



Integrated Control Technology Ltd

Data Processing Addendum

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About this Data Processing Addendum

ICT's Services are provided to Integrators who on-sell those Services to End Customers. The terms of this Data Processing Addendum explain how ICT will Process Personal Data of End Customers in providing the Services (whether the Services are provided to End Customers directly by ICT or to an Integrator who on-sells the Services to End Customers).

Please note:

In all cases, the End Customer will be the Controller of the End Customer's Personal Data Processed in providing the Services.

Where an End Customer procures Services from an Integrator, the Integrator will be a Processor in respect of the End Customer's Personal Data Processed in providing the Services, and the Integrator will be acting on behalf of the End Customer. ICT will be a Sub-Processor.

Where an End Customer procures the Services directly from ICT, ICT will be a Processor of the End Customer's Personal Data Processed in providing the Services.

This Data Processing Addendum ("**DPA**") forms part of the Agreement and provides for the obligations of the relevant parties with regard to the Processing of Personal Data in connection with the Services.

1. Interpretation

1.1. Unless otherwise defined below, all capitalized terms have the meaning given to them in the Agreement.

"**Affiliate**" means any legal entity that directly or indirectly owns, is owned by, or is commonly owned with a party and "**own**" means having more than 50% ownership or the right to direct the management of the entity.

"**Agreement**" means: (a) where ICT is providing Services to an Integrator, the agreement between ICT and the Integrator for the provision of the Services, as defined in the Integrator Sales Agreement (including the Credit or Cash Account Application (as applicable)) signed by the parties; (b) where the Integrator on-sells ICT's Services to End Customers, the agreement between the Integrator and Customer for the provision of Services, as set out in the Customer Agreement.

"**Data Protection Laws**" means all privacy and data protection laws applicable to the Processing of Personal Data under this DPA, including local, state, national and/or foreign laws and/or regulations, GDPR and transpositions of GDPR into national laws including the UK GDPR.

"**End Customer**" means the relevant person or entity that purchases and uses the Services for its business.

"**GDPR**" means the General Data Protection Regulation (EU) 2016/679, as amended or replaced from time to time.

"**ICT Customer**" means the counterparty to the Agreement with ICT.

"**Integrator**" means an integrator who on-sells ICT's Services to End Customers.

"**Data Management Overview**" means ICT's data management overview document available at ict.co/data-management-overview

"**Services**" means the ICT goods and/or services set out in the Agreement.

"**Standard Contractual Clauses**" means MODULE TWO: controller to processor and for the purposes of clause 2.4 only, MODULE THREE: processor to processor of the standard contractual clauses approved by the European Commission Implementing Decision (EU) 2021/914 of 4 June 2021 available at https://eur-lex.europa.eu/eli/dec_impl/2021/914/oj and incorporated herein by reference as updated, amended, replaced or superseded from time to time by the European Commission.

"**Sub-processor List**" means the list identifying the Sub-processors that are authorized to Process Personal Data in connection with ICT's provision of the Services, as set out in the Product Data Information Table.

“**UK Addendum to the EU Standard Contractual Clauses**” means the International Data Transfer Addendum to the EU Commission Standard Contractual Clauses issued by the Information Commissioner in force from 21 March 2022, available at <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/international-transfers/international-data-transfer-agreement-and-guidance/> and incorporated herein by reference as updated, amended, replaced or superseded from time to time by the ICO or United Kingdom Government.

“**UK GDPR**” means the UK Data Protection Act 2018, the EU General Data Protection Regulation 2016/679, as amended by Schedule 1 of The Data Protection, Privacy and Electronic Communications (Amendments, etc.) (EU Exit) Regulations 2019.

- 1.2. The terms “**Control**”, “**Controller**”, “**Data Subject**”, “**Personal Data**”, “**Personal Data Breach**”, “**Process**” (including present participle and past tense), “**Processor**” and “**Sub-processor**” will have the same meanings given to them in the Data Protection Laws, and where the Data Protection Laws use equivalent or corresponding terms, such as “personal information” instead of “personal data,” the equivalent term used in the DPA will be read to include such corresponding terms.
- 1.3. In the case of conflict or ambiguity between:
 - a. any of the provisions of this DPA and the provisions of the Agreement, the provisions of this DPA will prevail;
 - b. any provision contained in the body of this DPA and any provision contained in the Annexes, the provision in the body of this DPA will prevail; and
 - c. any of the provisions of this DPA or the Agreement and any standard contractual clauses that the parties are deemed to have entered into in accordance with Sections 11.2(a) or 11.3(a), the provisions of the relevant standard contractual clauses will prevail.
- 1.4. For the purposes of this DPA, references to ICT include ICT’s Affiliates, references to an Integrator includes the Integrator’s Affiliates and references to End Customer include End Customer’s Affiliates.

