

9 December 2020

Dear European Commission,

We are individuals involved with contracts in different capacities. We have the following suggestions, in case you find them helpful.

First, you might consider using the word *contract* in the name of this initiative, instead of *contractual*. As one of us has noted, “The adjective *contractual*, meaning ‘of, pertaining to, or secured by a contract,’ is an awkward mouthful.” See Kenneth A. Adams, *A Manual of Style for Contract Drafting* ¶ 13.193 (4th ed. 2017). It’s also old-fashioned. The word *contract* is simpler and more modern. [This Google NGram graph](#) shows that the phrase *contract clause* is now used more frequently than *contractual clause* in Google’s corpus of digitized books.

Second, we suggest you consider preparing a separate set of the clauses for each module. That would spare those using the clauses from having to do a more awkward copy-and-paste exercise.

Third, we have redrafted the first “Module One” segment to comply with the guidelines in *A Manual of Style for Contract Drafting*—it’s the only comprehensive guide to clear contract language, and it’s in widespread use internationally. We’re not subject-matter experts, so we limited our task to saying more clearly what’s in the original. (Our version also happens to be about 5% shorter.) We’ve attached our version, both clean and marked to show changes from the original. And we’ve explained our changes in an annotated version of the segment we redrafted; it’s also attached.

And fourth, we suggest you apply a consistent enumeration scheme throughout the clauses. In our version of the first “Module One” segment, we have applied a scheme recommended in *A Manual of Style for Contract Drafting* at ¶ 4.62.

Best regards,

Kenneth A. Adams
Martin Clausen
Alex Hamilton

Kenneth A. Adams is a US lawyer who specializes in how to say clearly whatever you want to say in a contract. He’s author of *A Manual of Style for Contract Drafting* (4th ed. 2017), published by the American Bar Association. He’s also chief content officer of LegalSifter, a company that combines artificial intelligence and expertise to help with review of draft contracts. He can be reached at kadams@adamsdrafting.com.

Martin Clausen has spent most of his career advising on all types of technology contracts and serving as general counsel at industry-leading companies in shipping and renewable energy. Though his company Syngrato, Martin is now building practical computable contracts. He’s based in Copenhagen, Denmark. He can be reached at mac@syngrato.com.

Alex Hamilton is the CEO of Radiant Law, a “newlaw” firm he founded in 2011. Previously he was a partner at Latham & Watkins. He specialises in technology, outsourcing, and other commercial contracts. Alex is qualified to practice law in England and New York. He can be reached at alex.hamilton@radiantlaw.com.

**Redrafted Version of the First
“Model One” Component of the
Draft Standard Contractual Clauses**

Kenneth A. Adams
Martin Clausen
Alexander Hamilton

9 December 2020

Clause 2
DATA PROTECTION SAFEGUARDS

2.1 Purpose

Unless it has received a data subject's prior consent, the Data Importer may only process personal data relating to that data subject for purposes compatible with the one or more transfer purposes stated in annex I.B [*The transfer*].

2.2 Transparency

- (a) Subject to clause 2.2(b), to enable data subjects to exercise their rights under clause __ [_____], the Data Importer shall notify them of the following, either directly or through the Data Exporter:
- (1) the Data Importer's name and contact information;
 - (2) if it intends to process personal data other than as stated in annex I.B [*The transfer*], the purpose of that processing; and
 - (3) if it intends to disclose personal data to any third party, the name of that third party and the purpose of that disclosure.
- (b) Clause 2.2(a) will not apply with respect to a data subject in the following circumstances:
- (1) if that data subject has already received that information from the Data Exporter or another source; or
 - (2) if (A) providing that information is not possible for reasons beyond the Data Importer's reasonable control or would impose an unreasonable burden on the Data Importer and (B) the Data Importer uses reasonable efforts to make that information publicly available in a manner intended to have that data subject become aware of it.
- (c) The parties shall provide a copy of clauses __ through __ and any related annexes to any data subject who asks for one. To protect business secrets or other confidential information, the parties may redact text from the annexes in any such copy if they include instead a summary of redacted text as necessary to permit a reasonable data subject to understand what is in the annexes.
- (d) The parties acknowledge that this clause 2.2 is in addition to the obligations of the Data Exporter under articles 13 and 14 of Regulation (EU) 2016/679.

2.3 Data accuracy and data minimization

- (a) As is required for the purposes of the related processing, (1) the parties shall check that the personal data is accurate and shall keep it up to date and (2) the Data Importer shall promptly delete or correct personal data that it learns is inaccurate.
- (b) If either party knows that any personal data is inaccurate or out of date, it shall promptly notify the other party.
- (c) The Data Importer shall process personal data only if it is adequate, relevant, and limited to what is required for the purposes of that processing.

