

DATA PROCESSING AGREEMENT

(Version June 2022)

This DPA is entered into between the Controller and the Processor and is incorporated into and governed by the terms of the Agreement.

1. Definitions

Any capitalised term not defined in this DPA shall have the meaning given to it in the Agreement.

Affiliate	means any entity that directly or indirectly controls, is controlled by, or is under common control of a party. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of a party;
Agreement	means the agreement between the Controller and the Processor for the provision of the Services;
CCPA	means the California Consumer Privacy Act of 2018, along with its regulations and as amended from time to time;
Controller	means the Client;
Data Protection Law	means all laws and regulations, including laws and regulations of the European Union, the European Economic Area, their member states and the United Kingdom any amendments, replacements, or renewals thereof, applicable to the processing of Personal Data under this agreement
Data Subject	The identified or identifiable living subject to whom personal data relates;
DPA	means this data processing agreement together with Exhibits A and B;
EEA	means the European Economic Area;
EU GDPR	means 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, (General Data Protection Regulation);
FDPA	means the Swiss Federal Act on Data Protection of 19 June 1992 (SR 235.1; FDPA) and as amended from time to time;
Personal Data	Any information relating to a 'data subject';
Processor	means Timetastic Ltd, and includes any "Service Provider" as that term is defined by the CCPA;
Restricted Transfer	means: (i) where the EU GDPR applies, a transfer of Personal Data via the Services from the EEA either directly or via onward transfer, to any country or recipient outside of the EEA not subject to an adequacy determination by the European Commission; and (ii) where the UK GDPR applies, a transfer of Personal Data via the Services from the United Kingdom either directly or via onward transfer, to any country or recipient outside of the UK not based on adequacy regulations pursuant to Section 17A of the United Kingdom Data Protection Act 2018; and (iii) a transfer of Personal Data via the Services from Switzerland either directly or via onward transfer, to any country or recipient outside of the

	EEA and/or Switzerland not subject to an adequacy determination by the European Commission;
Services	means all services and software provided to the Controller by the Processor under the Agreement;
SCCs	means: <ul style="list-style-type: none"> (i) where the EU GDPR applies, the standard contractual clauses annexed to the European Commission's Implementing Decision 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries (“EU SCCs”); and (ii) where the UK GDPR applies standard data protection clauses adopted pursuant to Article 46(2)(c) or (d) of the UK GDPR (“UK SCCs”); and (iii) where Personal Data is transferred from Switzerland to outside of Switzerland or the EEA, the EU SCCs as amended in accordance with guidance from the Swiss Data Protection Authority; (“Swiss SCCs”);
Sub-processor	means any third party (including Processor Affiliates) engaged directly or indirectly by the Processor to process Personal Data under this DPA in the provision of the Services to the Controller;
Supervisory Authority	means a governmental or government chartered regulatory body having binding legal authority over a party;
UK GDPR	means the EU GDPR as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018.

2. Purpose

2.1 The Processor has agreed to provide the Services to the Controller in accordance with the terms of the Agreement. In providing the Services, the Processor shall process Client Data on behalf of the Controller. Client Data may include Personal Data. The Processor will process and protect such Personal Data in accordance with the terms of this DPA.

3. Scope

3.1 In providing the Services to the Controller the Processor shall process Personal Data only to the extent necessary to provide the Services in accordance with the terms of the Agreement, this DPA and the Controller’s instructions documented in the Agreement and this DPA, as updated from time to time.

3.2 The Controller and Processor shall take steps to ensure that any natural person acting under the authority of the Controller or the Processor who has access to Personal Data does not process them except on the instructions from the Controller unless required to do so by any Data Protection Law.

4. Processor Obligations

4.1 The Processor may collect, process, or use Personal Data only within the scope of this DPA.

4.2 The Processor confirms that it shall process Personal Data on behalf of the Controller in accordance with the documented instructions of the Controller.

4.3 The Processor shall promptly inform the Controller, if in the Processor’s opinion, any of the instructions regarding the processing of Personal Data provided by the Controller, breach any Data Protection Law.

4.4 The Processor shall ensure that all employees, agents, officers and contractors involved in the handling of Personal Data: (i) are aware of the confidential nature of the Personal Data and are contractually bound to keep the Personal Data confidential; (ii) have received appropriate training on their responsibilities as a data processor; and (iii) are bound by the terms of this DPA.

