

Data Processing Addendum (DPA)

NTICO OPERATION

Last updated: 02.04.2024

This Data Processing Addendum ("**DPA**") modifies the terms and forms an integral part of the Agreement (as defined below) between the Client identified in the Agreement (the "**Client**" or "**you**" or "your") and **NTICO OPERATION**, that provides the NTICO Offers ("**NTICO**", "**we**", "**us**" or "**our**").

1. DEFINITIONS

The following capitalized terms have the definitions and meanings indicated:

"Account Data" means information about the Client that the Client provides to NTICO in connection with the creation or administration of its NTICO accounts, such as the first and last name, username and email address of a user or the Client's billing contact.

"Affiliate" means an entity that controls, is directly or indirectly controlled by, or is under the common control of, the relevant party.

"Agreement" means the written agreement entered into between the Client and NTICO in connection with the subscription to the NTICO Offers by the Client.

"Breach" means any confirmed breach of security measures resulting in the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data, transmitted, stored, or otherwise processed by NTICO or its Processors.

"Controller" is the entity that determines the purposes and means of the Processing of personal data, including, where applicable, any "company" as that term is defined in the CCPA.

"Client Data" means data provided by Client for Processing through the Services, including, without limitation, the content of files, emails, or messages sent by or to an Authorized user. Client Data does not include threat data (as defined in Section 9.2).

"Data Protection Law" means one or more of the following data protection laws or regulations, as they apply to the Processing of Personal Data by NTICO under this DPA: (i) Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 ("**GDPR**") ; and (ii) any relevant law, statute, regulation, statute, ordinance, or other binding instrument that implements or modifies the foregoing.

"Data Subject" means (i) "Data Subject" as defined in the GDPR, (ii) "consumer" or "household" as defined in the CCPA, and/or (iii) any similar term under the relevant Data Protection Act.

"Data Subject Request" means a request from (i) a Data Subject pursuant to the GDPR and/or CCPA and/or (ii) a similar term under applicable Data Protection Law.

"Personal Data" means (i) "Personal Data" as defined in the GDPR, (ii) "Personal Information" as defined in the CCPA, and/or (iii) any similar term under the relevant Data Protection Law, which is under the control of the Client and processed by NTICO in connection with the performance or provision of NTICO Offers.

"Processing" means "Processing" as defined in the Data Protection Act, the details of which are described in Appendix 1.

"Processor" means the entity that processes personal data on behalf of the Controller, including, where applicable, any "service provider" as that term is defined by the CCPA.

"Regulator" means the data protection supervisory authority or any other governmental or legal authority competent for the Processing of personal data.

"NTICO Offers" means all products and services provided by NTICO, as identified in the Agreement and further described in an Order or SOW referencing the Agreement.

"Sub-processor" means any Sub-processor, as defined in the Data Protection Act, engaged by NTICO or its affiliates.

"Third Party" means any person (including companies, entities, organizations, etc.) who is not the Client or NTICO.

All other capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement.

2. THE PROCESSING OF PERSONAL DATA.

2.1 Scope. This DPA reflects the parties' agreement regarding the Processing of Client Personal Data in connection with the provision of the NTICO Offers under the Agreement. Each party is responsible for its compliance with the Data Protection Law applicable to it and for performing its obligations to third parties, including data subjects and regulatory authorities.

2.2 Roles of the parties. The Client and NTICO agree that, as between the parties and except with respect to Account Data (for which the Client and NTICO are independent Controllers), the Client is a Controller and NTICO is a Processor.

2.3 NTICO as a Processor.

2.3.1 As a general rule. NTICO will process Personal Data only in accordance with Client's documented instructions for the following purposes: (i) Processing in accordance with the Agreement and applicable Orders; (ii) Processing initiated by users in the context of their use of the services of the subscribed NTICO Offer(s); and (iii) other reasonable instructions that may be communicated in writing by Client to NTICO from time to time and that are consistent with the terms of the Agreement. NTICO will notify you immediately (x) if we believe that an instruction from the Client constitutes a breach of the GDPR and/or (ii) if we are unable to follow the Client's instructions for the Processing of Personal Data. Pending the decision on the withdrawal, modification or confirmation of the instruction concerned, we are authorized to suspend the implementation of the instruction concerned.