2.4 Storage limitation

The Data Importer shall not retain personal data for longer than is necessary for the purposes of that processing and thereafter shall promptly erase or anonymise it and any backups. The Data Importer shall implement any technical or organisational measures necessary for it to comply with this clause 2.4.

2.5 Security of processing

- (a) The Data Importer and, during transmission, the Data Exporter shall implement appropriate technical and organisational measures to keep personal data secure, including measures to protect personal data against accidental or unlawful destruction, loss, alteration, or unauthorised disclosure or access (each such event, a “**Data Breach**”). In doing so, each party (1) shall take into account the risks involved in the processing, the nature of the personal data, and the nature, scope, context, and purposes of the processing and (2) shall consider encrypting the personal data when transmitting it and anonymising or pseudonymizing it, if doing so does not impede the processing. The Data Importer shall regularly check that measures implemented in accordance with this clause 2.5(a) continue to comply with this clause 2.5(a).
- (b) The Data Importer shall not permit a person to process personal data unless that person has a duty under law or by contract to keep that personal data confidential.
- (c) If a Data Breach occurs, the Data Importer shall implement appropriate measures to address the Data Breach, including measures to mitigate any adverse effect on data subjects.
- (d) If a Data Breach is likely to have a nontrivial adverse effect on one or more data subjects, the Data Importer shall promptly notify the Data Exporter and the competent supervisory authority under clause __ [Supervision] of the following information, as it becomes available:
 - (1) the nature of the Data Breach (including, if known to or reasonably discoverable by the Data Importer, the categories and approximate number of data subjects affected and the categories and approximate number of personal data records involved);
 - (2) the likely consequences of the Data Breach;
 - (3) measures the Data Importer has taken or proposes to take to address the Data Breach; and
 - (4) the contact information of a Data Importer representative from whom additional information about the Data Breach can be obtained.
- (e) Unless doing so would impose an unreasonable burden on the Data Importer, the Data Importer shall promptly notify data subjects affected by a Data Breach that the Data Breach has occurred, including in that notice the information specified in clauses (2) through (4) of clause 2.5(d). The Data Exporter shall assist the Data Importer in complying with this clause 2.5(e).
- (f) The Data Importer shall keep a record of the Data Breach, its effects, and any remedial action taken.

2.6 Special categories of personal data

If the transfer includes personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic or biometric data that

uniquely identifies a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions or offences, the Data Importer shall impose additional restrictions and safeguards appropriate to protect that personal data. Such additional restrictions and safeguards might include limiting the personnel permitted to access that personal data, implementing additional security measures, pseudonymising that personal data, or limiting further disclosure.

2.7 **Onward transfer**

The Data Importer shall not disclose personal data to any third party located outside the European Union unless that disclosure complies with clauses __ through __ and either the recipient in that onward transfer is bound by clauses __ through __ or that onward transfer satisfies any of the following conditions:

- (1) the recipient provides appropriate safeguards for that processing in accordance with articles 46 or 47 Regulation (EU) 2016/679;
- (2) that onward transfer is to a country benefiting from an adequacy decision under article 45 Regulation (EU) 2016/679 that covers that onward transfer;
- (3) the recipient enters into an agreement with the Data Importer offering the same level of data protection as under clauses __ through __ and the Data Importer provides a copy of that agreement to the Data Exporter; and
- (4) the Data Importer (A) receives the written consent of the one or more data subjects, after having informed those data subjects of the purpose of the onward transfer, the identity of each recipient or category of recipient, and the risks that transfer might pose to those data subjects if appropriate data protection safeguards are not implemented and (B) informs the Data Exporter that it has obtained the written consent of those data subjects and, if requested by the Data Exporter, provides the Data Exporter with a copy of the information provided to those Data Subjects to obtain that consent.

2.8 **Processing under the authority of the Data Importer**

The Data Importer shall ensure that any person acting under its authority, including a processor, does not process the data except on instructions from the Data Importer.

2.9 **Recordkeeping**

The Data Importer shall keep a record of processing performed under clauses __ through __ and shall make it available to the competent supervisory authority on request.

