



**GPA**

Global Privacy Assembly

# Global Frameworks and Standards Working Group

Comparative tables – Contractual Clauses for transfers  
from Processors to Processors

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## **Comparative tables – Contractual Clauses for transfers from Processors to Processors**

**COMPARATIVE TABLES OF REQUIREMENTS FOR THE USE OF MODEL CONTRACTUAL CLAUSES OF THE COUNCIL OF EUROPE AND STANDARD CONTRACTUAL CLAUSES IN THE EU, IN THE CONTEXT OF PROCESSOR-TO-PROCESSOR DATA TRANSFERS**

# Comparative tables – Contractual Clauses for transfers from Processors to Processors

## Introduction

This document lays down the requirements of the following two sets of contractual clauses for transfers of personal data between processors:

- [Model Contractual Clauses of the Council of Europe](#) (hereinafter “CoE MCCs”),
- [Standard Contractual Clauses of the European Commission](#) (hereinafter “EU SCCs”),

This document does not claim to be a comprehensive analysis of all obligations of CoE MCCs and EU SCCs nor the only way to map these Clauses and should not be taken as legal advice, nor as reflecting the official position of any organization that participated in its development.

### Background:

In the context of the work of the GPA Working Group on Global Frameworks and Standards (GFS WG), and in line with the GFS WG Annual Report adopted in 2021, this document is elaborated as part of the comparative analysis work on transfer mechanisms to identify any gaps and commonalities in this respect.

In 2022, the GFS WG has focused its work on the elaboration of a Literature Review on cross border transfers as well as a report which identified the main themes of this review and gaps in the comparative analysis that have been conducted by other bodies on transfer mechanisms that could benefit from further work by the GPA.

This report highlighted the development of a number of transfer tools and mechanisms across the world and the need to better understand the commonalities and differences between these instruments. Among these tools and mechanisms, standard or model contractual clauses have been identified as the most prominent as they are currently available in several regions and countries members of the GPA. Thus, the GFS WG has worked on the comparison of the different sets of contractual clauses for Controller-to-Processor data transfers listed above.

### Purpose and structure:

The goal of this document is to serve as an informal comparative tool for organizations using contractual clauses for processor-to-processor data transfers of the countries and regional organisations mentioned hereinabove. It thereby facilitates the design and the use of contractual clauses compliant with each of the systems. This document does not aim at achieving mutual recognition of the seven systems.

It is structured as follow: for each principle or requirement identified within the Clauses, it lists in a table the related elements contained in each set of Clauses.

These comparative tables only cover the content of the Clauses themselves. Therefore, they do not provide for the exhaustive list of obligations applicable to the Parties. The greyed-out boxes indicate only the absence of provisions within the Clauses themselves. Additional obligations may be provided for by other elements of the national or regional legal framework, and in particular by the respective data protection laws.

## Comparative tables – Contractual Clauses for transfers from Processors to Processors

### 1. Structure of the Contractual Clauses and general aspects

	Council of Europe	European Union
<b>Approach and scenarios covered</b>	<p>Approach by modules:                      M1 = Controller-to-Controller                      M2 = Controller-to-Processor                      M3 = Processor-to-Processor</p>	<p>Approach by modules:                      M1 = Controller-to-Controller                      M2 = Controller-to-Processor                      M3 = Processor-to-Processor                      M4 = Processor-to-Controller</p>
<b>Purpose</b>	<p>An appropriate level of protection for the transfer of personal data to countries that are not Parties to Convention 108 as amended by the Protocol CETS No. 223 and may be subject to transposition and/or approval under the domestic legislation of the respective Party (Article 14(3) (b) of Convention 108 as amended by the Protocol CETS No. 223)1.                      /Upon entry into force of the Protocol CETS No. 223 amending Convention (ETS No. 108) for the protection of individuals with regard to the processing of personal data these Model Contractual Clauses are to be further developed or approved by the Convention Committee set up in line with Chapter VI of Convention 108+.</p> <p>It is for each Party to decide whether to approve these clauses as standardised contractual tool for data transfers. In doing so, each Party will also have to consider whether these clauses are compatible with its domestic mandatory requirements.</p> <p>The Model Contractual Clauses (MCC) can also be used by data exporters not falling under the jurisdiction of a Party to Convention 108+. The MCC may be adapted accordingly provided they comply with the meaning of the clauses.                      Clause 1</p>	<p>Appropriate Safeguards for the purpose of ensuring compliance with the GDPR, in accordance with Article 46 GDPR</p>
<b>Parties</b>	<p>The Parties are</p> <ul style="list-style-type: none"> <li>• the Data Exporter ('Exporter'); and</li> <li>• the Data Importer ('Importer').</li> </ul> <p>These Clauses may be executed in any number of counterparts, those counterparts will together constitute one and the same original instrument. Each Party warrants that it has full corporate power and has been duly</p>	<p>The Parties are</p> <ul style="list-style-type: none"> <li>• the data exporter ('Exporter'); and</li> <li>• the data importer ('Importer')</li> </ul> <p><i>Optional: It is possible to add additional parties at any time ('Docking clause')</i>                      Clause 7</p>