2. Scope and Roles

- 2.1. This DPA applies to the Processing of Personal Data by ICT (acting as Processor) on behalf of Customer (acting as Controller) in connection with the Agreement.
- 2.2. Where the Processing of Personal Data by ICT is covered by the New Zealand Privacy Act 2020 or the Australian Privacy Act 1988, the provisions in section 10.2 apply.
- 2.3. Where the Processing of Personal Data by ICT is covered by GDPR and transpositions of GDPR into national laws including the UK GDPR, the remainder of this Data Processing Addendum applies.
- 2.4. **Integrator:**
 - a. Where Customer is an Integrator, Customer is acting as the primary Processor in relation to the End Customer and ICT is acting as a Sub-Processor.
 - b. In this scenario, Customer warrants and represents on an ongoing basis that:
 - i. it has all the consents required to enable ICT to Process Personal Data in connection with the Agreement as set out in this DPA;
 - ii. it will ensure that the End Customer has any required notices and consents in place to enable lawful Processing of Personal Data by the Integrator and ICT; and
 - iii. it has entered into a written agreement with the End Customer that includes data protection obligations on the Integrator and ICT that are the same as or are less onerous than those set out in this DPA in respect of the Personal Data Processed under the Agreement, and it has not agreed to any additional or more onerous data protection obligations to those set out in this DPA in respect of that information.
- 2.5. **Direct sales:** Where Customer is also the End Customer, ICT is acting as a Processor on behalf of Customer and Customer is the Controller.

3. Processing

- 3.1. ICT will Process Personal Data in accordance with ICT Customer's documented instructions. ICT Customer instructs ICT to Process Personal Data to provide the Services in accordance with the Agreement and this DPA. ICT Customer may provide additional instructions to ICT to Process Personal Data, however ICT will not be obligated to follow such additional instructions unless they are consistent with the terms and scope of the Agreement and this DPA. Additional instructions outside the scope of the ICT Customer's documented instructions (if any) require prior written agreement between ICT and ICT Customer, including agreement on any additional fees payable by ICT Customer to ICT for carrying out such instructions. ICT will immediately inform the ICT Customer if, in its opinion, an instruction infringes Data Protection Laws.
- 3.2. The Data Management Overview (ict.co/data-management-overview) describes the subject matter, duration, nature and purpose of the Processing and the Personal Data categories and Data Subject types in respect of which ICT may Process the Personal Data (which ICT may update from time to time). The Data Management Overview constitutes ICT Customer's documented instructions.
- 3.3. ICT Customer shall ensure that its documented instructions and any additional instructions comply with all applicable laws, rules, and regulations concerning the Personal Data. The processing of Personal Data in accordance with ICT Customer's instructions shall not cause ICT to be in breach of applicable Data Protection Laws. Customer is solely responsible for the accuracy, quality, and legality of:
 - a. the Personal Data provided to ICT by or on behalf of ICT Customer;
 - b. the methods by which ICT Customer acquired any such Personal Data, including obtaining appropriate notice and/or consent; and,
 - c. the instructions it provides to ICT regarding the processing of such Personal Data.

ICT Customer shall not provide or make available to ICT any Personal Data that violates the Agreement, this DPA, or is otherwise inappropriate given the nature of the Services. ICT Customer shall indemnify ICT from all claims and losses arising in connection with any breach of this clause.

- 3.4. ICT's total liability under or in connection with this DPA and the applicable Data Protection Laws shall be subject to the cap on liability set forth in the Agreement. If no such cap is set forth in the Agreement, such liability shall be limited to the total value of the goods and/or services contained in the relevant order(s) giving rise to such liability. Notwithstanding the foregoing, nothing in this DPA or the Agreement shall limit or exclude any liability that cannot be limited or excluded by applicable Data Protection Laws, including any liability to data subjects as required under the Standard Contractual Clauses or the UK Addendum to the EU Standard Contractual Clauses, as applicable.

4. Confidentiality and Security

- 4.1. ICT will ensure that all persons engaged in the Processing of Personal Data in the context of the Services are authorized and granted access to Personal Data on a need-to-know basis and are committed to respecting the confidentiality of Personal Data.
- 4.2. ICT will implement and maintain appropriate technical and organizational security measures designed to protect Personal Data from a Personal Data Breach. Such security measures are set out in the Data Management Overview (ict.co/data-management-overview). Notwithstanding anything to the contrary in the Agreement or this DPA, ICT may modify or update its security measures at its discretion provided that such modification or update does not result in a material degradation in the overall security of the Services.