2.3.2 NTICO staff. We will ensure that all persons authorized to process personal data are informed of the confidential nature of personal data and have undertaken to maintain such confidentiality (e.g. through confidentiality agreements) or are subject to an appropriate legal obligation of confidentiality.

Retention of Personal Data. After completion of the NTICO Offers, at the Client's option, we will return or delete all Personal Data in our possession to you; provided, however, that we may retain the Personal Data to the extent that the return or destruction of such Personal Data is impracticable or incidentally prohibited by applicable law or any other valid legal process (e.g., court order, court order) and, in such case, we will take steps to notify you and block such Personal Data from any further Processing (except to the extent that necessary for the continued hosting of such data or Processing required by applicable law) and we will continue to appropriately protect the Personal Data remaining in our possession.

2.4 The Client as Controller. Client is solely responsible for ensuring that (i) Personal Data submitted to us for Processing is duly authorized, with all necessary notices, rights, permissions, and consents (to include effective opt-out options); (ii) the instructions you give us comply with Data Protection Laws and are consistent with the Agreement; and (iii) no special categories of Personal Data (e.g., under Article 9 of the GDPR) are submitted to us for the Processing. For clarity, NTICO does not evaluate – and is not obligated to evaluate – the type or substance of Client Data to determine whether it is Personal Data and/or whether it is subject to specific legal requirements.

3. **REQUESTS FROM THE DATA SUBJECT.** To the extent permitted by law, we will promptly notify you of any complaint, dispute, or request we receive from a Data Subject. We will not respond to a Data Subject's request, except that you authorize us to redirect the Data Subject's request if necessary to allow you to respond directly. Given the nature of the Processing, we will assist you with appropriate technical and organizational measures, to the extent possible, to fulfil your obligation to respond to a Data Subject's request under Data Protection Laws. In addition, to the extent that, in connection with your use of the NTICO Offers, you do not have the opportunity to respond to a Data Subject request, we will, at your request, use commercially reasonable efforts to assist you in responding to such request, to the extent that we are legally permitted to do so and where response to such request is required under Data Protection Laws. To the extent permitted by law, you are responsible for all costs arising from our assistance.

4. **SUB-PROCESSORS.**

4.1 **Appointment.** We will impose on each Sub-processor, by contract or other legal act, data protection obligations equivalent to those set forth in this DPA. Client authorizes our Affiliates to act as Sub-processors and to use any identified Sub-processors in accordance with the terms of this Section 4.

Current Sub-Processors; Notification of New Sub-Processors. Our list of sub-Processors can be viewed as an appendix and may be updated by us from time to time in accordance with this DPA. We may notify you in writing of the appointment of new Sub-processors using the notice provisions of the Agreement or through an alert in a user interface of the NTICO Offers; provided, however, that we notify you in writing without undue delay after the appointment of a new temporary Processor if the direct involvement of such Processor is necessary to maintain the availability and security of the NTICO Offers or Client Data.

4.2 Right to object for new Sub-Processors. You may object to a new Sub-Processor on a reasonable basis related to the Processing of Personal Data by notifying us in writing within fifteen (15) days of receipt of notice of appointment ; otherwise, we will consider that the appointment of the new Sub-Processor has been authorized by you. Upon receipt of notice of objection from you, we will make reasonable efforts to make available to you a modification of the NTICO Offers or recommend a commercially reasonable configuration or use of the NTICO Offers in order to avoid Processing of Personal Data by the new sub-Processor. If we are unable to address your objection in connection with the foregoing efforts, we will notify you and you may terminate this DPA and any applicable NTICO Offer and receive a refund of the prepaid fees covering the terminated portion of the applicable NTICO Offer, upon thirty (30) days' prior written notice from our receipt of our notice to you.

Liability. We are liable for the acts and omissions of our Sub-processors to the same extent as we would be if we were providing the services of each Sub-processor directly under the terms of this DPA, unless otherwise provided in the Agreement.