**Redrafted Version of the First
“Model One” Component of the
Draft Standard Contractual Clauses:
Marked to Show Changes from the Original Version**

Kenneth A. Adams
Martin Clausen
Alexander Hamilton

9 December 2020

~~Clause 21.1~~
DATA PROTECTION SAFEGUARDS

2.1 **Purpose**

~~The data importer shall not~~Unless it has received a data subject's prior consent, the Data Importer may only process ~~the~~ personal data relating to that data subject for any purposes that are incompatible~~compatible~~ with the specific purpose(s) of the one or more transfer, as set out purposes stated in Annex ~~annex~~ I.B. ~~[Description of the [The transfer(s)], unless it has obtained the data subject's prior consent.].~~

2.2 **~~1.2~~ Transparency**

(a) ~~In order~~Subject to clause 2.2(b), to enable data subjects to effectively exercise their rights pursuant to Clause 5 of Section II, under clause [_____], the ~~data importer~~Data Importer shall ~~inform~~notify them of the following, either directly or through the ~~data exporter~~: Data Exporter:

- (1) ~~of its identity~~the Data Importer's name and contact ~~details~~; information;
 - (i) ~~whereif~~ it intends to process ~~the~~ personal data ~~received from the data exporter for a different purpose other than the purpose(s) of the as stated in annex I.B [The transfer pursuant to Annex~~
- (2) ~~I.B. [Description of], the transfer(s)], purpose~~ of that ~~different purpose~~; processing; and
- (3) ~~(iii) whereif~~ it intends to disclose ~~the~~ personal data to any third party, ~~of the identity~~name of that third party and the purpose of ~~such~~that disclosure.

(b) ~~Paragraph Clause 2.2(a) shall~~will not apply ~~where the~~ with respect to a data subject in the following circumstances:

- (1) ~~if that data subject has already has the received that~~ information, ~~including when such~~ from the Data Exporter or another source; or
- ~~(4)~~(2) if (A) providing that information ~~has already been provided by~~ is not possible for reasons beyond the ~~data exporter, or providing such information proves impossible~~Data Importer's reasonable control or would involve a disproportionate effort. ~~In impose an unreasonable burden on the latter case, Data Importer and (B) the data importer shall, to the extent possible, make the Data Importer uses reasonable efforts to makes that~~ information publicly available. ~~in a manner intended to have that data subject become aware of it.~~

~~(b)~~(c) _____ The ~~Parties~~parties shall provide ~~the data subject with a copy of the Clauses upon request.~~ clauses through _____ and any related annexes to any data subject who asks for one. To the extent necessary to protect business secrets or other confidential information, the ~~Parties~~parties may redact ~~the text of the Annexes to these Clauses prior to sharing a from the annexes in any such copy, but shall provide a meaningful if they include instead a summary where otherwise theof redacted text as necessary to permit a reasonable data subject would not be able to understand what is in the content of the Annexes.~~ annexes.

~~(e)~~(d) _____ Subparagraphs (a) to (c) are notwithstanding. ~~The parties acknowledge that this clause 2.2 is in addition to~~ the obligations of the ~~data exporter~~Data Exporter under

~~Articles~~ articles 13 and 14 of Regulation (EU) 2016/679, ~~in particular to inform the data subject about the transfer of special categories of data.~~

2.3 ~~1.3~~ — Data accuracy and data minimisation

- (a) ~~The Parties shall ensure~~ As is required for the purposes of the related processing, (1) the parties shall check that the personal data is accurate and ~~kept shall keep it~~ up to date, to the extent necessary having regard to the purpose(s) of processing. The data importer shall take every reasonable step to ensure that ~~and~~ (2) the Data Importer shall promptly delete or correct personal data that it learns is inaccurate, ~~having regard to the purpose(s) of processing, is erased or rectified without delay.~~
- (b) ~~If one of the Parties becomes aware~~ either party knows that ~~the any~~ personal data ~~it has transferred or received~~ is inaccurate, or ~~has become outdated~~ out of date, it shall ~~inform~~ promptly notify the other ~~Party without undue delay.~~ party.
- (c) ~~The data importer~~ Data Importer shall ~~ensure that the process~~ personal data only if it is adequate, relevant, and limited to what is ~~necessary in relation to~~ required for the ~~purpose(s)~~ purposes of ~~that~~ processing.

2.4 ~~1.4~~ — Storage limitation

~~The data importer~~ Data Importer shall ~~not~~ retain ~~the~~ personal data for ~~no~~ longer than is necessary for the ~~purpose(s) for which it is processed. Its purposes of that processing and thereafter shall put in place appropriate~~ promptly erase or anonymise it and any backups. The Data Importer shall implement any technical or organisational measures necessary for it to ensure compliance comply with this ~~obligation, including erasure or anonymisation of the data and all of its back-ups at the end of the retention period.~~ clause 2.4.