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	<p>authorised to enter into, execute, deliver and perform its obligations under these Clauses.</p> <p>All notices and requests by a Party to another Party shall be in writing to the contact communicated by the Party by written notice to the other Party.</p> <p>Clause 5</p> <p><i>Optional: It is possible to add additional parties (accession clause)</i></p> <p>Clause 6</p>	
Scope of the Clauses	<p>The Clauses, together with their Annexes, form an integral part of this tool.</p> <p>Transfers are detailed in Annex I, including categories of data and purposes</p> <p>Clause 1</p>	<p>The Appendix is integral part of the Agreement.</p> <p>Transfers are detailed in Annex I.B, including categories of data and purposes</p> <p>The SCCs do not apply to transfers to an importer whose processing is subject to the GDPR. The SCCs are not adapted to transfers to international organisations.</p> <p>Clauses 1 &amp; 6</p>

### 2. Effect and (in)variability of the Clauses

Council of Europe	European Union
<p>No modification except:</p> <ul style="list-style-type: none"> <li>• Selection of an option where it is provided for;</li> <li>• Add/update of information in the Annexes.</li> </ul> <p>This does not prevent the Parties from including these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses, or the Applicable law, or prejudice the human rights and fundamental freedoms of Data subjects recognised in the Convention.</p> <p>Clause 3.1</p>	<p>No modification except:</p> <ul style="list-style-type: none"> <li>• Selection of modules where it is provided for;</li> <li>• Add/update information in Appendix.</li> </ul> <p>This does not prevent the Parties from including these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, the Clauses or prejudice the human rights and fundamental freedoms of data subjects.</p> <p>Clause 2</p>

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### 3. Third-Party Beneficiaries

Council of Europe	European Union
<p>Data subject whose Personal data were transferred under these Clauses shall be entitled to invoke the safeguards and guarantees set out in Section II (data protection safeguards) and III (local laws and obligations in case of access by public authorities) of these Clauses as Third-party beneficiary with respect to any provisions of these Clauses affording a right, action, claim, benefit or privilege to such Data subject.</p> <p>Clause 7</p>	<p>Data subjects may invoke/enforce these Clauses against Exporter/Importer <b>except regarding:</b></p> <ul style="list-style-type: none"><li>• Clauses 1, 2, 3, 6 and 7</li><li>• Clause 8.1(a), (c) and (d) and Clause 8.9(a), (c), (d), (e), (f) and (g)</li><li>• Clause 9(a), (c), (d), (e)</li><li>• Clause 12(a), (d), (f)</li><li>• Clause 13</li><li>• Clause 15.1(c), (d), (e)</li><li>• Clause 16(e)</li><li>• Clause 18(a), (b)</li></ul> <p>Thus, they can invoke the clauses against the Exporter/Importer, with the exception of provision that specifically regulate the relationship between the exporter and importer (and therefore do not affect the individual).</p> <p>Clause 3</p>

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### Interpretation

Council of Europe	European Union
Definitions: set in Clause 2 and <a href="#">document T-PD(2020)06rev3</a> , Interpretation of provisions, 7 May 2021.	Definitions: Terms used in GDPR shall have same meaning.
Terms used that are defined in the Convention shall have the same meaning, unless they have a specific meaning as set out in Clause 2.	Clauses shall be interpreted in light of GDPR and no conflict with rights and obligations established in the GDPR.
Clauses shall be interpreted in line with the Convention and its Explanatory Report. They should not conflict with rights and obligations established in the Convention.	If contradiction between Clauses and related agreements, Clauses prevail.
If contradiction between Clauses and related agreements, Clauses prevail. Except when the conflicting terms of the related agreements provide greater protection for data subjects, in which case those terms take precedence.	Clauses 4 and 5
Clause 4	

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### 4. Key data protection principles

	Council of Europe	European Union
<b>Purpose limitation</b>	<p>The Importer shall process the data only for the specific purpose(s) set out in Annex 1, unless on further instruction from the Controller as communicated by the Exporter.</p> <p>Clause 9</p>	<p>The Importer shall process data only for purposes set out in Annex I.B, unless on further instructions from the Controller, as communicated to the Importer by the Exporter, or from the Exporter.</p> <p>Clause 8.2.</p>
<b>Transparency</b>	See below Right to a copy of the MCCs.	See below Right to a copy of the SCCs.
<b>Accuracy and data minimisation</b>	<p>If the Importer becomes aware that the personal data it has received is inaccurate, or has become outdated, or not strictly necessary in relation to the purpose of the Transfer, it shall inform the Exporter without delay. In this case, the Importer shall cooperate with the Exporter to erase or rectify the data without delay.</p> <p>Clause 11</p>	<p>If the Importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the Exporter without undue delay. In this case, the Importer shall cooperate with the Exporter to rectify or erase the data.</p> <p>Clause 8.4.</p>
<b>Storage limitation</b>	<ul style="list-style-type: none"> <li>• Data processing by the importer only for the duration specified in Annex 1</li> <li>• Then, deletion (certifying it to the Data exporter) or return of the data to the Exporter on behalf of the Controller, and compliance as long as it is not done.</li> </ul> <p>In case of domestic laws applicable to the importer that prohibit return or deletion of the personal data, the importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that domestic law. The exporter should be notified of the relevant domestic law and the required retention period. Only the minimum amount of personal data should be retained to comply with domestic law.</p>	<ul style="list-style-type: none"> <li>• Processing only for duration specified in Annex I.B.</li> <li>• Then, deletion or return of the data to the Exporter on behalf of the Controller, and compliance as long as it is not done</li> </ul> <p>In case of local laws applicable to the Importer that prohibit return or deletion of the personal data, the Importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law.</p> <p>Clauses 8.5 and 16(d)</p>



