

## Data Sharing Agreement

### 1. Definitions

"We", "Us", "Our" refers to the services performed by BXL.LEGAL and DATAPROTECTIONOFFICER.LEGAL, the brands of the Belgian Limited Cy KOENRAAD FLAMANT, with Koenraad FLAMANT as statutory Director. (KOENRAAD FLAMANT bvba, VAT BE 0429.021.991, Business Register of the Commercial Court of Leuven (Belgium), with registered Office: Stationstraat 58, 3070 KORTENBERG, Belgium)

"Client" refers to Our clients.

"The Parties" refers to us and the Client(s)

"Day" means calendar days, Saturday, Sunday and/or holidays included.

"Data" refers to all personal data under the GDPR, subject to the present agreement.

"Intellectual Property" means any and all of the following in any jurisdiction throughout the world (a) trademarks and service marks, including all applications and registrations, and the goodwill connected with the use of and symbolized by the foregoing, (b) copyrights, including all applications and registrations related to the foregoing, (c) trade secrets and confidential know-how, (d) patents and patent applications, (e) websites and internet domain name registrations, and (f) other intellectual property and related proprietary rights, interests and protections (including all rights to sue and recover and retain damages, costs and attorneys' fees for past, present, and future infringement, and any other rights relating to any of the foregoing).

"Law" means any law (including the common law), statute, bylaw, rule, regulation, order, ordinance, treaty, decree, judgment, and also any official directive, protocol, code, guideline, notice, approval, order, policy, or other requirement of any Governmental Authority having the force of law and in particular the GDPR.

### 2. Recitals and the Purpose of Data Sharing

As lawyer and/or GDPR-specialist and/or ICT-consultant, we provide legal and/or IT advice, upon the initiative of the Client, hereafter "Our Services" or "the Agreement".

In this case our Client will not be the sole data controller as towards the Data he's sharing with us, in order to enable us to perform our contractual and legal obligations.

As the Parties have entered into an Agreement, the Client is granting access to all relevant Data, for the purpose of performing Our Services.

We are hence not a data processor, but will become a separate data controller on the shared and Our own Data.

### 3. License Grant to Use Data

Client hereby grants Us a limited, exclusive, non-transferable, and revocable license to access, copy, and use the Data (the "[DELIVERABLE]").

### 4. Our Use of Data

We shall only use or disclose the Data in furtherance of our Services or as required by Law.

**Standard of Care Safeguards Around Data**

We shall exercise at least the same degree of care as we use with Our own Data and Confidential Information, but in no event less than reasonable care, to protect the Data from misuse and unauthorized access or disclosure.

We shall use appropriate safeguards to protect the Data from misuse and unauthorized access or disclosure, including

- maintaining adequate physical controls and password protections for any server or system on which the Data is stored,
- ensuring that Data is not stored on any mobile device (for example, a laptop or smartphone) or transmitted electronically unless encrypted, and
- taking any other measures reasonably necessary to prevent any use or disclosure of the Data other than as allowed under this agreement.

**Permitted Disclosure**

We may only disclose the Data

- a) to the extent necessary, and
- b) to its officers, directors, employees, consultants, and representatives on a need-to-know basis.

Required Disclosure.

If We are compelled by Law to disclose any Data, we shall notify the Client before disclosing the compelled Data.

**Unauthorized Disclosure**

We shall, within 2 days of Us becoming aware of any unauthorized use or disclosure of the Data, promptly report that unauthorized use or disclosure to the Client.

We shall cooperate with any remediation that the Client reasonably determines to be necessary to

- a) address any applicable reporting requirements, and
- b) mitigate any effects of such unauthorized use or disclosure of the Data, including measures necessary to restore goodwill with stakeholders, including research subjects, collaborators, governmental authorities, and the public.

**Agents and Subcontractors**

We shall ensure that any agents, including subcontractors, to whom we provide the Data agree to the same restrictions and conditions listed in this agreement.

Modification of Data

Client accepts that we may copy, decompile, modify, reverse engineer, or create derivative works out of any of the Data, but this only to the extent of the Purposes and within the limits of the Law.

**5. Term**

This agreement will be commencing upon Us performing Our services and continue as long as we retain the Data, unless terminated earlier (the "Term").

**6. Representations**

**6.1. Mutual Representations**

Neither party is under any restriction or obligation that could affect its performance of its obligations under this agreement.

