

PROCESSOR CONTRACT

Between



(hereinafter referred to as "**Customer**" or "**Controller**")

and

corporate migration centre gmbH
Karlsplatz 3, door 19
A-1010 Vienna

(hereinafter referred to as "**Processor**")

(Controller and Processor together hereinafter referred to as "**Parties**")

on processing within the meaning of Art 28 (3) GDPR (hereinafter "**Contract**")

PREAMBLE

There is a contractual relationship between the Controller and the Processor for the provision of the "Tracker Checker" software solution ("**main contract**"). As part of the fulfilment of this main contract, the Processor is likely to obtain knowledge of personal data.

Tracker Checker provides the technical infrastructure to track the duration of the stay in the Schengen area. The data entered originates from the Controller's area of responsibility. The Processor merely provides the technical means for recording the data and calculating the length of stay based on this data.

The European General Data Protection Regulation ("**GDPR**") has been in force in the European Union since 25 May 2018. This stipulates that the processing of personal data by a processor under data protection law must be carried out on the basis of an agreement that fulfils the content requirements of Art. 28 GDPR. Therefore, if the Processor also processes personal data on behalf of the Controller as part of the provision of services, this Contract serves to implement these legal requirements.

This Contract specifies the data protection obligations of the Parties in connection with the provision of services under the main contract.

SECTION I

1. Purpose and scope of application

- a) This Contract is intended to ensure compliance with Art 28 GDPR.
- b) The Controller and the Processor have agreed to this Contract in order to ensure compliance with Art. 28 GDPR.
- c) Annexes I (Description of data processing) and II (Technical and organizational measures, including to ensure the security of the data) are an integral part of the Contract.
- d) This Contract applies to the processing of personal data in accordance with Annex I.

This Contract applies without prejudice to the obligations to which the Controller is subject under the GDPR, national data protection laws and special laws applicable to the Controller.

2. Interpretation

- a) If the terms defined in the GDPR are used in this Contract, these terms shall have the same meaning as in the relevant regulation.
- b) This Contract shall be interpreted in the light of the provisions of the GDPR.
- c) This Contract may not be interpreted in a way that is contrary to the rights and obligations provided for in the GDPR or that restricts the fundamental rights or freedoms of the data subjects.

3. Priority

In the event of any conflict between this Contract and the provisions of any related agreements existing or subsequently entered into or concluded between the Parties, this Contract shall prevail.

SECTION II OBLIGATIONS OF THE PARTIES

4. Description of the processing

The details of the processing operations, in particular the categories of personal data, the type of personal data, the duration and the purposes for which the personal data are processed on behalf of the Controller, are set out in Annex I.

5. Obligations of the Parties

5.1. Instructions

- a) The Processor shall only process personal data on the documented instructions of the Controller, unless the Controller is obliged to do so under Union law or the law of a Member State. In such a case, the Processor shall inform the Controller of these legal requirements prior to processing, unless the law in question prohibits this due to an important public interest. The Controller may issue further instructions for the entire duration of the processing of personal data. These instructions shall be documented by the Parties.
- b) The Processor shall inform the Controller immediately if it believes that instructions issued by the Controller violate the GDPR or applicable data protection provisions of Union law or the applicable law of a Member State.

5.2. Earmarking

The Processor shall process the personal data only for the specific purpose stated in Annex I, unless it receives further instructions from the Controller.

5.3. Duration of the processing of personal data

The data shall only be processed by the Processor for the duration specified in Annex I.

5.4. Safety of processing

- a) The Processor shall take at least the technical and organizational measures listed in Annex II to ensure the security of the Personal Data. This shall include the protection of the data against a breach of security leading to the destruction, loss, alteration, unauthorised disclosure of, or access to, the data, whether accidental or unlawful (hereinafter "**Personal Data Breach**"). When assessing the appropriate level of protection, the Parties shall take due account of the state of the art, the implementation costs, the nature, scope, circumstances and purposes of the processing and the risks involved for the data subjects.
- b) The Processor shall grant its personnel access to the personal data subject to processing only to the extent strictly necessary for the performance, management and monitoring of the Contract. The Processor warrants that the persons authorized to process the personal data received have undertaken to maintain confidentiality or are subject to an appropriate statutory duty of confidentiality and have previously familiarized themselves with the data protection provisions relevant to them.

5.5. Sensitive data

If the processing concerns special categories of personal data or data relating to criminal convictions and offences (collectively "**sensitive data**"), the Processor shall apply specific restrictions and/or additional safeguards in accordance with Annex I.