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	<p>This does not affect the obligations under Clause 22, especially regarding the notification requirements if the Importer is subject to laws or practices that are not compliant with the Clauses.</p> <p>Clause 12</p>	
<b>Sensitive data</b>	<p>Special categories of data are: genetic data, personal data relating to offences, criminal proceedings and convictions or related security measures, biometric data processed for the purpose of uniquely identifying a person, or personal data for the information they reveal relating to racial or ethnic origin, political opinions, trade-union membership, religious or other beliefs, health or sexual life.</p> <p>Clause 2</p> <p>The Importer shall apply additional safeguards (listed in Annex 5) that guard against and are adapted to the risks that the Processing of such data may present for the interests, rights and fundamental freedoms of the Data subject, notably the risk of discrimination.</p> <p>Clause 14</p>	<p>Sensitive data are data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for identification of a uniquely identifying person, data concerning health or sex life, or sexual orientation, or relating to criminal convictions/offences.</p> <p>The Importer must apply specific restrictions and/or additional safeguards adapted to the nature of the data and the risks involved, and describe them in Annex I.B.</p> <p style="color: red;">Clause 8.7</p>

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### 5. Security

	Council of Europe	European Union
<b>General obligations</b>	<p>Obligations for the Importer, and during transmission also for the Exporter, to:</p> <ul style="list-style-type: none"> <li>• Implement appropriate technical and organisational measures to protect against the risk of data breaches (i.e., accidental or unauthorised access to, destruction, loss, use, modification or disclosure of Personal data due to a violation of the principle of data security);</li> <li>• In adopting such measures, they shall take into account, in particular, the nature of the Processing, the nature and volume of the Personal data processed, the degree of vulnerability of the technical architecture used for the Processing, the state of the art and the cost of implementation; ;</li> <li>• Agree on technical and organisational measures set out in Annex III;</li> <li>• Restrict on staff accessing the data / Confidentiality</li> </ul> <p>In the case of pseudonymisation, the additional information for attributing personal data to a specific data subject shall, where possible, remain under the control of the Exporter or the controller.</p> <p>The Importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security and must inform the Data Exporter about any necessary updates or changes. If there is a substantial change to the security measures, Annex 3 should be updated to reflect these changes.</p> <p>Clauses 2 &amp; 13(1)-(3)</p>	<p>Obligations for Importer, and during transmissions only, also for Exporter:</p> <ul style="list-style-type: none"> <li>• Implement appropriate technical and organisational measures to ensure security, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access;</li> <li>• In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subject;</li> <li>• Implement at least technical and organisational measures specified in Annex II;</li> <li>• Restrict on staff accessing the data / Confidentiality.</li> </ul> <p>In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter or the controller.</p> <p>The Importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.</p> <p>Clause 8.6(a) and (b)</p>
<b>Personal data breach</b>	<p>In the event of a data breach, the Importer shall</p> <ul style="list-style-type: none"> <li>• take appropriate measures to address the Data breach, including measures to mitigate its possible adverse effects;</li> <li>• notify – without undue delay and, where feasible, not later than 72 hours after having become aware of the data breach – at least the Exporter and where feasible, the Controller, who shall notify the competent supervisory authority in case the data breach may seriously interfere with the rights and fundamental freedoms of Data subjects;</li> <li>• Assist the Exporter in complying with its obligation under its domestic legal framework.</li> </ul> <p>Clause 13(4)-(6)</p>	<p>In the event of a breach concerning personal data processed by the Importer under these Clause, the Importer shall:</p> <ul style="list-style-type: none"> <li>• take appropriate measures to address the breach and mitigate adverse effects;</li> <li>• notify, without undue delay, the Exporter and, where appropriate and feasible, the Controller;</li> <li>• assist the Exporter in complying with its obligation under GDPR, in particular to notify its Controller so that the latter may in turn notify the competent supervisory authority and the affected data subjects.</li> </ul> <p>Clause 8.6(c) and (d)</p>

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### 6. Organisational obligations