5. SECURITY.

5.1 Safety Measures. NTICO will implement and maintain the security measures described in Appendix 2 to this DPA. Client acknowledges that the security measures are subject to technical progress and development and that NTICO may update or modify the security measures from time to time, provided that such updates and modifications do not degrade or diminish the overall security of the NTICO Offers. Notwithstanding the foregoing, Client is solely responsible for the independent assessment and implementation of the security configuration settings made available to it by NTICO that it deems necessary to meet its legal requirements and obligations under applicable Data Protection Laws. Client acknowledges that, through its users, Client: (i) controls the type and content of Client Data; and (ii) defines users' access permissions to Client Data (including Access Credentials); and therefore, Client is responsible for reviewing and evaluating whether the functionality

The documented documentation of an NTICO Offer meets the Client's security obligations regarding Personal Data under the Data Protection Laws.

5.2 Demonstration of compliance. We will make available to you all information reasonably necessary to demonstrate compliance with this DPA, including responses to information security and audit questionnaires. To the extent that the Standard Contractual Clauses ("**SCCs**") apply and Client reasonably maintains and establishes that the foregoing documentation is not sufficient to demonstrate compliance with the obligations set forth in this DPA, Client may conduct an audit in accordance with Section 8.9 of the Standard Contractual Clauses, provided that, in such a case, the parties agree that any audit will be: (i) limited to processing and storage facilities operated by NTICO or any of its Affiliates, and proportionate to the nature and complexity of the NTICO Offers used by Client; (ii) carried out no more than once per contractual year upon at least three (3) weeks' written notice to NTICO, unless a shorter period is required in the event of urgent circumstances (*e.g.* breach of contract), during NTICO's normal working hours; and (iii) carried out under mutually agreed terms regarding the scope, timing and duration of the audit and the refund rate, if any, for which Client is responsible for the time spent by NTICO in connection with such audit. The Client shall promptly provide NTICO with information relating to any non-compliance discovered during an audit.

- **Data protection impact assessment.** At your request, we will provide you with reasonable cooperation and assistance necessary to fulfill your obligations under the Data Protection Laws to carry out a data protection impact assessment related to your use of the NTICO Offers, to the extent that you do not otherwise have access to the relevant information and such information is available to NTICO.

6. **BREACH MANAGEMENT AND NOTIFICATION.** We have industry-recognized security incident management policies and procedures and will notify you without undue delay after becoming aware of a breach. We will use reasonable efforts to: (i) identify the cause of such breach and take such steps as we deem necessary and reasonable to remedy the cause of such breach to the extent that remediation is within our reasonable control, and (ii) provide you with information in NTICO's possession regarding the breach, including the nature of the incident, the specific information disclosed (if known), and any relevant mitigation efforts or remediation measures, to enable you to comply with your obligations under applicable Data Protection Laws following a breach. The obligations set forth herein do not apply to incidents caused by you or your users.
7. **GOVERNMENT ACCESS REQUESTS.** As a Processor, we will take appropriate measures to protect Personal Data in accordance with the requirements of Data Protection Laws, including by implementing appropriate technical and organizational safeguards to protect Personal Data from interference beyond what is necessary in a democratic society to safeguard national security, and public safety. If we receive a legally binding request for access to Personal Data from a Regulator, we will promptly notify you, unless prohibited by law, including a summary of the nature of the request. To the extent that we are prohibited by law from providing such notice, we will use reasonable efforts commercially reasonable to obtain an exemption from the prohibition to allow us to disclose as much information as possible in a timely manner. In addition, we will contest the request if, after careful assessment, we conclude that there are reasonable grounds to consider the request to be unlawful. We are pursuing the possibilities of appeal. When we contest a request, we seek interim measures to suspend the effects of the request until the competent judicial authority has ruled on its merits. We will not disclose the requested Personal Data until we are required to do so by the applicable procedural rules. We are committed to providing the minimum amount of information permitted when responding to a request for disclosure, based on a reasonable interpretation of the request. We will promptly notify you if we become aware of direct access to Personal Data by a Regulator and provide the information we have in this regard, to the extent permitted by law. For the avoidance of doubt, this DPA does not require NTICO to pursue any action or inaction that could result in civil or criminal penalties for NTICO or its Affiliates, such as contempt of court. We certify that NTICO (i) has not deliberately created backdoors or similar programs for the purpose of enabling access to the NTICO Offers and/or Personal Data by any Regulator; (ii) has not deliberately created or modified its business processes in a manner that facilitates access to the NTICO Offers and/or Personal Data by any regulator; and (iii) as of the Effective Date, is not aware of any national law or government policy requiring NTICO to create or maintain backdoors, facilitate access to the NTICO Offers and/or Personal Data, or keep encryption keys in its possession or hand over the encryption key to a third party.