2.5 ~~1.5~~ — Security of processing

- (a) ~~The data importer~~ Data Importer and, during ~~the~~ transmission, ~~also~~ ~~the data exporter~~ Data Exporter shall implement appropriate technical and organisational measures to ~~ensure the security of the~~ keep personal data secure, including ~~protection~~ measures to protect personal data against accidental or unlawful destruction, loss, alteration, or unauthorised disclosure or access (~~hereinafter “data breach”~~). ~~each such event, a “Data Breach”~~. In ~~assessing the appropriate level of security, they doing so, each party (1)~~ shall take ~~due~~ into account ~~of~~ the risks involved in the processing, the nature of the personal data, and the nature, scope, context ~~and purposes of processing, and in particular consider encryption during transmission and anonymisation or pseudonymisation where this does not prevent fulfilling the purpose of, and purposes of the~~ processing. ~~The data importer and (2)~~ shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.
- (b) ~~The data importer shall ensure that persons authorised to process~~ consider encrypting the personal data ~~have committed themselves to confidentiality when transmitting it and anonymising or are under an appropriate statutory obligation of confidentiality.~~

~~(a) In pseudonymizing it, if doing so does not impede the event of a data breach concerning personal data processed by the data importer, the data importer shall take appropriate processing. The Data Importer shall regularly check that measures implemented in accordance with this clause 2.5(a) continue to comply with this clause 2.5(a).~~

~~(b) The Data Importer shall not permit a person to process personal data unless that person has a duty under law or by contract to keep that personal data confidential.~~

~~(c) If a Data Breach occurs, the Data Importer shall implement appropriate measures to address the data breach Data Breach, including measures to mitigate its possible any adverse effects. effect on data subjects.~~

~~(d) If a data breach Data Breach is likely to result in significant have a nontrivial adverse effect effect on one or more data subjects, the data importer Data Importer shall without undue delay promptly notify both the data exporter Data Exporter and the competent supervisory authority within the meaning of Clause 9 of Section 11 under clause [Supervision]. Such notification shall contain i) a description of] of the following information, as it becomes available:~~

~~(1) the nature of the breach Data Breach (including, where possible, if known to or reasonably discoverable by the Data Importer, the categories and approximate number of data subjects and affected and the categories and approximate number of personal data records concerned), ii) its involved);~~

~~(2) the likely consequences, iii) of the Data Breach;~~

~~(3) measures the Data Importer has taken or proposed proposes to take to address the data breach Data Breach; and iv)~~

~~(4) the details of a contact point from whom more information can be obtained. To the extent it is not possible for the data importer to provide the information at the same time, it may do so in phases without undue further delay. of a Data Importer representative from whom additional information about the Data Breach can be obtained.~~

~~(e) In addition, in such cases, the data importer Unless doing so would impose an unreasonable burden on the Data Importer, the Data Importer shall also, if necessary in cooperation with the data exporter, promptly notify without undue delay the data subjects concerned of the data breach, together with affected by a Data Breach that the Data Breach has occurred, including in that notice the information referred to in subparagraph c), ii) to iv), unless this would involve disproportionate efforts.~~

~~(e) specified in clauses (2) through (4) of clause 2.5(d). The data importer Data Exporter shall document all relevant facts relating to assist the Data Importer in complying with this clause 2.5(e).~~

~~(f) The Data Importer shall keep a record of the data breach, including Data Breach, its effects, and any remedial action taken, and keep a record thereof.~~

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EN

2.6 ~~1.6~~ — Special categories of personal data

~~To the extent~~ if the transfer includes personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, ~~or~~ trade union membership, genetic or biometric data ~~for the purpose of that~~ uniquely ~~identifying~~ identifies a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions or offences ~~(hereinafter "special categories of data")~~, the ~~data importer~~ Data Importer shall ~~apply specific~~ impose additional restrictions and ~~or additional~~ safeguards adapted ~~appropriate~~ to the specific nature of the data ~~protect that personal data. Such additional restrictions and the risks involved. This may for instances~~ safeguards might include ~~restricting~~ limiting the personnel permitted to access ~~the that~~ personal data, ~~implementing~~ additional security measures ~~(such as pseudonymisation) or additional restrictions with respect to, pseudonymising that personal data, or limiting~~ further disclosure.