	Council of Europe	European Union
<b>Ability to satisfy obligations / Responsibility principle/Instructions</b>	<p>The Exporter has informed the Importer that it acts as processor under the instructions of its controller(s), which the Exporter shall make available to the Importer prior to processing. The Controller remains responsible for its compliance obligations under the applicable law.</p> <p>Clause 8.1</p> <p>The Importer shall process the personal data only on documented instructions from the Exporter, as communicated to the Importer by the Exporter, and any additional documented instructions for the Exporter. Such additional Instructions shall not conflict with the instructions from the controller. The controller or Exporter may give further documented instructions regarding the data processing throughout the duration of the contract.</p> <p>Clause 8.2</p> <p>The Importer shall immediately inform the Exporter if it is unable to follow those instructions. Where the Importer is unable to follow the instructions from the controller, the Exporter shall immediately notify the controller.</p> <p>Clause 8.3</p> <p>The Exporter warrants that it has imposed the same data protection obligations on the Importer as set out in the contract or other legal act under the applicable law between the controller and the Exporter.</p> <p>Clause 8.4</p>	<p>The Exporter has informed the Importer that it acts as processor under the instructions of its Controller(s), which the Exporter shall make available to the Importer prior to processing.</p> <p>Clause 8.1(a)</p> <p>The Importer shall process the personal data only on documented instructions from the Controller, as communicated to the Importer by the Exporter, and any additional documented instructions from the Exporter. Such additional instructions shall not conflict with the instructions from the Controller. The Controller or Exporter may give further documented instructions regarding the data processing throughout the duration of the contract.</p> <p>Clause 8.1(b)</p> <p>The Importer shall immediately inform the Exporter if it is unable to follow those instructions. Where the Importer is unable to follow the instructions from the Controller, the Exporter shall immediately notify the Controller.</p> <p>Clause 8.1(c)</p> <p>The Exporter warrants that it has imposed the same data protection obligations on the Importer as set out in the contract or other legal act under Union or Member State law between the Controller and the Exporter (cf. art. 28(4) GDPR and art. 29(4) Regulation 2018/1725).</p> <p>Clause 8.1(d)</p>
<b>Documentation and compliance</b>	<p>The Importer shall promptly and adequately deal with instructions from the controller as communicated to the Importer by the Exporter and additional enquiries from the Exporter that relate to the processing under the clauses.</p>	<p>The Importer shall promptly and adequately deal with enquiries from the Exporter or the Controller that relate to the processing under these Clauses.</p> <p>The Parties shall be able to demonstrate compliance with its obligations under these Clauses. In particular, the Importer shall keep appropriate documentation on the processing activities carried out on behalf of the Controller.</p>

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The Parties must be able to demonstrate compliance with its obligations under these Clauses. To this end, the Importer shall keep appropriate documentation of the Processing activities carried out on behalf of the controller.

The Importer shall make all information necessary to demonstrate compliance with the obligations set out in the Clauses available to the Exporter, which shall provide it to the controller.

The Importer shall assist in the audit/review processes at the Exporter's, or controller's, request, at reasonable intervals or if there are indications of non-compliance.

The Exporter shall make the results of the audit available to the controller.

The Exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the Importer and shall, where appropriate, be carried out with reasonable notice.

The Parties shall make this documentation (information for audits and audits' results) available to competent supervisory authorities on request.

Clause 16

The Importer shall make all information necessary to demonstrate compliance with the obligations set out in these Clauses available to the Exporter, which shall provide it to the Controller.

The Importer shall assist in the audit/review processes at the Exporter's, or Controller's, request.

The Exporter shall make the results of the audit available to the Controller.

The Exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the Importer and shall, where appropriate, be carried out with reasonable notice.

The Parties shall make the information necessary to demonstrate compliance with obligations set out in these clauses, including the results of any audits, available to the competent supervisory authority on request.

Clause 8.9.

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### 7. Onward transfers

Council of Europe	European Union
<p>Only on documented instructions from Exporter or from controller as communicated to the Importer by the Exporter.</p> <p>Authorised only if:</p> <ul style="list-style-type: none"> <li>the law of the Third party’s jurisdiction, including its international commitments under applicable international treaties or agreements, ensures an appropriate level of protection (Article 14(3)(a) of the Convention in accordance with the provisions in this regard under Applicable law; or,</li> <li>the Third party enters into a legally binding and enforceable instrument with the Importer ensuring the same level of data protection as under these Clauses, and the Importer provides a copy of these safeguards to the Exporter.</li> </ul> <p>OR if the onward transfer is necessary</p> <ul style="list-style-type: none"> <li>for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings in a particular case or,</li> <li>in a specific case in order to protect the vital interests of the Data subject or of another natural person;</li> </ul> <p>All onward transfers must comply with guarantees set up in the agreement, in particular the purpose limitation principle.</p> <p>Clause 15</p>	<p>Only on documented instructions from the Controller, as communicated to the Importer by the Exporter.</p> <p>Authorised only if the third party agrees to be bound by the Clauses under the appropriate Module, OR if the onward transfer:</p> <ul style="list-style-type: none"> <li>is to a recipient in a country benefitting from an adequacy decision (Article 45 GDPR)</li> <li>if the third party ensures appropriate safeguards under Art. 46-47 GDPR</li> <li>is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings in a particular case or</li> <li>is necessary in order to protect the vital interests of the data subject or of another natural person; OR</li> </ul> <p>All onward transfers must comply with guarantees set up in the agreement, in particular the purpose limitation principle.</p> <p>Clause 8.8</p>