- 4.3. To the extent: (a) required by Data Protection Laws; and (b) legally permitted, ICT will inform ICT Customer of each law enforcement request or any valid and binding order of a governmental body such as a subpoena or court order ICT receives from a governmental authority requiring ICT to disclose Personal Data Processed in the context of the Services or participate in an investigation involving that Personal Data. If a governmental body sends ICT a demand for ICT Customer Personal Data, ICT will attempt to redirect the governmental body to request that data directly from ICT Customer. As part of this effort, ICT may provide ICT Customer's basic contact information to the governmental body. If compelled to disclose ICT Customer Personal Data to a governmental body, then ICT will give ICT Customer reasonable notice of the demand to allow ICT Customer to seek a protective order or other appropriate remedy unless ICT is legally prohibited from doing so.
- 4.4. To the extent applicable to the Services, ICT will provide the Services in a manner that is consistent with the highest certification level (PCI Level 1) provided by the PCI-DSS requirements.

5. Sub-processing

- 5.1. ICT Customer authorizes ICT to engage Sub-processors set out in the Data Management Overview (ict.co/data-management-overview). If ICT Customer subscribes to email notifications on the Sub-processor List, then ICT will notify ICT Customer via email of any changes ICT intends to make to the Sub-processor List at least 30 days before the changes take effect. ICT Customer may reasonably object to a change on legitimate grounds within 14 days after it receives notice of the change. ICT Customer acknowledges that ICT's Sub-processors are essential to provide the Services and that if it objects to ICT's use of a Sub-processor, then notwithstanding anything to the contrary in this DPA or the Agreement, ICT will not be obligated to provide ICT Customer the Services for which ICT uses that Sub-processor.
- 5.2. ICT will enter into a written agreement with each Sub-processor that imposes on the Sub-processor data protection obligations comparable to those imposed on ICT under this DPA, including implementing appropriate data security measures. If a Sub-processor fails to perform its data protection obligations under that agreement, ICT will remain liable to ICT Customer for the acts and omissions of its Sub-processor to the same extent ICT would be liable under this DPA if ICT was performing the relevant Services directly.

6. End Customer's Compliance and Data Subject Rights

- 6.1. ICT Customer and ICT acknowledge and agree that:
 - a. End Customer retains Control of the Personal Data and remains responsible for its compliance obligations under Data Protection Laws, including but not limited to providing any required notices and obtaining any required consents, and for the written instructions it gives to the Integrator or ICT, as applicable; and
 - b. End Customer is solely responsible for the accuracy, quality and legality of Personal Data and the means by which End Customer acquired Personal Data.
- 6.2. To the extent required by Data Protection Laws, ICT will, in a manner consistent with the functionality of the Services and ICT's role as a Processor, provide reasonable support to ICT Customer to enable ICT Customer to:
 - a. comply with ICT Customer's obligations under Data Protection Laws; and
 - b. respond to Data Subject requests to exercise their rights under Data Protection Laws,
 - c. taking into account the nature of ICT's Processing and the information available to ICT.
- 6.3. ICT will, to the extent legally permitted, promptly notify ICT Customer if it receives a request from a Data Subject to exercise their rights under Data Protection Laws. ICT will not respond to such Data Subject requests without ICT Customer's prior written consent except to confirm that the request relates to ICT Customer.
- 6.4. To the extent permitted by Data Protection Laws, ICT Customer will be responsible for any costs arising from ICT's provision of assistance to ICT Customer under this Section 6.

7. Termination of Processing

- 7.1. Upon termination or expiry of the Agreement or the Services, ICT will, at ICT Customer's choice and subject to Section 7.2, either delete all Personal Data in ICT's possession or control (to the extent the Personal Data has not already been deleted in accordance with ICT's standard security practices described in this DPA and the Agreement), or return all Personal Data to ICT Customer and delete existing copies in ICT's possession or control. Where ICT Customer does not make that choice within 7 days after termination or expiry of the Agreement or the Services, ICT Customer hereby instructs ICT to delete the Personal Data, subject to Section 7.2.
- 7.2. Notwithstanding anything to the contrary in the Agreement or this DPA, ICT will not be obligated to delete Personal Data if ICT is legally required or authorized to store Personal Data for a longer period.