- 4.5 The Processor shall implement appropriate technical and organisational procedures to protect Personal Data, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons.
- 4.6 The Processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including inter alia as appropriate: (i) the pseudonymisation and encryption of Personal Data; (ii) the ability to ensure the on-going confidentiality, integrity, availability and resilience of processing systems and services; (iii) the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident; (iv) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing. In accessing the appropriate level of security, account shall be taken of the risks that are presented by processing, from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise processed.
- 4.7 The technical and organisational measures detailed in Exhibit B shall be adhered to as a minimum security standard. The Controller accepts and agrees that the technical and organisational measures are subject to development and review and that the Processor may use alternative suitable measures to those detailed in the attachments to this DPA, provided such measures are at least equivalent to the technical and organisational measures set out in Exhibit B and appropriate pursuant to the Processor's obligations in clauses 4.5 and 4.6 above.
- 4.8 The Controller acknowledges and agrees that, while providing the Services to the Controller, it may be necessary for the Processor to access the Personal Data to respond to any technical problems or Controller queries and to ensure the proper working of the Services. All such access by the Processor will be limited to those purposes.
- 4.9 Taking into account the nature of the processing and the information available to the Processor, the Processor shall assist the Controller by having in place appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Controller's obligation to respond to requests for exercising the Data Subject's rights and the Controller's compliance with the Controller's data protection obligations in respect of the processing of Personal Data.
- 4.10 The Processor may not: (i) sell Personal Data; (ii) retain, use, or disclose Personal Data for commercial purposes other than providing the Services under the terms of the Agreement; or (iii) retain, use, or disclose Personal Data outside of the Agreement.

5. Controller Obligations

- 5.1 The Controller represents and warrants that: (i) it shall comply with this DPA and its obligations under Data Protection Law; (ii) it has obtained any, and all, necessary permissions and authorisations necessary to permit the Processor, its Affiliates and Sub-processors, to execute their rights or perform their obligations under this DPA; and (iii) all Affiliates of the Controller who use the Services shall comply with the obligations of the Controller set out in this DPA.
- 5.2 The Controller shall implement appropriate technical and organisational procedures to protect Personal Data, taking into account the state of the art, the costs of implementation and the nature, scope, context, and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons. The Controller shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including inter alia as appropriate: (i) the pseudonymisation and encryption of Personal Data; (ii) the ability to ensure the on-going confidentiality, integrity, availability and resilience of processing systems and services; (iii) the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident; (iv) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing. In accessing the appropriate level of security account shall be taken of the risks that are presented by processing, from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored, or otherwise processed.

5.3 The Controller acknowledges and agrees that some instructions from the Controller including the Processor assisting with audits, inspections, DPIAs or providing any assistance under this DPA, may result in additional fees. In such case the Processor shall notify the Controller of its fees for providing such assistance in advance and shall be entitled to charge the Controller for its reasonable costs and expenses in providing such assistance, unless agreed otherwise in writing.

6. Sub-processors

6.1 The Controller acknowledges and agrees that: (i) Affiliates of the Processor may be used as Sub-processors; and (ii) the Processor and its Affiliates respectively may engage Sub-processors in connection with the provision of the Services.

6.2 All Sub-processors who process Personal Data in the provision of the Services to the Controller shall comply with the obligations of the Processor set out in this DPA.

6.3 The Controller authorises the Processor to use the Sub-processors included in the list of [Sub-processors](#) to process the Personal Data. The Processor shall notify the Controller of any intended changes concerning the addition or replacement of other processors, thereby giving the Controller the opportunity to object to such changes.

6.4 The Controller may object to the use of a new or replacement Sub-processor, by notifying the Processor promptly in writing within ten (10) Business Days after receipt of the Processor's notice. If the Controller objects to a new or replacement Sub-processor, the Controller may terminate the Agreement with respect to those Services which cannot be provided by the Processor without the use of the new or replacement Sub-processor.

6.5 All Sub-processors who process Personal Data shall comply with the obligations of the Processor set out in this DPA. The Processor shall prior to the relevant Sub-processor carrying out any processing activities in respect of the Personal Data: (i) appoint each Sub-processor under a written contract containing materially the same obligations to those of the processor in this DPA enforceable by the Processor; and (ii) ensure each such Sub-processor complies with all such obligations.

6.6 The Controller agrees that the Processor and its Sub-processors may make Restricted Transfers of Personal Data for the purpose of providing the Services to the Controller in accordance with the Agreement. The Processor confirms that such Sub-processors: (i) are in a third country or territory recognised by the EU Commission or a Supervisory Authority, as applicable, to have an adequate level of protection; or (ii) have entered into the applicable SCCs with the Processor; or (iii) have other legally recognised appropriate safeguards in place.