8. PROVISIONS SPECIFIC TO THE COURTS.

8.1 CCPA.

8.1.1 Personal Data. Subject to the provisions of the CCPA, NTICO will not: (A) sell or share Personal Data (as defined in the CCPA); (B) retain, use or disclose Personal Data for NTICO's business purposes; or (C) retain, use or disclose the Personal Data outside of the direct business relationship between NTICO and the Client. The parties further acknowledge and agree that our access to Personal Data is not part of the consideration exchanged by the parties under the Agreement.

8.1.2 Remediation Requirements. Client has the right to take reasonable and appropriate steps to (i) verify that NTICO is using the Personal Data that NTICO receives from, or on behalf of, Client in a manner consistent with this DPA so that Client can comply with its obligations under Data Protection Law. This right may include conducting audits in accordance with this DPA; (ii) stopping and correcting NTICO's unauthorized use of Personal Data; and (iii) taking any other remedial measures reasonably agreed to by the parties. By way of example, and in accordance with the Agreement, Client may request NTICO to provide documentation that verifies that NTICO no longer retains or uses the Personal Data of Data Subjects who have made a valid request to Client to delete their Personal Data.

8.1.3 Certification. NTICO certifies that it understands and will comply with the obligations set forth in this DPA and the Agreement, including restrictions on the Processing of Personal Data.

8.2 **EUROPE**. For the purposes of this Section 8.2, the following terms have the meanings ascribed to them below:

"EU law": the GDPR on data protection.

"EU Standard Contractual Clauses" means the standard contractual clauses approved by the European Commission in Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council, where applicable, and available [here](#) (by referencing Module 2: Transfer from Controller to Processor) and as may be amended or replaced by the European Commission from time to time.

"Restricted Transfer" means (a) where the GDPR applies, a transfer of Personal Data or Account Data from the EEA to a country outside the EEA that is not subject to an adequacy decision by the European Commission.

"Standard Contractual Clauses": contractual mechanism approved by the EU for transfers of Personal Data to third countries.

"Third Countries" means countries outside the scope of EU law, excluding countries approved as providing adequate protection of personal data by applicable regulators under EU law.

8.2.1 Penalties. Notwithstanding anything to the contrary in this DPA or the Agreement (including, without limitation, any indemnification obligations of either party), neither party shall be liable for any fines issued or collected under EU law (e.g., Article 83 of the GDPR) against the other party by any Regulator in connection with that other party's violation of EU law.

8.2.2 Transfers of Personal Data. To protect transfers of personal data outside of Europe to third countries, the parties agree to enter into the Standard Contractual Clauses described below :

8.2.2.1 Where a restricted transfer is made from the EEA, the EU Standard Contractual Clauses are incorporated into this DPA and apply to the transfer as follows: (i) with respect to restricted transfers from Client to NTICO, Module 1 applies where Client and NTICO are both Controllers, Module 2 applies where Client is a Controller and NTICO is a Processor, and Module 3 applies when the Client and NTICO are both Processors; (ii) in clause 7, the optional opt-in clause does not apply; (iii) in clause 9(a) of Modules 2 and 3, Option 2 applies, and the prior notification period for changes in Processors is set out in Section 4 of this DPA; (iv) in clause 11(a), the optional language does not apply; (v) in clause 17, option 1 shall apply and the applicable law shall be that of the Netherlands; (vi) in clause 18(b), disputes shall be resolved in the courts of Amsterdam, the Netherlands; (vii) Appendix I to the SCCs is supplemented by the information set out in Appendix A to this DPA; (viii) Appendix II to the SCCs is supplemented by the information in Appendix B to this DPA; and (ix) Appendix III of the SCCs is supplemented by the list of Sub-processors referred to in Article 4.2.