5.6. Documentation and compliance with the Contract

- a) The Processor shall process requests from the Controller regarding the processing of data in accordance with this Contract in an appropriate manner.
- b) The Processor shall provide the Controller with all information necessary to demonstrate compliance with the obligations set out in this Contract and arising directly from the GDPR. At the request of the Controller, the Processor shall also authorize and contribute to an audit of the processing activities covered by this Contract at appropriate intervals or where there are indications of non-compliance. All appropriately justified expenses for the preparation of the evidence and any audits shall be borne by the controller.
- c) The Controller may appoint an independent auditor for the audit, which shall be determined by mutual agreement between the Parties. The audits may include inspections of the Processor's premises or physical facilities and shall be carried out with reasonable prior notice where appropriate.

5.7. Use of subcontracted processors

- a) The Processor may involve sub-processors.
- b) The Processor must inform the Controller of the intended use of a sub-processor in good time so that the controller can prohibit it with justified arguments if necessary.
- c) The Processor shall conclude the necessary agreements with the sub-processor within the meaning of Art 28 (4) GDPR. The Processor shall ensure that the sub-processor fulfils the obligations under the GDPR.
- d) The transfer of personal data of the Controller to the sub-processor and the sub-processor's initial activities are only permitted once all requirements for subcontracting have been met.
- e) The Processor shall be fully liable to the Controller for ensuring that the sub-processor fulfils its obligations under the contract concluded with the Processor. The Processor shall notify the Controller if the sub-processor fails to fulfil its contractual obligations.

5.8. International data transfers

- a) Any transfer of data by the Processor to a third country or an international organization shall take place exclusively on the basis of documented instructions from the Controller or to comply with a specific provision under Union law or the law of a Member State to which the Processor is subject and must comply with Chapter V GDPR.
- b) The Controller agrees that in cases where the Processor engages a sub-processor pursuant to Clause 5.7 for the performance of certain processing activities (on behalf of the Controller) and such processing activities involve a transfer of personal data within the meaning of Chapter V GDPR, the Processor and the sub-processor may ensure compliance with Chapter V GDPR by using standard contractual clauses adopted by the European Commission pursuant to Article 46(2) GDPR, provided that the conditions for the application of such standard contractual clauses are met.

6. Support of the person responsible

- a) The Processor shall inform the Controller immediately of any request received from a data subject. It shall not respond to the request itself unless it has been authorized to do so by the Controller.
- b) Taking into account the nature of the processing, the Processor shall provide comprehensive support to the Controller in fulfilling its obligation to respond to requests from data subjects to exercise their rights. In fulfilling its obligations under lit a and b, the Processor shall follow the Controller's instructions.
- c) In addition to the Processor's obligation to support the Controller, the Processor shall also support the Controller in complying with the following obligations, taking into account the nature of the data processing and the information available to the Processor:
 - Obligation to carry out an assessment of the impact of the intended processing operations on the protection of personal data (hereinafter "**data protection impact assessment**") if a form of processing is likely to result in a high risk to the rights and freedoms of natural persons;
 - Obligation to consult a supervisory authority (such as the Austrian data protection authority) prior to processing if a data protection impact assessment shows that the processing would result in a high risk, unless the controller takes measures to mitigate the risk;
 - Obligations pursuant to Art. 32 GDPR.
- d) The Parties shall set out in Annex II the appropriate technical and organizational measures for the Processor to support the Controller in the application of this Clause.

7. Notification of Personal Data Breaches

7.1. General information

In the event of a Personal Data Breach, the Processor shall fully cooperate with and assist the Controller to enable the Controller to fulfil its obligations under Articles 33 and 34 GDPR, taking into account the nature of the processing and the information available to the Processor.

7.2. Violation of the protection of data processed by the Controller

In the event of a Personal Data Breach in connection with the data processed by the Controller, the Processor shall assist the Controller as follows:

- a) in notifying the Personal Data Breach to the competent supervisory authority without undue delay after the Controller becomes aware of the Personal Data Breach, where relevant (unless the Personal Data Breach is unlikely to result in a risk to the rights and freedoms of natural persons);
- b) when obtaining the following information, which must be provided in the notification of the Controller in accordance with Art. 33 (3) GDPR, whereby this information must include at least the following:

- the nature of the personal data, where possible, indicating the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;
 - the likely consequences of a Personal Data Breach;
 - the measures taken or proposed to be taken by the controller to address the Personal Data Breach and, where appropriate, measures to mitigate its possible adverse effects.
- c) in complying with the obligation under Art. 34 GDPR to notify the data subject without undue delay of a Personal Data Breach where the Personal Data Breach is likely to result in a high risk to the rights and freedoms of natural persons.