7. Restricted Transfers

7.1 The parties agree that, when the transfer of Personal Data from the Controller to the Processor or from the Processor to a Sub-processor is a Restricted Transfer, it shall be subject to the applicable SCCs.

7.2 The parties agree that the EU SCCs shall apply to Restricted Transfers from the EEA. The EU SCCs shall be deemed entered into (and incorporated into this DPA by reference) and completed as follows:

(i) Module Two (Controller to Processor) shall apply where the Client is a Controller of Client Data and Timetastic is processing Client Data;

(ii) Module Three (Processor to Processor) shall apply where Timetastic is a Processor of Client Data and Timetastic uses a Sub-processor to process the Client Data;

(iii) In Clause 7 of the EU SCCs, the optional docking clause will not apply;

(iv) In Clause 9 of the EU SCCs Option 2 applies, and the time period for giving notice of Sub-processor changes shall be as set out in clause 6.3 of this DPA;

(v) In Clause 11 of the EU SCCs, the optional language shall not apply;

(vi) In Clause 17 of the EU SCCs, Option 1 applies and the EU SCCs shall be governed by Irish law;

(vii) In Clause 18(b) of the EU SCCs, disputes shall be resolved by the courts of Ireland;

- (viii) Annex I of the EU SCCs shall be deemed completed with the information set out in Exhibit A of this DPA;
 - (ix) Annex II of the EU SCCs shall be deemed completed with the information set out in Exhibit B of this DPA.
- 7.3 The parties agree that the EU SCCs as amended in clause 7.2 above, shall be adjusted as set out below where the FDPA applies to any Restricted Transfer:
- (i) The Swiss Federal Data Protection and Information Commissioner (“FDPIC”) shall be the sole Supervisory Authority for Restricted Transfers exclusively subject to the FDPA;
 - (ii) Restricted Transfers subject to both the FDPA and the EU GDPR, shall be dealt with by the EU Supervisory Authority named in Exhibit A of this DPA;
 - (iii) The term ‘member state’ must not be interpreted in such a way as to exclude Data Subjects in Switzerland from the possibility of suing for their rights in their place of habitual residence (Switzerland) in accordance with Clause 18(c) of the EU SCCs;
 - (iv) Where Restricted Transfers are exclusively subject to the FDPA, all references to the GDPR in the EU SCCs are to be understood to be references to the FDPA;
 - (v) Where Restricted Transfers are subject to both the FDPA and the EU GDPR, all references to the GDPR in the EU SCCs are to be understood to be references to the FDPA insofar as the Restricted Transfers are subject to the FDPA;
 - (vi) The Swiss SCCs also protect the Personal Data of legal entities until the entry into force of the revised FDPA.
- 7.4 The parties agree that the UK SCCs shall apply to Restricted Transfers from the UK and the UK SCCs shall be deemed entered into (and incorporated into this DPA by reference), completed as follows:
- (i) Appendix 1 of the UK SCCs shall be deemed completed with the information set out in Exhibit A of this DPA; and
 - (ii) Appendix 2 of the UK SCCs shall be deemed completed with the information set out in Exhibit B of this DPA.
- 7.5 If any provision of this DPA contradicts directly or indirectly any SCCs, the provisions of the applicable SCCs shall prevail over the terms of the DPA.

8. Data Subject Access Requests

- 8.1 The Controller may require correction, deletion, blocking and/or making available the Personal Data during or after termination of the Agreement. The Controller acknowledges and agrees that the Processor will process the request to the extent it is lawful and will reasonably fulfil such request in accordance with its standard operational procedures to the extent possible.
- 8.2 If the Processor receives a request from a Data Subject in relation to Personal Data, the Processor will refer the Data Subject to the Controller unless otherwise prohibited by law. If the Processor is legally required to respond to the Data Subject, the Controller will fully cooperate with the Processor as applicable.

9. Audit

- 9.1 The Processor shall make available to the Controller all information reasonably necessary to demonstrate compliance with its processing obligations and allow for and contribute to audits and inspections.
- 9.2 Any audit conducted under this DPA shall consist of examination of the most recent reports, certificates and/or extracts prepared by an independent auditor bound by confidentiality provisions similar to those set out in the Agreement. In the event that provision of the same is not deemed sufficient in the reasonable opinion of the Controller, the Controller may conduct a more extensive audit which shall be: (i) at the Controller’s expense; (ii) limited in scope to matters specific to the Controller and agreed in advance; (iii) carried out during the Processor’s usual business hours and

upon reasonable notice which shall be not less than 4 weeks unless an identifiable material issue has arisen; and (iv) conducted in a way which does not interfere with the Processor's day-to-day business.