2.7 ~~1.7~~ — Onward transfers ~~transfer~~

The ~~data importer~~ Data Importer shall not disclose ~~the~~ personal data to ~~any~~ third party located outside the European Union ~~(hereinafter "onward transfer") unless the third party is or agrees to be bound by these Clauses. Alternatively, an~~ that disclosure complies with ~~clauses through~~ and either the recipient in that onward transfer ~~by the data importer may only take place if:~~ is bound by clauses ~~through~~ or that onward transfer satisfies ~~any of the following conditions:~~

- (1) the ~~third party otherwise ensures~~ recipient provides appropriate safeguards ~~pursuant to Articles for that processing in accordance with articles 46 or 47 Regulation (EU) 2016/679 with respect to the processing in question;~~
- (2) ~~the that~~ onward transfer is to a country ~~benefitting~~ benefiting from an adequacy decision ~~pursuant to Article under article 45 Regulation (EU) 2016/679 that covers the that~~ onward transfer;
- (3) the ~~third party recipient~~ enters into an agreement with the ~~data importer~~ Data Importer ~~ensuring~~ Data Importer offering the same level of data protection as under ~~these Clauses,~~ clauses ~~through~~ and the ~~data importer~~ Data Importer provides a copy of ~~these safeguards that agreement~~ to the ~~data exporter;~~ or Data Exporter; and
- (4) the ~~data importer has obtained~~ Data Importer (A) receives the explicit written consent of the ~~one or more data subjects~~ subjects, after having informed ~~him / her~~ those data subjects of the purpose(s) of the onward transfer, the identity of ~~each recipient(s) or categories of recipients and category of recipient, and the possible risks of such that~~ transfer might pose to ~~the those~~ data subject due to the lack of ~~subjects if~~ appropriate data protection safeguards ~~for the onward transfer. In this case, the data importer shall inform the data exporter and, at the request of the data exporter, shall provide~~ are not implemented and (B) informs the Data Exporter ~~that it has obtained the written consent of those data subjects and, if requested by the Data Exporter, provides the Data Exporter with~~ a copy of the information provided to ~~the data subject.~~ those Data Subjects to obtain that consent.

~~Any disclosure may only take place subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.~~

2.8 ~~1.8~~ — Processing under the authority of the ~~data importer~~ Data Importer

The ~~data importer~~ Data Importer shall ensure that any person acting under its authority, including a processor, does not process the data except on instructions from the ~~data importer~~ Data Importer.

~~(b)~~ — ~~1.9~~ — Documentation and compliance

2.9 Recordkeeping

~~(a)~~ — The Parties shall be able to demonstrate compliance with these Clauses. In particular, the ~~data importer~~ Data Importer shall keep ~~appropriate documentation~~ a record of the processing ~~activities performed~~ under its responsibility.

~~(b)~~ — The ~~data importer clauses~~ through and shall make ~~such documentation~~ it available to the competent supervisory authority on request.

**Annotated Original Version of the First
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Kenneth A. Adams
Martin Clausen
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The details of the transfer(s), and in particular the categories of personal data that are transferred and the purposes for which they are transferred, are specified in Annex I.B [Description of the transfer(s)].

Clause 6 - Optional

Docking clause

- (a) An entity that is not a Party to the Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer by completing Annex I.A [List of Parties], Annex I.B [Description of the transfer(s)] and Annex II [Technical and organisational measures].
- (b) Once Annex I.A. is completed and signed, the acceding entity shall be treated as a Party to these Clauses and shall have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex I.A.
- (c) The acceding Party shall have no rights or obligations arising from the period prior to the date of signing Annex I.A.

SECTION II – OBLIGATIONS OF THE PARTIES

Clause 1

Data protection safeguards

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able to satisfy its obligations under these Clauses.

MODULE ONE: Transfer controller to controller

1.1 Purpose

The data importer shall not process the personal data for any purposes that are incompatible with the specific [1]urpose(s) of the transfer, as set out in [2]nnex I.B. [Description of the transfer(s)], [4]nless it has obtained the data subject's prior consent.

1.2 Transparency

- (a) [5]n order to enable data subjects to [6]ffectively exercise their rights [7]ursuant to [8]lause 5 of Section II, the data importer shall inform them, either directly or through the data exporter:
 - (i) of its [9]ntity and contact details;
 - (ii) [10]ere it intends to process the personal data [11]eived from the data exporter [12]r a different purpose than the purpose(s) of the transfer pursuant to Annex I.B. [Description of the transfer(s)], of that different purpose;
 - (iii) where it intends to disclose [13]e personal data to any [14]rd party, of the identity of that third party and the purpose of [15]ch disclosure.