7.3. Breach of the protection of data processed by the Processor

In the event of a Personal Data Breach in connection with the data processed by the Processor, the Processor shall notify the Controller immediately after becoming aware of the breach. This notification must contain at least the following information:

- a) a description of the nature of the breach (if possible, specifying the categories and approximate number of data subjects affected and the approximate number of data records affected);
- b) contact details of a contact point where further information about the Personal Data Breach can be obtained;
- c) the likely consequences and the measures taken or proposed to address the Personal Data Breach, including measures to mitigate its possible adverse effects.

If and to the extent that not all such information can be provided at the same time, the initial notification will contain the information available at that time and further information will be provided as soon as it becomes available without undue delay thereafter.

SECTION III FINAL PROVISIONS

8. Breaches of contract and termination of the main contract


- a) If the Processor fails to fulfil its obligations under this Contract, the Controller may - without prejudice to the provisions of the GDPR - instruct the Processor to suspend the processing of personal data until it complies with this Contract or the main agreement is terminated. The Processor shall inform the Controller without undue delay if it is unable to comply with this Contract for any reason whatsoever.
- b) The Controller is authorized to terminate the main contract insofar as it concerns the processing of personal data in accordance with this contract if
 - the Controller has suspended the processing of personal data by the Processor in accordance with lit. a and compliance with this Contract has not been restored

within a reasonable period of time, but in any case within one month of the suspension;

- the Processor breaches this Contract to a significant extent or persistently or fails to fulfil its obligations under the GDPR;
 - the Processor fails to comply with a binding decision of a competent court or supervisory authority relating to its obligations under this Contract, the GDPR.
- c) The Processor shall be entitled to terminate the main agreement insofar as it relates to the processing of personal data under this Contract if the Controller insists on the fulfilment of its instructions after being informed by the Processor that its instructions violate applicable legal requirements pursuant to Clause 5.1 lit b.
- d) After termination of the main contract, the Processor shall, at the choice of the Controller, erase all personal data processed on behalf of the Controller and certify to the Controller in the form of a log that this has been done, or return all personal data to the Controller in a format chosen by the controller and erase existing copies, unless there is an obligation to store the personal data under Union law or the applicable law of a Member State. Until the deletion or return of the data, the Processor shall continue to ensure compliance with this Contract.

9. Miscellaneous

Clause 10 of the main contract shall apply accordingly.

Place, date	Place, date
 as Customer (Controller)	corporate migration centre gmbh (Processor)

ANNEX I

Categories of data subjects whose personal data is processed:

- Users of the Tracker Checker software solution
- Employees of the person responsible

Categories of personal data that are processed:

- Periods and duration of stay in the Schengen area,
- Periods and duration of stay in a particular country,
- Period of validity of a residence permit,
- Period of validity of a visa D,
- Expiry date of a residence permit or visa D.

Type of processing:

- Processing is exclusively digital.

Purpose for which the personal data are processed on behalf of the controller:

- The scope of services results from the main contract and includes the following processing operations:
 - Provision of the software solution via remote access (web portal or application)
 - Calculation of the stay in the Schengen area based on the data entered
 - Calculation of residence in a specific country based on the data entered
 - Calculation of the day of departure from the Schengen area.
 - Calculation of the expiry date of a residence permit or visa D.

Duration of processing:

- For the duration of the main contract

ANNEX II

Technical and organizational measures, including to ensure the security of data

- Measures to ensure the ongoing confidentiality, integrity, availability and resilience of the systems and services in connection with the processing
- Measures to ensure the ability to quickly restore the availability of and access to personal data in the event of a physical or technical incident
- Procedures for regularly reviewing, assessing and evaluating the effectiveness of technical and organizational measures to ensure the security of processing
- Measures to identify and authorize users
- Measures to protect data during transmission
- Measures to protect data during storage
- Measures to ensure the physical security of places where personal data is processed
- Measures to ensure the logging of events
- Measures to ensure the system configuration, including the default configuration
- Measures for the internal governance and management of IT and IT security
- Measures for the certification/quality assurance of processes and products
- Measures to ensure data minimisation
- Measures to ensure data quality
- Measures to ensure limited data retention
- Measures to ensure accountability
- Measures to enable technically appropriate data portability and to ensure erasure

If necessary for the fulfilment of the task by the sub-processor, the aforementioned technical and organizational measures must be ensured in the sub-processor's sphere.