreement is available on Swibeco's Privacy Center, accessible at https://www.swibeco.ch/privacy-center/

2.2.2. The individuals concerned by personal data that is subcontracted:

Are:

- **Client Company** employees (**User Account**)
- **Platform** HR administrators **(Administrator Account**)
- Signatories

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2.2.3. List of Processing for which Swibeco acts as Data Processor

List of Processing for which Swibeco SA acts as Data Processor, accessible at
https://www.swibeco.ch/privacy-center/

The above **Processing** operations correspond to **Processing** for which Swibeco acts as a **Data Processor** on behalf of the **Client Company**, within the framework of the **Services** provided by **Swibeco SA**.

In this case, the **Processing** of **Personal Data** is governed by a Contract between **Swibeco SA**, acting as **Data Processor**, and the **Client Company**, the **Data Controller**. **Swibeco SA** processes this **Personal Data** as **Data Processor** for the provision of its **Services** to the **Client Company**.

Please note that **Swibeco SA**'s Privacy Policy does not address how the **Client Company** collects and uses **Personal data** or how **Swibeco SA** treats **Personal data** when **Swibeco SA** acts as a **Data Processor** for the **Client Company**.

Information on the **Client Company's Processing** activities can be found in the privacy policy of the **Client Company** in question.

Swibeco SA maintains a record of processing activities in accordance with applicable data protection laws.

2.2.4. List of Processing for which Swibeco SA acts as Data Controller

The information presented below concerns our activities as **Data Controller**.

List of Processing for which Swibeco SA acts as Data Controller, accessible at
https://www.swibeco.ch/privacy-center/

2.3. Purpose and compliance of the Processing we carry out

Swibeco SA processes Subcontracted **Personal data** strictly in accordance with the terms of the Contract, including, exhaustively, this Data Processing Agreement, for the sole purpose of providing essential services to the **Client Company**.

Client Company Instructions

By entering into the Contract, the **Client Company** issues instructions to **Swibeco SA** and formally agrees that **Swibeco SA** will process the subcontracted **Personal data** exclusively in strict compliance with the provisions of the Data Protection Legislation.

In addition, the **Client Company** stipulates that this data will only be used in connection with the provision of the Services, as precisely defined in the Contract, unless expressly provided otherwise.

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In addition, these guidelines apply only to **Processing** that the **Client Company** itself would be authorised to carry out, provided that no legal or contractual obligation of confidentiality stands in the way of **Swibeco SA**'s intervention.

Swibeco SA's compliance with the Client Company's instructions

Swibeco SA agrees to strictly comply with the guidelines set out in the previous section, unless a law applicable to **Swibeco SA** expressly requires special **Processing** of subcontracted **Personal data**.

In this case, **Swibeco SA** agrees to inform the **Client Company** of this legal obligation before conducting any **Processing**, unless a legal provision compels it to act otherwise.

2.4. Client Company Obligations

As a consequence of this data processing agreement, it is stipulated that the **Client Company** assumes full responsibility for the **Processing** of subcontracted **Personal data**.

The **Client Company** certifies that **Swibeco SA** may consider any **Processing** of **Personal data** subcontracted as part of the Services, as well as any directives issued by the Client, to be in compliance with applicable data protection laws and regulations.

It is expressly agreed that the **Client Company** is held responsible for the quality, legality and relevance of subcontracted **Personal data** processed as part of the services. In addition, it assumes responsibility towards third parties affected by **Processing**, as well as before the competent data protection authorities.

In particular, the **Client Company** agrees to comply with the following obligations:

- Provide adequate information to data subjects concerning the collection and **Processing** of their **Personal data**.
- Obtain valid consent from data subjects, if such authorisation is required under Swiss data protection legislation.
- Ensure compliance with all the rights of data subjects, such as the right of access, the right of rectification, the right of opposition, etc., as well as all obligations to the competent data protection authorities under applicable data protection legislation.

2.5. Our legitimate interests

Swibeco SA is also authorised to process subcontracted **Personal data** for legitimate purposes associated with the provision of its services, including infrastructure security, service improvement and compliance with legal requirements.

These activities are detailed in our privacy policy and our list of **Processing** operations. It should be noted that, in these particular circumstances, **Swibeco SA** acts as **Data Controller**.

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3. What about modifying or deleting data?

The **Client Company** is entitled to administer the subcontracted **Personal data**, including modification and deletion, in strict compliance with the provisions set out in the General Terms and Conditions of Use and in the service contract.

Once the client relationship has ended, **Personal Data** is retained for a period of 120 days, after which it is anonymised, unless a longer retention period is required in the context of a purchase or the use of the Swibeco Card, in which case Personal Data is retained for up to 10 years in accordance with applicable legal and regulatory requirements.