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### 8. Use of sub-processors

Council of Europe	European Union
<p>Either</p> <ul style="list-style-type: none"> <li>(1) Specific prior authorisation of the controller</li> <li>(2) General written authorisation of the controller</li> </ul> <p>Should engage only through a written contract providing same data protection obligations in substance, and particularly third-party beneficiary rights and onward transfers.</p> <p>The Importer shall provide a copy of the sub processor agreement, at the Exporter’s or controller’s request.</p> <p>The Importer remains fully responsible to the Exporter and obligation of notification in case of the sub-processor’s failure to comply.</p> <p>The Importer shall agree a Third-party beneficiary clause with the Sub-processor whereby – in the event the Importer has factually disappeared, ceased to exist in law or has become insolvent – the Exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data transferred.</p> <p>Clause 17</p>	<p>Either</p> <ul style="list-style-type: none"> <li>(1) Specific prior authorisation of the Controller</li> <li>(2) General written authorisation of the Controller</li> </ul> <p>Should engage only through a written contract providing same data protection obligations in substance, including in terms of third-party beneficiary rights for data subjects.</p> <p>The Importer shall provide a copy of the sub-processor agreement, at the Exporter’s or controller’s request.</p> <p>The Importer remains fully responsible to the Exporter and obligation of notification in case of the sub-processor’s failure to comply.</p> <p>The Importer shall agree a third-party beneficiary clause with the sub-processor whereby – in the event the Importer has factually disappeared, ceased to exist in law or has become insolvent – the Exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.</p> <p>Clause 9</p>

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### 9. Data subject rights<sup>1</sup>

	Council of Europe	European Union
<b>General</b>	<p>The Importer shall promptly notify the Exporter of any request it has received from a Data subject. It shall not respond to that request itself unless it has been instructed to do so by the controller, as communicated to it by the Exporter or directly by the controller.</p> <p>The Importer shall assist the controller, with the assistance of the Exporter, in fulfilling its obligations to respond to data subjects’ requests for the exercise of their rights under the clauses and the Applicable law. In this regard, the parties shall set out in Annex 2 the appropriate measures, taking into account the nature of the Processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.</p> <p>The Importer shall comply with the instructions from the controller, as communicated by the Exporter or directly by the controller.</p> <p>Clause 18</p>	<p>The Importer shall promptly notify the Exporter and, where appropriate, the controller, of any data subject’s request and deal with them only with the controller’s authorisation.</p> <p>The Importer shall assist, where appropriate in cooperation with the Exporter, the Controller in fulfilling its obligations to respond to data subjects’ requests for the exercise of their rights GDPR or Regulation 2018/1725, as applicable. In this regard, the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.</p> <p>The Importer shall comply with the instructions from the controller as communicated by the Exporter.</p> <p>Clause 10</p>

<sup>1</sup> These comparative tables only cover the content of the Clauses themselves. Therefore, they do not provide for the exhaustive list of obligations applicable to the Parties. The greyed-out boxes indicate only the absence of explicit provisions within the Clauses themselves. Some of these data subject rights may be provided for by other elements of the national or regional legal framework, and in particular by the respective data protection laws.



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<b>Right to a copy of agreement</b>	<p>Yes.</p> <p>To the extent necessary to protect confidential information, including the measures described in Annex 3 and Personal data, the Exporter may redact part of the text of the Annex to these Clauses prior to sharing a copy, but shall provide a meaningful summary where the Data subject would otherwise not be able to understand its content or exercise his/her rights. On request, the Parties shall provide the Data subject with the reasons for the redactions, to the extent possible without revealing the redacted information.</p> <p>Clause 10</p>	<p>Yes.</p> <p>To the extent necessary to protect business secrets or other confidential information, including the measures described in Annex II and personal data, the data exporter may redact part of the text of the Appendix to these Clauses prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand the its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information.</p> <p>Clause 8.3</p>
<b>Right to information about the Importer and its processing (Right of access)</b>		
<b>Right to rectification</b>		
<b>Right to erasure</b>		
<b>Right to object</b>		
<b>Automated processing</b>		

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Limitations and exemptions	
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### 10.Redress for the data subjects