Summary of Comments on EU Standard Contractual Clauses Annotated 9 Dec 2020.pdf

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- | | | | | |
|----|--|---------------|--------------------------|-----------------------------|
| 1 | Number: 1 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 12:34:18 PM |
| | Using (s) is awkward. Instead say <i>one or more</i> ; see <i>MSCD</i> 13.634. | | | |
| 2 | Number: 2 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 12:59:41 PM |
| | Don't use initial capitals in contract references to attachments; see <i>MSCD</i> 5.83. | | | |
| 3 | Number: 3 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 12:57:54 PM |
| | Conditional clauses are usually placed at the beginning of the sentence, unless a conditional clause is long enough that putting it at the end would make the provision easier to read. That's not the case here. See <i>MSCD</i> 3.326. | | | |
| 4 | Number: 4 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 12:55:52 PM |
| | Say instead <i>without</i> —it's more concise. | | | |
| 5 | Number: 5 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 1:01:08 PM |
| | Instead of <i>in order to</i> , say <i>to</i> ; see <i>MSCD</i> 17.19. | | | |
| 6 | Number: 6 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 1:11:03 PM |
| | Redundant. | | | |
| 7 | Number: 7 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 1:11:58 PM |
| | Instead of <i>pursuant to</i> , use <i>under</i> ; it's less wordy and legalistic. See <i>MSCD</i> 17.19. | | | |
| 8 | Number: 8 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 1:15:20 PM |
| | Don't use initial capitals in cross-references to parts of a contract; see <i>MSCD</i> 4.109. <i>The Chicago Manual of Style</i> recommends restrained use of initial capitals; see <i>MSCD</i> 17.29. | | | |
| 9 | Number: 9 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 1:17:06 PM |
| | Just say <i>name</i> , unless you have in mind other information too, in which case be specific. | | | |
| 10 | Number: 10 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 1:25:20 PM |
| | Say instead <i>if</i> . | | | |
| 11 | Number: 11 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 1:18:12 PM |
| | Redundant. | | | |
| 12 | Number: 12 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 1:19:06 PM |
| | Say instead <i>other than as stated in</i> . | | | |
| 13 | Number: 13 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 1:21:03 PM |
| | Extraneous; see <i>MSCD</i> 17.35. | | | |
| 14 | Number: 14 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 1:24:50 PM |
| | Don't use <i>third party</i> : it's a relic of party of the first part and party of the second part. See <i>MSCD</i> 13.820. | | | |
| 15 | Number: 15 | Author: kadam | Subject: Comment on Text | Date: 05-Dec-20 1:27:48 PM |
| | Use <i>that</i> instead of <i>such</i> ; see <i>MSCD</i> 13.719. | | | |

- (b) Paragraph (a) shall not apply where the data subject already has the information, including when such information has already been provided by the data exporter, or providing such information proves impossible or would involve a disproportionate effort. In the latter case, the data importer shall, to the extent possible, make the information publicly available.
- (c) The Parties shall provide the data subject with a copy of the Clauses on request. To the extent necessary to protect business secrets or other confidential information, the Parties may redact the text of the Annexes to these Clauses or to sharing a copy, but shall provide a meaningful summary where otherwise the data subject would not be able to understand the content of the Annexes.
- (d) Paragraphs (a) to (c) are notwithstanding the obligations of the data exporter under Articles 13 and 14 Regulation (EU) 2016/679, particular to inform the data subject about the transfer of special categories of data.

1.3 Accuracy and data minimisation

- (a) The Parties shall ensure that the personal data is accurate and kept up to date, to the extent necessary having regard to the purpose(s) of processing. The data importer shall take every reasonable step to ensure that personal data that is inaccurate, having regard to the purpose(s) of processing, is erased or rectified without delay.
- (b) If one of the Parties becomes aware that the personal data it has transferred or received is inaccurate, or has become outdated, it shall inform the other Party without undue delay.
- (c) The data importer shall ensure that the personal data is adequate, relevant and limited to what is necessary in relation to the purpose(s) of processing.

1.4 Storage limitation

The data importer shall retain the personal data for no longer than necessary for the purpose(s) for which it is processed. It shall put in place appropriate technical or organisational measures to ensure compliance with this obligation, including erasure or anonymisation² of the data and all of its back-ups at the end of the retention period.

1.5 Security of processing

- (a) The data importer and, during the transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the personal data, including protection against accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (hereinafter “data breach”). In assessing the appropriate level of security, they shall take due account of the risks involved in the processing, the nature of the personal data and the nature, scope, context and purposes of processing, and in particular consider encryption during transmission and anonymisation or pseudonymisation where this does not prevent fulfilling the purpose of processing. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.

² In line with recital 26 of the Regulation (EU) 2016/679, this requires rendering the data anonymous in such a way that the individual is no longer identifiable by anyone, and that this process is irreversible.