4. How do we ensure data security?

List of Swibeco's Technical and Organizational Measures (TOMs), accessible at
https://www.swibeco.ch/privacy-center/

4.1. Our security measures

- **Swibeco SA** deploys and maintains adequate technical and organisational measures to ensure the protection of subcontracted **Personal data** against any possible security incident. In this context, Swibeco SA is certified [ISO/IEC 27001] and applies recognised standards in the field of information security and personal data protection.
- **Swibeco SA** adopts adequate measures to ensure the compliance of its employees and Subprocessors with the above security measures. This is achieved by ensuring that all persons authorised to handle subcontracted **Personal data** agree to maintain confidentiality, or that they are bound by an appropriate legal obligation of confidentiality.
- The **Client Company** certifies that it has verified, and commits to ongoing monitoring, in order to guarantee that the technical and organisational measures set out in this article are adequate to ensure appropriate protection of subcontracted **Personal data**, in full compliance with Swiss data protection legislation.

4.2. What happens in the event of a security incident?

- If a security incident, including any personal data breach, is discovered, **Swibeco SA** commits to notifying the **Client Company** promptly by any appropriate means, in particular by using the contact details of the person designated by the **Client Company**. Wherever possible, **Swibeco SA** will describe the nature of the security incident, as well as any measures taken to mitigate potential risks and recommendations to the **Client Company**. It is important to note that the actions taken by **Swibeco SA** do not constitute, and should not be construed as, an admission of fault or liability in connection with the security incident in question.
- **Swibeco SA** refrains from examining the content of subcontracted **Personal data** in order to identify their nature. Responsibility for analysing such subcontracted **Personal data** and complying with

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applicable legal requirements, including any obligations to report security incidents to the relevant authorities and/or data subjects, rests solely with the **Client Company**. In this respect, **Swibeco SA** commits to providing the **Client Company** with any assistance reasonably required to meet its obligations.

5. Data transfer

5.1. Authorised countries

Unless otherwise stipulated in the Contract, the **Client Company** agrees that **Swibeco SA** will store and process the outsourced **Personal data** in Switzerland, or in a country that has been recognised by Switzerland as providing an adequate level of data protection in which **Swibeco SA** or one of its subprocessors maintains facilities.

5.2. Authorisation for subprocessors

The **Client Company** accepts that when **Swibeco SA** hires a **Subprocessor** in accordance with Article 6 below to perform specific **Processing** activities in a third country which has not been recognised by Switzerland as providing an adequate level of data protection, **Swibeco SA** may use the European Commission's Standard Contractual Clauses, or another valid mechanism, in order to comply with the requirements of the Data Protection Legislation, and the **Client Company** hereby accepts such transfer provided that the conditions for the validity of such a mechanism are met.

6. Subprocessors

6.1. Updated list of subprocessors

Unless otherwise stipulated in the Contract, the **Client Company** specifically authorises **Swibeco SA** to subcontract all or part of the Services and **Processing** for **Personal data** transmitted by the **Client Company**. The updated list of subprocessors is available below.

List of Subprocessors, accessible at https://www.swibeco.ch/privacy-center/

6.2. Requirements

Swibeco SA commits, in the event of delegation in accordance with article 6.1 above, to ensuring in writing that:

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- the **Subprocessor** only accesses and processes subcontracted **Personal Data** to the extent required to perform the obligations entrusted to it, and
- the **Subprocessor** is contractually obligated to **Swibeco SA** to at least the same extent as **Swibeco SA** is contractually obligated to the **Client Company** under this Data Processing Agreement and the Contract.

6.3. Your right to object:

When a new **Subprocessor** is hired, **Swibeco SA** will inform the **Client Company** at least 30 days before the new **Subprocessor** is hired and processes the **Client Company**'s **Personal data**.

Swibeco SA will indicate the name, location and activities that this **Subprocessor** will carry out on its behalf either by sending an e-mail to the contact e-mail address indicated in article 8, or via a notification on the mobile application.

The **Client Company** then has a period of 30 days from notification of the addition or replacement of a **Subprocessor** (including the name, location and activities of the **Subprocessor** in question) to submit objections.

The **Client Company** may object to any new **Subprocessor** on reasonable grounds (for example, if making data available to the **Subprocessor** may violate applicable data protection laws) by notifying **Swibeco SA** in writing within 10 business days after receipt of the notification. This objection must be sent to privacy@swibeco.ch and contain a description of the reasonable grounds for the objection.