Neither party's execution, delivery, and performance of this agreement and the other documents to which it is a party, and the consummation of the transactions contemplated in this agreement, do or will result in its violation or breach of any applicable Law or Order, or [except as listed in its Disclosure Schedule], require the consent of any Person, or conflict with, result in a violation or breach of, constitute a default under, or result in the acceleration of any material contract.

## **6.2. Client's Representations**

The Client has the exclusive right to grant Us the use of the Data.

The Client has not

- granted and is not obligated to grant any license to any third party that would conflict with the license grant under section 3, or
- assigned or exclusively licensed, and is not obligated to assign or exclusively license, use of the Data to any third party that would conflict with the license grant under section 3.

## **7. No Warranty**

The Data is provided "as is.", although the Client is vouching for the accuracy or completeness of the Data.

## **8. Confidentiality Obligations**

- 8.1. Each Party acknowledges that during this Agreement, a Party (the "receiving Party") may become privy to Confidential Information which is disclosed by the other Party (the "disclosing Party").
- 8.2. The receiving Party shall keep all Confidential Information confidential. The receiving Party shall not disclose Confidential Information to any third party, and shall not use Confidential Information for any purposes other than for the purposes of this Agreement. The receiving Party shall safeguard the Confidential Information to the same extent that it safeguards its own confidential and proprietary information and in any event with no less than a reasonable degree of protection.
- 8.3. Each Party agrees that before any of its subcontractors and/or agents may be given access to Confidential Information, each such subcontractor and/or agent shall agree to be bound by a confidentiality undertaking comparable to the terms of this Agreement. Notwithstanding the return of any Confidential Information, each Party and its subcontractors and/or agents will continue to hold in confidence all Confidential Information, which obligation shall survive any termination of this Agreement.
- 8.4. In the event the receiving Party is requested or required to disclose, by court order or regulatory decision, any of the disclosing Party's Confidential Information, the receiving Party shall provide, to the extent permitted, the disclosing Party with prompt written notice so that the disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. The receiving Party shall furnish only that portion of the Confidential Information which is legally required.
- 8.5. The confidentiality undertaking under this Article 8 shall not be applicable if the Confidential Information:
  - has become publicly known prior to being divulged or thereafter, but without any breach of confidentiality undertaking; or
  - had been legitimately obtained from a third party neither tied by an obligation of confidentiality nor professional secrecy; or
  - was independently created by the receiving Party without use of any Confidential Information of the disclosing Party; or
  - was already known or developed by the Receiving Party, as can be demonstrated by documentary evidence.

## **9. Intellectual Property Ownership**

Except for any Intellectual Property rights included in the Deliverable to use Data, the parties hereby acknowledge that this agreement does not constitute a grant by either party to the other of any license or right to either party's Intellectual Property existing as of the Effective Date.

### **New or Developed Intellectual Property.**

If We develop any new Intellectual Property in connection with this, we shall be irrevocably deemed to have the full ownership of that new Intellectual Property.

## **10. Termination**

The present data sharing agreement will automatically terminate upon the termination of Our services.

Upon the termination of this agreement We shall promptly return the Data (as the Deliverable) and any other property, information, and documents, including Confidential Information, provided by the Client.

After the legal retention delay (liability and/or legal obligations) we will destroy all copies of Data and any other property, information, and documents, including Confidential Information, and

#### **11. Mutual Indemnification**

Each party (as an indemnifying party) shall indemnify the other (as an indemnified party) against all losses arising out of any proceeding

- brought by either a third party or an indemnified party, and
- arising out of the indemnifying party's willful misconduct or gross negligence.

#### **12. General Provisions**

12.1. The parties intend that this agreement, together with all attachments, schedules, exhibits, and other documents that both are referenced in this agreement and refer to this agreement,

- represent the final expression of the parties' intent and agreement between the parties relating to the subject matter of this agreement,
- contain all the terms the parties agreed to relating to the subject matter, and
- replace all the parties' previous discussions, understandings, and agreements relating to the subject matter.

12.2. Should one or more provisions (or parts of provisions) of the present Agreement be found null or unenforceable, this shall not affect the validity and enforceability of the other (parts of) provisions, which remain in full force. Invalid or unenforceable (parts of) provisions shall be replaced by valid and enforceable provisions that reflect as closely as possible the initial intention.

12.3. The relationship between Us and the Client is exclusively governed by Belgian Law. Any dispute in connection with the performance of services under our Services shall be submitted to the exclusive jurisdiction of the courts of Leuven.

#### **12.4. Enforceability**

The Present Agreement will apply, unless expressly agreed otherwise, upon all Our Services.

Kortenbergh, February, 14<sup>th</sup>, 2018