8. Records and Audits

- 8.1. ICT will maintain all records relating to the Processing of Personal Data as required by Data Protection Laws.
- 8.2. To the extent required by Data Protection Laws and upon ICT Customer's written request, ICT will contribute to audits or inspections by making audit reports available to ICT Customer, which reports are ICT's Confidential Information.
- 8.3. Upon ICT Customer's written request, and no more frequently than once annually, ICT will make available to ICT Customer information regarding ICT's compliance with this DPA and/or documentation regarding ICT's security practices in relation to its Processing of Personal Data. Such information and/or documentation is ICT's Confidential Information.

9. Personal Data Breach

- 9.1. If required by Data Protection Laws, ICT will notify ICT Customer without undue delay after becoming aware of a Personal Data Breach involving Personal Data Processed by ICT under this DPA and will reasonably respond to ICT Customer's request for further information to enable ICT Customer to comply with ICT Customer's obligations under Data Protection Laws.

10. Jurisdiction-Specific Terms

- 10.1. To the extent that ICT is Processing any Personal Data originating from, or otherwise subject to, the Data Protection Laws of any of the jurisdictions listed below, the following terms applicable to such jurisdiction (s) will also apply in respect of that Personal Data.
- 10.2. **New Zealand and Australia**
 - a. Both parties agree to comply with the Applicable Data Protection Laws in the collection, use, disclosure, and management of Personal Data.
 - b. ICT shall implement and maintain appropriate technical and organizational measures to protect personal information against unauthorized or unlawful processing, accidental loss, destruction, or damage.
 - c. ICT shall notify the Customer without undue delay if it experiences a privacy breach in relation to Customer Data (a privacy breach means unauthorized or accidental access to, or disclosure, alteration, loss or destruction of personal information)
- 10.3. **European Economic Area and Switzerland**
 - a. To the extent that End Customer personal data from the European Economic Area ("EEA") or Switzerland is transferred to ICT located outside the EEA or Switzerland, unless ICT and the ICT Customer may rely on an alternative transfer mechanism or basis under Data Protection Laws, the parties will be deemed to have entered into the Standard Contractual Clauses in respect of such transfer.
 - b. For the purposes of the Standard Contractual Clauses:

- i. ICT Customer is the “data exporter,” ICT is the “data importer,” the “competent supervisory authority” is an authority identified by the customer in accordance with Clause 13 of the Standard Contractual Clauses
- ii. Clause 7(a)-(c), Clause 9(a) Option 1, Clause 11(a) Option, and Clause 17 Option 1 are omitted;
- iii. the time period in Clause 9(a) Option 2 is 30 days;
- iv. the content of the applicable annexes corresponds to the respective content of this DPA and the Agreement;
- v. where ICT provides Services to an End Customer directly, Module Two applies and Modules One, Three and Four are omitted;
- vi. where ICT provides Services to an Integrator and to the extent that each party acts as a processor, Module Three applies and Modules One, Two and Four are omitted;
- vii. the governing law under Clause 17 Option 2 will be the law of Ireland; and
- viii. the courts under Clause 18(b) will be the courts of Ireland.

10.4. **United Kingdom**

- a. To the extent that End Customer Personal Data from the United Kingdom (“**UK**”) is transferred to ICT located outside the UK, unless ICT and the ICT Customer may rely on an alternative transfer mechanism or basis under Data Protection Laws, the parties will be deemed to have entered into the UK Addendum to the EU Standard Contractual Clauses in respect of such transfer.
- b. For the purposes of the UK Addendum to the EU Standard Contractual Clauses:
 - i. ICT Customer is the “exporter,” ICT is the “importer”;
 - ii. the Approved EU SCCs to which the UK Addendum to the EU Standard Contractual Clauses is appended to are Module Two and Module Three as set out in Section 11.2 of this Data Processing Addendum;
 - iii. the importer may end the UK Addendum to the EU Standard Contractual Clauses as set out in Section 19 therein;
 - iv. any optional clauses are omitted;
 - v. the content of the appendices corresponds to the respective content of this DPA and the Agreement;
 - vi. the UK Addendum to the EU Standard Contractual Clauses are governed by the laws of England and Wales. All references in the UK Addendum to the EU Standard Contractual Clauses to “Union,” “EU,” “Member State” and their laws are replaced with “UK” and the equivalent laws of England and Wales; and
 - vii. any dispute arising from the UK Addendum to the EU Standard Contractual Clauses will be resolved by the courts of England and Wales.

10.5. **California, USA**

To the extent that ICT is Processing any personal information in scope of the California Consumer Privacy Act of 2018 (“**CCPA**”), ICT is prohibited from retaining, using or disclosing the personal information for any purpose other than for the specific purpose of performing the Services, or as otherwise permitted by the CCPA, including retaining, using or disclosing the personal information for a commercial purpose (as that term is defined in the CCPA) other than providing the Services.