Council of Europe	European Union
<p>The Importer shall inform Data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a Data subject relating to the third-party beneficiary rights set forth in Clause 7.</p> <p><i>Optional: Agreement of the Importer on possibility for data subjects to lodge complaint with an independent dispute resolution body specified in the Clause (at no cost for the data subject).</i></p> <p>In case of a dispute between a Data subject and one of the Parties as regards compliance with these Clauses, that Party shall use its best efforts to resolve the issue amicably in a timely fashion. The Parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them.</p> <p>Where the data subject invokes a third-party beneficiary right, the Importer shall accept the decision of the Data subject to lodge a complaint with the competent Supervisory authority/ies, or to refer the dispute to the competent courts.</p> <p>The Parties accept that the data subject may be represented by a not-for-profit body, organisation or association under the conditions set out in the Applicable law, if available.</p> <p>The Importer shall abide by a decision of the competent Supervisory authority or competent court pursuant to Clause 21 that is binding under the Applicable law.</p> <p>The Importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.</p> <p>Clause 19</p>	<p>The Importer must inform data subjects in a transparent and easily accessible format, through individual notice or on its website of a contact point authorised to handle complaints</p> <p><i>Optional: Agreement of the Importer on possibility for data subjects to lodge complaint with an independent dispute resolution body (at no cost for the data subject). The Importer shall inform the data subject of this possibility in the manner set out above.</i></p> <ul style="list-style-type: none"> <li>• In case of a dispute between a Data subject and one of the Parties , that Party shall use its best efforts to resolve the issue amicably in a timely fashion. The Parties to inform each other of such disputes and where appropriate cooperate for their resolution.</li> <li>• Possibility for the data subjects to lodge complaint with the Competent SA (SA of residence or SA of concerned Party) or with the competent courts.</li> <li>• Representation by a not-for-profit body, organisation or association (under conditions Art 80(1) GDPR).</li> <li>• The Importer shall abide by decision binding under applicable EU law/MSs law.</li> </ul> <p>The Importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.</p> <p>Clause 11</p>

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### 11.Liability

Council of Europe	European Union
<ul style="list-style-type: none"><li>• Liability of both Parties to each other for any damages it causes the other Party/ies by any breach of these Clauses.</li><li>• The Importer is liable to the data subject for (non-)material damages that it, or its sub-processor, causes the Data subject by breaching third party beneficiary rights under these clauses.</li><li>• The Exporter is liable to the data subject for any (non-)material damages the Exporter or the Importer (or its Sub-processor) causes the Data subject by breaching third party beneficiary rights under the clauses. This is without prejudice to the liability of the Exporter and the controller under the Applicable law.</li><li>• In both cases, the data subject shall be entitled to receive compensation.</li><li>• The Parties agree that if the Exporter is held liable for damages caused by the Importer (or its Sub-processor), it shall be entitled to claim back from the Importer that part of the compensation corresponding to the Importer’s responsibility for the damage.</li><li>• When more than one Party is responsible, they are jointly and severally liable and ability for data subject to bring action in court against any of them. The Party held liable can request compensation from the other Parties corresponding to their responsibility in the damage.</li><li>• The Importer may not invoke the conduct of a sub-processor to avoid its own liability</li></ul> <p>Clause 20</p>	<ul style="list-style-type: none"><li>• Liability of both Parties to each other for any damages it causes the other Party/ies by any breach of these Clauses.</li><li>• The Importer is liable to the data subject for (non-)material damages that it, or its sub-processor, causes the Data subject by breaching third party beneficiary rights under these clauses.</li><li>• The Exporter is liable to the data subject for any (non-)material damages the Exporter or the Importer (or its Sub-processor) causes the Data subject by breaching third party beneficiary rights under the clauses. This is without prejudice to the liability of the Exporter and the controller under the GDPR and Regulation 2018/1725.</li><li>• In both cases, the data subject shall be entitled to receive compensation.</li><li>• The Parties agree that if the Exporter is held liable for damages caused by the Importer (or its Sub-processor), it shall be entitled to claim back from the Importer that part of the compensation corresponding to the Importer’s responsibility for the damage.</li><li>• When more than one Party is responsible, they are jointly and severally liable and ability for data subject to bring action in court against any of them. The Party held liable can request compensation from the other Parties corresponding to their responsibility in the damage.</li><li>• The Importer may not invoke the conduct of a sub-processor to avoid its own liability.</li></ul> <p>Clause 12</p>

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### 12. Supervision

Council of Europe	European Union
<p>The Supervisory authority/ies with responsibility for ensuring compliance by the Exporter with the Applicable law as regards the Transfer shall act as competent Supervisory authority/ies.</p> <p>The Importer agrees to submit itself to the jurisdiction of and cooperate with the CSA in any procedures aimed at ensuring compliance with these Clauses, and to abide by its decision. In particular, the Importer agrees to respond to enquiries, submit to review or audits, and comply with the measures adopted by the Supervisory authority, including remedial and compensatory measures. It shall provide the Supervisory authority with written confirmation that the necessary actions have been taken.</p> <p>Clause 21</p>	<p>Designation of the Competent Supervisory Authority (CSA):</p> <ul style="list-style-type: none"><li>• If the Exporter is established in an EU MS then CSA will be the one of its establishment.</li><li>• If the Exporter is not established in the EU but falls under Article 3.2. of GDPR, the CSA is the SA of the MS where the Exporter has designated its representative or if no representative has been designated, the CSA is the one where the concerned Data Subjects are located.</li></ul> <p>The Importer agrees to submit itself to the jurisdiction and to cooperate with the CSA and specially to respond to enquiries, submit audits and comply with measures adopted by CSAs. Shall provide the CSA written confirmation when necessary actions have been taken.</p> <p>Clause 13</p>