1	Number: 1	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 1:36:40 PM
	Don't cross-refer to a subclause using just the enumeration of the subclause. Include the enumeration of the unit it's part of; see <i>MSCD</i> 4.107.			
2	Number: 2	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 1:39:57 PM
	Use shall only to impose a duty on a party that's the subject of the sentence; see <i>MSCD</i> 3.72. For an introduction to what <i>MSCD</i> calls "the categories of contract language," see https://www.adamsdrafting.com/published-version-quick-reference-categories-of-contract-language/ .			
3	Number: 3	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 1:53:11 PM
	Awkward, as you're not referring to a specific data subject.			
4	Number: 4	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 1:43:51 PM
	Say instead <i>would impose an unreasonable burden on the Data Importer</i> .			
5	Number: 5	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 1:42:22 PM
	To make it clearer what the context is, add <i>for reasons beyond the Data Importer's reasonable control</i> .			
6	Number: 6	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 1:47:21 PM
	Not clear enough what this involves.			
7	Number: 7	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 1:45:55 PM
	Make this sentence part of the previous sentence.			
8	Number: 8	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 1:46:25 PM
	Not clear enough what the standard is.			
9	Number: 9	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 1:50:36 PM
	Don't use <i>party</i> as a defined term; see <i>MSCD</i> 2.111.			
10	Number: 10	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 1:54:42 PM
	Use the verb <i>ask</i> instead of the abstract noun <i>request</i> ; see <i>MSCD</i> 17.7.			
11	Number: 11	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 1:55:25 PM
	Redundant.			
12	Number: 12	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:02:10 PM
	Redundant.			
13	Number: 13	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:04:23 PM
	Say instead <i>as necessary to permit the data subject</i> .			
14	Number: 14	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:02:52 PM
	Redundant.			
15	Number: 15	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:04:53 PM
	Say instead <i>what is in</i> .			
16	Number: 16	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:06:55 PM
	This is "language of declaration," so begin with <i>The parties acknowledge that</i> ; see <i>MSCD</i> 3.372.			
17	Number: 17	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:07:42 PM
	Say instead <i>in addition to</i> , if that's the intended meaning.			
18	Number: 18	Author: kadam	Subject: Comment on Text	Date: 08-Dec-20 7:19:20 PM
	Don't use <i>in particular</i> ; see <i>MSCD</i> 13.263. And don't include obvious examples; see <i>MSCD</i> 13.369.			
19	Number: 19	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:09:07 PM
	Use a verb instead of this abstract noun; see <i>MSCD</i> 17.7.			
20	Number: 20	Author: kadam	Subject: Comment on Text	Date: 09-Dec-20 12:37:30 PM
	Express differently, as it's not clear what the implications are; see <i>MSCD</i> 3.145.			
21	Number: 21	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:12:03 PM
	Wordy.			
22	Number: 22	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:21:41 PM

- (b) Paragraph (a) shall not apply where the data subject already has the information, including when such information has already been provided by the data exporter, or providing such information proves impossible or would involve a disproportionate effort. In the latter case, the data importer shall, to the extent possible, make the information publicly available.
- (c) The Parties shall provide the data subject with a copy of the Clauses upon request. To the extent necessary to protect business secrets or other confidential information, the Parties may redact the text of the Annexes to these Clauses prior to sharing a copy, but shall provide a meaningful summary where otherwise the data subject would not be able to understand the content of the Annexes.
- (d) Subparagraphs (a) to (c) are notwithstanding the obligations of the data exporter under Articles 13 and 14 Regulation (EU) 2016/679, in particular to inform the data subject about the transfer of special categories of data.

1.3 Accuracy and data minimisation

- (a) The Parties shall ensure that the personal data is accurate and kept up to date, to the extent necessary having regard to the purpose(s) of processing. The data importer shall take every reasonable step to ensure that personal data that is inaccurate, having regard to the purpose(s) of processing, is erased or rectified without delay.
- (b) If one of the Parties comes aware that personal data has transferred or received is inaccurate, or has become outdated, it shall inform the other Party without undue delay.
- (c) The data importer shall ensure that the personal data is adequate, relevant and limited to what is necessary in relation to the purpose(s) of processing.

1.4 Storage limitation

The data importer shall retain the personal data for no longer than necessary for the purpose(s) for which it is processed. It shall put in place appropriate technical or organisational measures to ensure compliance with this obligation, including erasure or anonymisation² of the data and all of its back-ups at the end of the retention period.

1.5 Security of processing

- (a) The data importer and, during the transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the personal data, including protection against accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (hereinafter “data breach”). They shall take account of the risks involved in the processing, the nature of the personal data and the nature, scope, context and purposes of processing, and in particular consider encryption during transmission and anonymisation or pseudonymisation where this does not prevent fulfilling the purpose of processing. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.