9.3 This clause shall not modify or limit the rights of audit of the Controller, instead it is intended to clarify the procedures in respect of any audit undertaken pursuant thereto.

10. Personal Data Breach

10.1 The Processor shall notify the Controller without undue delay after becoming aware of (and in any event within 72 hours of discovering) any accidental or unlawful destruction, loss, alteration or unauthorised disclosure or access to any Personal Data ("**Personal Data Breach**").

10.2 The Processor shall take all commercially reasonable measures to secure the Personal Data, to limit the effects of any Personal Data Breach, and to assist the Controller in meeting the Controller's obligations under applicable law.

11. Compliance, Cooperation and Response

11.1 The Processor will notify the Controller promptly of any request or complaint regarding the processing of Personal Data, which adversely impacts the Controller, unless such notification is not permitted under applicable law or a relevant court order.

11.2 The Processor may make copies of and/or retain Personal Data in compliance with any legal or regulatory requirement including, but not limited to, retention requirements.

11.3 The Processor shall reasonably assist the Controller in meeting the Controller's obligation to carry out data protection impact assessments (DPIAs), taking into account the nature of the processing and the information available to the Processor.

11.4 The Controller shall notify the Processor within a reasonable time, of any changes to applicable data protection laws, codes or regulations which may affect the contractual duties of the Processor. The Processor shall respond within a reasonable timeframe in respect of any changes that need to be made to the terms of this DPA or to the technical and organisational measures to maintain compliance. If the Processor is unable to accommodate necessary changes, the Controller may terminate the part or parts of the Services which give rise to the non-compliance. To the extent that other parts of the Services provided are not affected by such changes, the provision of those Services shall remain unaffected.

11.5 The Controller and the Processor and, where applicable, their representatives, shall cooperate, on request, with a Supervisory Authority in the performance of their respective obligations under this DPA and Data Protection Law.

12. Liability

12.1 The limitations on liability set out in the Agreement apply to all claims made pursuant to any breach of the terms of this DPA.

12.2 The parties agree that the Processor shall be liable for any breaches of this DPA caused by the acts and omissions or negligence of its Sub-processors to the same extent the Processor would be liable if performing the services of each Sub-processor directly under the terms of the DPA, subject to any limitations on liability set out in the terms of the Agreement.

12.3 The parties agree that the Controller shall be liable for any breaches of this DPA caused by the acts and omissions or negligence of its Affiliates as if such acts, omissions, or negligence had been committed by the Controller itself.

12.4 The Controller shall not be entitled to recover more than once in respect of the same loss.

13. Term and Termination

13.1 The Processor will only process Personal Data for the term of the DPA. The term of this DPA shall coincide with the commencement of the Agreement and this DPA shall terminate automatically together with termination or expiry of the Agreement.

14. Deletion and Return of Personal Data

14.1 Upon termination of the Agreement the controller can choose to delete or return all personal data from the system. The Processor shall in any event delete all copies of Personal Data in its systems within 30 days of the effective date of termination of the Agreement unless applicable law or regulations require storage of the Personal Data after termination.

15. General

15.1 This DPA sets out the entire understanding of the parties with regards to the subject matter herein.

15.2 Should a provision of this DPA be invalid or become invalid then the legal effect of the other provisions shall be unaffected. A valid provision is deemed to have been agreed which comes closest to what the parties intended commercially and shall replace the invalid provision. The same shall apply to any omissions.

15.3 Subject to any provision of the SCCs to the contrary, this DPA shall be governed by the laws of England and Wales. The courts of England shall have exclusive jurisdiction for the settlement of all disputes arising under this DPA.

12.4 The parties agree that this DPA is incorporated into and governed by the terms of the Agreement.

Exhibit A

List of Parties, Description of Processing and Transfer of Personal Data, Competent Supervisory Authority

MODULE TWO: CONTROLLER TO PROCESSOR

A. LIST OF PARTIES

The Controller:

means the Client.	
Contact person's name, position and contact details:	As provided by the Client in its account and used for notification and invoicing purposes.
Activities relevant to the data transferred under the SCCs:	Use of the Services.
Signature and date:	By entering into the Agreement, the Controller is deemed to have signed the SCCs incorporated into this DPA and including their Annexes, as of the effective date of the Agreement.
Role:	Data Exporter.
Name of Representative (if applicable):	Any UK or EU representative named in the Controller's privacy policy.