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### 13. Local laws and practice affecting compliance

Council of Europe	European Union
<p>The Parties warrant that they have no reason to believe that the laws and practices in the country of destination prevent the Importer from fulfilling its obligations under these Clauses. Several detailed criteria need to be assessed before making such warrant (specified in the Clauses, including the ones stemming from Article 11 of Convention 108+).</p> <p>The Importer shall make its best efforts to provide information to the Exporter on the assessment made and cooperate to ensure compliance with these Clauses.</p> <p>The Parties should document this analysis and make it available to the CSA and the controller.</p> <p>The Importer agrees to notify the Exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements listed above, including following a change in the laws of the country of destination or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements. The Exporter shall forward the notification to the controller.</p> <p>Following such a notification, or if the Exporter otherwise has a reason to believe that the Importer can no longer fulfil its obligations under these Clauses, the Exporter shall promptly identify appropriate measures (e.g., technical or organisational measures to ensure security and confidentiality) to be adopted to address the situation, in consultation with the controller.</p> <p>Transfer should be suspended if the Exporter considers no appropriate safeguards for such transfer cannot be ensured, or if instructed by the controller or the competent SA</p> <p>Clause 22</p>	<p>The Parties warrant that they have no reason to believe that the laws and practices in the country of destination prevent the Importer from fulfilling its obligations under these Clauses. Several detailed criteria need to be assessed before making such warrant (specified in the Clauses).</p> <p>The Importer shall make its best efforts to provide information to the Exporter on the assessment made and cooperate to ensure compliance with these Clauses.</p> <p>The Parties should document this analysis and make it available to the CSA.</p> <p>The Importer agrees to notify the Exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements listed above, including following a change in the laws of the country of destination or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements. The Exporter shall forward the notification to the controller.</p> <p>Following such a notification, or if the Exporter otherwise has a reason to believe that the Importer can no longer fulfil its obligations under these Clauses, the Exporter shall promptly identify appropriate measures (e.g., technical or organisational measures to ensure security and confidentiality) to be adopted to address the situation, in consultation with the controller.</p> <p>Transfer should be suspended if the Exporter considers no appropriate safeguards for such transfer cannot be ensured, or if instructed by the controller or the competent SA</p> <p>Clause 14</p>

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### 14. Access by public authorities

	Council of Europe	European Union
<b>Notification</b>	<p>In so far domestic law of Importer allows, the Importer shall notify the Exporter and, where possible the Data subject promptly or use its best efforts to do so – if necessary with the help of the Exporter - if it is compelled to preserve, grant access, make available or disclose Personal data transferred from the Exporter to a Third party including to a public authority. The Exporter shall forward the notification to the controller.</p> <p>If prohibited to notify, the Importer shall use its best efforts, and document them (in order to be able to demonstrate them to the Exporter and the controller on request), to obtain a waiver of the interdiction.</p> <p>If permissible under the laws of the country of destination, the Importer shall regularly provide as many information as possible to the Exporter on these requests. The Exporter shall forward the notification to the controller.</p> <p>The Importer agrees to preserve the information listed above for the duration of the contract and make it available to the competent Supervisory authority on request.</p> <p>Clause 23(1)</p>	<p>The Importer agrees to notify the Exporter and where possible the Data Subject promptly, if it receives legally binding request from a public authority or becomes aware of any direct access by public authorities. The Exporter shall forward the notification to the Controller.</p> <p>If the Importer is prohibited to notify, the Importer shall use its best efforts, and document them, to obtain a waiver of the prohibition as soon as possible.</p> <p>If permissible under the laws of the country of destination, the Importer shall regularly provide as many information as possible to the Exporter on these requests. The Exporter shall forward the information to the Controller.</p> <p>The Importer shall retain for the duration of the contract the above information and provide it to the CSA upon request.</p> <p>Clause 15</p>
<b>Review of legality and data minimisation</b>	<p>The Importer shall review the legality of any request for disclosure, in particular whether it is within the powers granted to the requesting public authority, and to challenge the request if there are reasonable grounds to do so, and similarly appeal if possible. Pending the determination of any challenge the Importer shall, to the extent available under domestic legislation, seek interim measures to suspend the effects of the request.</p> <p>The Importer shall document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, shall make the relevant documentation available to the Exporter. Exporter shall make assessment available to the controller. It shall also make it available to the competent Supervisory authority on request.</p> <p>When responding to a request for disclosure, the Importer shall, having complied with the duty in 23.2, and confirmed the lawfulness of the request provide, only the information which is necessary to respond to the request, in accordance with the domestic legislation.</p>	<p>The Importer agrees to review the legality and to challenge any request for disclosure if there are reasonable grounds to do so, and similarly to appeal if possible. Pending the determination of any challenge, the Importer shall seek interim measures to avoid disclosing personal data.</p> <p>The Importer shall document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, shall make the relevant documentation available to the Exporter. It shall also make it available to the competent Supervisory authority on request. The Exporter shall make the assessment available to the Controller.</p> <p>The Importer agrees to provide the minimum of information possible.</p> <p>Clause 15.2</p>