8.2.2.2 The following terms apply to EU Standard Contractual Clauses:

(i) the Client may exercise its audit rights under the EU Standard Contractual Clauses as set out in Section 5.2 above; (ii) NTICO may appoint Processors under the EU Standard Contractual Clauses as set forth in Section 4 above; (iii).with respect to restricted transfers to NTICO, we may not participate in, or permit a Processor to, participate in any other restricted transfer, unless the latter is made in full compliance with data protection laws and in accordance with applicable EU Standard Contractual Clauses or another legally compliant transfer mechanism; and (iv) if any of the provisions of this Section 8.2.2 are inconsistent with any of the clauses of the EU Standard Contractual Clauses, the EU Standard Contractual Clauses shall prevail.

8.2.2.3 We may adopt an alternative mechanism for the export of data (including any new version or successor of the Standard Contractual Clauses or alternative mechanisms adopted under the Data Protection Laws) ("**Alternative Transfer Mechanism**"), provided that the Alternative Transfer Mechanism complies with applicable Data Protection Laws and extends to third countries to which the Personal Data is transferred in the name of the Client. The Client agrees to execute the documents and take such other steps as are reasonably necessary to give legal effect to this Alternative Transfer Mechanism.

9. **LIMITATION OF LIABILITY.** The liability of each party and all of its Affiliates, taken as a whole, arising out of or related to this DPA and any DPAs entered into between your Affiliates and NTICO, whether in contract, tort, or under any other theory of liability, is subject to the "Limitation of Liability" section of the Agreement, and any reference in this Section to a party's liability means the aggregate liability of that party and all of its Affiliates under the Agreement and any DPAs taken together. For the avoidance of doubt, our and our Affiliates' total liability for all claims of the Client and all of its Affiliates arising out of or related to the Agreement and any DPAs applies globally to all claims under the Agreement and any PADs established under the Agreement, and, in particular, shall not be construed as applying individually and jointly to Client and/or any Affiliate that is a contractual party to any such PAD.

10. **CONFLICT.** In the event of an actual conflict between the Agreement and this DPA, the terms of this DPA shall prevail, but only with respect to the Processing of Personal Data.

11. **CHANGES.** We may make changes to this DPA where (i) the change is necessary to comply with applicable data protection legislation; or (ii) the change is commercially reasonable, does not materially degrade or reduce the protective effect of the security measures, does not change the scope of our Processing of Personal Data, and does not affect Client's rights under the DPA.

12. **GOVERNING LAW AND JURISDICTION.** Except where prohibited by data protection laws, this DPA is governed by the laws set forth in the Agreement and the parties to this DPA hereby submit to the choice of jurisdiction and venue set forth in the Agreement, if any, with respect to any dispute arising under this DPA.

13. **GENERAL.** This DPA may be signed in counterparts, each of which shall be considered as an original, but which together shall constitute one and the same instrument. The provisions of this DPA are severable. If any sentence, clause, or provision of the Schedule (including the Standard Contractual Clauses) is invalid or unenforceable in whole or in part, such invalidity or unenforceability shall affect only that phrase, clause, or provision, and the remainder of this DPA or the remainder of the Schedule shall remain in full force and effect.

14. **ADDITIONAL RESOURCES.** Additional information is available below:

- A. Treatment Details
- B. List of Subprocessors
- C. Addendum for the United States

Appendix A

Processing Details

- The Provider is authorized to process, on behalf of the Client, the Personal Data necessary to provide the Services described in the Agreement.
- The purposes of the processing entrusted to the Service Provider are as follows:
 - Provision to the Client's users of an IT process automation platform provided by NTICO
- The Personal Data processed are:
 - Connection data of the Client's users (email, surname, first name, country of attachment, telephone)
- The categories of persons concerned are:
 - Client users
- The nature of the processing implemented is: Access, Organization, Structuring, Modification, Consultation, Storage and Retention of Data
- The duration of the processing implemented by the Service Provider for the Client corresponds to the duration of the Contract.