The Processor:

means Timetastic Ltd	
Address:	Suite 143, 19 Level Street, Manchester, M1 1AN, UK
Contact details:	hello@timetastic.co.uk
Activities relevant to the data transferred under the SCCs:	The provision of software and services to the Controller under which the Processor processes Personal Data upon the instructions of the Controller in accordance with the terms of the Agreement.
Signature and date:	By entering into the Agreement, the Processor is deemed to have signed the SCCs, incorporated into this DPA, including their Annexes, as of the effective date of the Agreement.

Role:	Data Importer
EU Representative:	GDPR Local

B. DESCRIPTION OF PROCESSING AND TRANSFERS

Categories of Data Subjects:	<p>Employees and contractors of the Controller (who are natural persons) or any other persons the Controller adds to its account.</p> <p>Users, Affiliates and other participants authorised by the Controller to access or use the Services in accordance with the terms of the Agreement.</p> <p>Other individuals to the extent identifiable in the context of emails of their attachments or in archiving content.</p>
Categories of Personal Data:	<p>The Controller may submit Personal Data to the Services, the extent of which is determined and controlled by the Controller. The Personal Data includes but is not limited to:</p> <ul style="list-style-type: none"> • Personal details, names, email addresses of users of the Services. • Unique identifiers such as username, account number or password. • Personal Data derived from a user's use of the Services such as employment start date, work schedule and department, annual leave allowance, data and time of absences from work, reasons for absence from work. • Optional information provided by users such as date of birth. • Personal Data within email and messaging content which identifies or may reasonably be used to identify, Data Subjects. • Meta data including sent, to, from, date, time, subject, which may include Personal Data. • Geolocation based upon IP address. • Data concerning employment and profession. • Images. • File attachments that may contain Personal Data. • Survey, feedback, and assessment messages. • Information offered by users as part of support enquiries. • Other data added by the Controller from time to time
Sensitive Data:	<p>Recognising that some fields permit Users to input free form text and upload images Personal data may contain very limited amounts of special categories of data. Anything input deemed a special category of data under GDPR will be processed pursuant to Article 9.2.b.</p>

The frequency of the processing and transfer (e.g. whether the data is transferred on a one-off or continuous basis):	Continuous basis for the duration of the Agreement.
Nature of the processing:	Processing operations include but are not limited to: management and tracking of employees absence and associated annual allowance, permitting employees to book and request time off work, manager approval of requests and notification of approvals by email and mobile push messages to users of the Services
Purpose(s) of the data transfer and further processing:	Personal Data is transferred to sub-processors who need to process some of the Personal Data in order to provide their services to the Processor as part of the Services provided by the Processor to the Controller.
The period for which the Personal Data will be retained, or, if that is not possible, the criteria used to determine that period:	for the duration of the Agreement, subject to clause 14 of the DPA.
For transfers to (Sub-) processors, also specify subject matter, nature and duration of the processing:	The Sub-processor list sets out the Personal Data processed by each Sub-processor and the services provided by each Sub-processor.

C. COMPETENT SUPERVISORY AUTHORITY

Identify the competent supervisory authorities (e.g. in accordance with Clause 13 of the SCCs)	<p>Where the EU GDPR applies, the Irish Data Protection Authority - Data Protection Commission (DPC).</p> <p>Where the UK GDPR applies, the UK Information Commissioner's Office, (ICO).</p> <p>Where the FDPA applies, the Swiss Federal Data Protection and Information Commissioner, (FDPIC).</p>
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MODULE THREE: PROCESSOR TO PROCESSOR

A. LIST OF PARTIES

The Data Exporter: is Timetastic Ltd.

The Data Importers: are the Sub-processors named in the Sub-processor list which contains the name, address, contact details and activities relevant to the data transferred to each Data Importer.

B. DESCRIPTION OF PROCESSING AND TRANSFERS

The Sub-processor list includes the information about the processing and transfers of the Personal Data, for each Data Importer:

Personal Data is processed by each Data Importer:

- on a continuous basis
- to the extent necessary to provide the Services in accordance with the Agreement and the Data Exporter's instructions.
- for the duration of the Agreement and subject to clause 14 of the DPA.

C. COMPETENT SUPERVISORY AUTHORITY

The competent Supervisory Authority of the Data Exporter shall be:

- Where the EU GDPR applies, the Irish Data Protection Authority - Data Protection Commission (DPC).
- Where the UK GDPR applies, the UK Information Commissioner's Office, (ICO).
- Where the FDPA applies, the Swiss Federal Data Protection and Information Commissioner, (FDPIC).

Exhibit B

Technical and Organisational Security Measures

The processor implements a wide range of technical and organisational measures to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.

These measures can be found in Timetastic's [security measures](#) and [security FAQ's](#),

Where applicable this Exhibit B and its links will serve as Annex II to the SCCs.