Swibeco SA will use reasonable efforts to analyse any valid concerns raised by the **Client Company** with respect to the new **Subprocessor** and to mitigate any reported risks (including a potential replacement of the **Subprocessor** if critical issues are raised).

If an agreement is not reached, the **Client Company** is entitled to terminate the Contract, regarding the Subcontracted Services, by written notice sent within 30 days of notification of confirmation by **Swibeco SA** of the appointment of the Subprocessor.

It should be noted that this right of termination constitutes the **Client Company's** sole and exclusive recourse in the event of an objection concerning a new Subprocessor. The absence of a response from the **Client Company** within the deadlines mentioned in this article will be interpreted as acceptance of the new Subprocessor.

7. The support we provide

If **Swibeco SA** receives a request from a person with a **User Account** concerning **Personal data** processed as a **Data Processor** on behalf of the **Client Company**, **Swibeco SA** will advise such person with a **User Account** to direct their request to the **Client Company**. It is essential to note that the **Client Company** is the party responsible for responding to any requests from persons with a **User Account**. The parties agree that the decision as to whether or not to comply with requests from persons concerned in such cases is the sole responsibility of the **Client Company**.

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In addition, **Swibeco SA** provides assistance to the **Client Company** in complying with its legal obligations to persons using its **Services**, insofar as this is reasonably practicable. These measures encompass all the rights granted to data subjects under the data protection legislation applicable to them, including but not limited to the rights of access, rectification, limitation, opposition, deletion and portability of **Personal data** concerning them.

8. Audit right

8.1. Audit Framework

8.1.1. Access and Inspection

The **Client Company** has the right to audit **Swibeco SA**'s activities related to the processing of personal data, only if necessary to assess compliance with the data protection obligations set out in this Data Processing Agreement.

8.1.2. Notification

The **Client Company** will notify **Swibeco SA** in writing of its intention to conduct an audit at least 30 business days in advance. The audit may not be conducted more than once a year, except in the case of a security incident or proven non-compliance.

8.1.3. Scope of the Audit

The audit will be limited to aspects strictly necessary to assess **Swibeco SA**'s compliance with the data protection obligations set out in this Data Processing Agreement. The **Client Company** will specify the objectives and scope of the audit in the notification.

8.1.4. Timing and Duration

Audits will be conducted during **Swibeco SA**'s normal business hours and will be limited to a reasonable duration to minimize disruption to **Swibeco SA**'s daily operations.

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8.2. Obligations of Swibeco SA

8.2.1. Cooperation

Swibeco SA commits to cooperating with the **Client Company** during the audit and providing reasonable access to the necessary information, documents, and premises to allow the audit to be conducted, within the defined scope.

8.2.2. Documentation

Swibeco SA will maintain accurate and up-to-date documentation of its Personal data processing activities and make this documentation available to the **Client Company** during the audit, to the extent reasonably necessary to assess compliance.

8.3. Cost and Expenses

8.3.1. Audit fees

Each party shall bear its own costs and expenses related to the performance of the audit. However, if the audit reveals a significant non-compliance, **Swibeco SA** shall reimburse the **Client Company** for the reasonable costs of the audit.

8.3.2 Cost limitation

Swibeco SA shall be entitled to request a prior estimate of the audit costs from the **Client Company** in order to manage and plan the necessary resources.

9. Which point of contact at your company?

If the **Client Company** has appointed a person to deal with data protection issues, such as a data protection officer, it is required to provide **Swibeco SA** with this person's contact details. This person will be designated as **Swibeco SA**'s preferred point of contact for all communications relating to data protection, facilitating a more rapid and efficient exchange of information.

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10. Swibeco SA's Data Protection Officer

Swibeco SA has appointed a Data Protection Officer (DPO) and has made a declaration to the The Federal Data Protection and Information Commissioner in accordance with Art. 10, par. 3, let. d LPD.

E-mail address: privacy@swibeco.ch

Therefore, all correspondence concerning this Data Processing Agreement and data protection issues addressed to **Swibeco SA** should be sent to our DPO.

11. How long is this data processing agreement valid?

This Data Processing Agreement shall come into force on the date of signature of the Contract and shall remain in force until the end of provision of the Services by **Swibeco SA** in accordance with the Contract. This includes any period subsequent to termination of the Contract during which **Swibeco SA** temporarily continues to provide **Services** or maintain subcontracted **Personal data**.

The parties acknowledge that this DPA governs processing activities carried out under the Contract as from its effective date and, where applicable, processing activities carried out prior to its entry into force.

12. Miscellaneous

In the event of any conflict or inconsistency between the terms of this Data Processing Agreement and those of the Service Agreement, the provisions of this Data Processing Agreement shall prevail.

10.6.2026 Version

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