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Clause 23(2)



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### 15. Non-compliance with the Clauses and termination

Council of Europe	European Union
<p>Each Party shall promptly inform the other Party/ies if it is unable to comply with these Clauses, for whatever reason.</p> <p>If the Exporter has clear information that the Importer is in breach of these Clauses or unable to comply with these Clauses, it shall suspend the transfer of Personal data to the Importer under these Clauses until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 22.6 (see below).</p> <p>The Exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:</p> <ul style="list-style-type: none"> <li>• Suspension due to inability of Importer to comply and conditions are not restored in a reasonable time (max 1-month)</li> <li>• Substantial or permanent breach by the Importer</li> <li>• the Importer fails to comply with binding decision of a CSA or competent court regarding its obligations</li> </ul> <p>In these cases, importer shall inform the controller and CSA of such non-compliance. If multi-party, only with the Party in breach, except if the other agrees</p> <p>Clause 24(1-3)</p> <p>The Exporter shall suspend the Transfer if it considers that no appropriate safeguards for such Transfer can be ensured, or if instructed by controller or the competent Supervisory authority to do so. In this case, the Exporter shall be entitled to terminate the contract, insofar as it concerns the Processing of Personal data under these Clauses. If multi-party, only with the Party in breach, except if the other agrees. Where the contract is terminated pursuant to this Clause, Clauses 24.4 shall apply.</p> <p>Clause 22(6)</p> <p>In this event, the Importer shall delete or return the transferred data at the demand of the Exporter. The same shall apply to any copies of the data. The Importer shall certify the deletion of the data to the Exporter. Until the data is deleted or returned, the Importer shall continue to ensure compliance.</p> <p>In case of local laws that prohibit the return or deletion of the transferred data, the Importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as</p>	<p>The Importer shall promptly inform the Exporter of its inability to comply with these Clauses. The Exporter shall then suspend the transfer until compliance is ensured again by the Importer.</p> <p>The Exporter is entitled to terminate contract insofar as it concerns the processing of personal data under these Clauses where:</p> <ul style="list-style-type: none"> <li>• Suspension due to inability of Importer to comply and conditions are not restored in a reasonable time (max 1-month)</li> <li>• Substantial or permanent breach by the Importer</li> <li>• The Importer fails to comply with binding decision of a CSA or competent court regarding its obligations</li> </ul> <p>In this case, obligation to inform the CSA and the controller of such non-compliance. If multi-party, only with the Party in breach, except otherwise agreed with others.</p> <p>Personal data (and any copies) that has been transferred prior to the termination of the contract shall at the choice of the Exporter immediately be returned to the Exporter or deleted in its entirety. The Importer shall certify the deletion to the Exporter. Until the data is deleted or returned, the Importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the Importer that prohibit the return or deletion of the transferred personal data, the Importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.</p> <p>Either Party may revoke its agreement to be bound by the Clauses in the event of a decision of the European Commission</p>

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<p>required under that local law. The Exporter should be notified of the relevant local law and the required retention period.</p> <p>Clause 24(4)</p>	<p>under Article 45(3) GDPR or of GDPR becoming part of the legal framework of the country of destination.</p> <p>Clause 16</p>
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### 16. Governing laws

Council of Europe	European Union
<p>Law of the country of the Exporter.</p> <p>In case the law of the country of the Exporter does not allow for Third party beneficiary rights, Parties shall indicate a law that ensures third-party beneficiary rights.</p> <p>Clause 25</p>	<p>Option 1: The law of one designated MS which allow third-party beneficiary rights</p> <p>Option 2: The law of the MS of establishment of the Exporter and if does not allow third-party beneficiary rights, see option 1.</p> <p>Clause 17</p>

### 17. Choice of forum and jurisdiction

Council of Europe	European Union
<p>Any dispute arising from these Clauses shall be resolved by the courts of [____].</p> <p>Possibility for data subjects to bring legal proceedings against Exporter/Importer in his/her country of residence. The Parties agree to submit themselves to the jurisdiction of such courts.</p> <p>Clause 26</p> <p>It is possible to resort to Arbitration.</p> <p>Clause 27</p>	<p>Specify the courts of which Member State shall resolve any dispute arising from these Clauses.</p> <p>Possibility for data subjects to bring legal proceedings against the Exporter/Importer in his/her Member State of habitual residence.</p> <p>Clause 18</p>