Appendix B

List of Sub-processors

From 2014/10/10

1.	
Name	SMA NORTHERN EUROPE B.V.
Address:	Newtonlaan 115, 3584 BH Utrecht, The Netherlands
Name, position and contact details:	Gordy Drost, Director of Security Email: gordy.drost@continuous.com
Description of the processing (including a clear delineation of responsibilities in the event that more than one sub-processor is permitted):	All processing implemented by NTICO and in particular the provision of SMA offers to NTICO, in accordance with the Contract and the corresponding orders.

APPENDIX C Addendum for the United States

- Adherence to the Standard Contractual Clauses for the transfer of personal data to third countries under Regulation (EU) 2016/679 of the European Parliament and of the Council (European Commission – 04/06/2021 - C(2021) 3972 final)
- Selected module: **MODULE 3** (transfer from subcontractor to subcontractor)
- **ANNEX I**
- **A. LIST OF PARTIES**
 - **Data Exporter:**
 - **NTICO OPERATION,**
 - Registered under number 752 812 636 with the Lille Metropole Trade and Companies Register,
 - whose registered office is located at 2 rue Haddock, 59650 VILLENEUVE D'ASCQ,
 - duly represented by Mr. Nicolas TURCK, in his capacity as Manager,
 - Role: Contractor
 - **Data Importer:**
 - **UNISOFT INTERNATIONAL INC (SMA TECHNOLOGIES)**
 - 14237 East Sam Houston Parkway N. - Suite 200-314 - Houston, TX 77044 - USA
 - Gordy Drost, Director of Security
 - Email: gdrost@smatechnologies.com
 - Role: Contractor
- **B. DESCRIPTION OF THE TRANSFER**
 - Categories of data subjects whose personal data is transferred
 - Client users in Salesforce
 - Categories of personal data transferred
 - email, surname, first name, country of attachment, telephone
 - Sensitive data transferred (if any) and restrictions or safeguards applied that take full account of the nature of the data and the risks involved, such as strict purpose limitation, access restrictions (including access restricted to personnel with specialized training), maintenance of a data access log, restrictions on onward transfers, or additional security measures.
 - No sensitive data transferred
 - Frequency of transfer (indicate, for example, whether the data is transferred on a one-time or continuous basis).
 - Point
 - Nature of processing

- Provision to the Client's users of an IT process automation platform provided by NTICO
 - Access, Organize, Structure, Modify, Access, Store, and Retain Data
- Purpose(s) of the transfer and further processing of data
 - Delivery of license keys and access to the support portal
 - No further processing
- Duration of retention of personal data or, where this is not possible, criteria used to determine this period
 - Duration of the Agreement
- For transfers to (subsequent) processors, please also specify the purpose, nature and duration of the processing
 - No transfer to sub-processors
- **COMPETENT SUPERVISORY AUTHORITY**
 - Commission Nationale de l'Informatique et des Libertés (CNIL)
 - 3 Place de Fontenoy
 - TSA 80715
 - 75334 PARIS CEDEX 07
 - <https://www.cnil.fr/fr/professionnel>
- **ANNEX II - TECHNICAL AND ORGANISATIONAL MEASURES, INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE DATA SECURITY**
 - The technical and organizational measures to guarantee the security of the data are detailed in Appendix 4 of the Agreement between the Client and the data exporter, and in particular:
 - Access to the secure portal via MFA (two-factor authentication) and HTTPS/SSL.
 - Data concerned recorded directly by the Client on the Portal accessible remotely.
 - HTTPS/SSL encryption of the transfer.
 - Soc2 Type 2 Compliance and Certification
- **ANNEX III – List of sub-processors**
 - No sub-processors listed in the destination country.