² In line with recital 26 of the Regulation (EU) 2016/679, this requires rendering the data anonymous in such a way that the individual is no longer identifiable by anyone, and that this process is irreversible.

Add this sentence to the previous sentence.

11	Number: 23	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:23:58 PM
	Redundant.			
11	Number: 24	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:21:14 PM
	Wordy.			
11	Number: 25	Author: kadam	Subject: Comment on Text	Date: 08-Dec-20 5:21:44 PM
	Say instead <i>that it learns is inaccurate</i> , to make it clear what triggers the obligation.			
11	Number: 26	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:22:04 PM
	Say instead <i>corrected</i> .			
11	Number: 27	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:22:27 PM
	Say instead <i>promptly</i> .			
11	Number: 28	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:25:39 PM
	Redundant.			
11	Number: 29	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:24:32 PM
	Say instead <i>either party</i> .			
11	Number: 30	Author: kadam	Subject: Comment on Text	Date: 08-Dec-20 5:19:34 PM
	Say instead <i>learns</i> .			
11	Number: 31	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:25:18 PM
	Say instead <i>any</i> .			
11	Number: 32	Author: kadam	Subject: Comment on Text	Date: 09-Dec-20 12:36:50 PM
	Express differently, as it's not clear what the implications are; see <i>MSCD 3.145</i> .			
11	Number: 33	Author: kadam	Subject: Comment on Text	Date: 08-Dec-20 5:23:57 PM
	Awkward.			
11	Number: 34	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:29:35 PM
	Stuffy.			
11	Number: 35	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:30:22 PM
	Wordy.			
11	Number: 36	Author: kadam	Subject: Comment on Text	Date: 08-Dec-20 5:42:52 PM
	Move this concept to the previous sentence.			
11	Number: 37	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:43:16 PM
	Use verbs instead of abstract nouns; see <i>MSCD 17.7</i> .			
11	Number: 38	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:42:35 PM
	Use the verb <i>comply</i> instead of the abstract noun <i>compliance</i> ; see <i>MSCD 17.7</i> .			
11	Number: 39	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:45:29 PM
	Use a verb instead of an abstract noun; see <i>MSCD 17.7</i> .			
11	Number: 40	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:47:34 PM
	Redundant.			
11	Number: 41	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:48:38 PM
	Use an adjective instead of an abstract noun; see <i>MSCD 17.7</i> .			
11	Number: 42	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:49:35 PM
	Use a verb instead of an abstract noun; see <i>MSCD 17.7</i> .			
11	Number: 43	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:50:00 PM
	Redundant.			
11	Number: 44	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:50:46 PM
	Wordy.			
11	Number: 45	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:52:10 PM
	Be specific.			
11	Number: 46	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 2:52:25 PM
	Redundant.			

- (b) Paragraph (a) shall not apply where the data subject already has the information, including when such information has already been provided by the data exporter, or providing such information proves impossible or would involve a disproportionate effort. In the latter case, the data importer shall, to the extent possible, make the information publicly available.
- (c) The Parties shall provide the data subject with a copy of the Clauses upon request. To the extent necessary to protect business secrets or other confidential information, the Parties may redact the text of the Annexes to these Clauses prior to sharing a copy, but shall provide a meaningful summary where otherwise the data subject would not be able to understand the content of the Annexes.
- (d) Subparagraphs (a) to (c) are notwithstanding the obligations of the data exporter under Articles 13 and 14 Regulation (EU) 2016/679, in particular to inform the data subject about the transfer of special categories of data.

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- (b) If one of the Parties becomes aware that the personal data it has transferred or received is inaccurate, or has become outdated, it shall inform the other Party without undue delay.
- (c) The data importer shall ensure that the personal data is adequate, relevant and limited to what is necessary in relation to the purpose(s) of processing.

1.4 Storage limitation

The data importer shall retain the personal data for no longer than necessary for the purpose(s) for which it is processed. It shall put in place appropriate technical or organisational measures to ensure compliance with this obligation, including erasure or anonymisation² of the data and all of its back-ups at the end of the retention period.

1.5 Security of processing

- (a) The data importer and, during the transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the personal data, including protection against accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (hereinafter “data breach”). In assessing the appropriate level of security, they shall take due account of the risks involved in the processing, the nature of the personal data and the nature, scope, context and purposes of processing, and in particular consider ⁴⁷ encryption during transmission and anonymisation or pseudonymisation where this ⁴⁸ does not prevent fulfilling the purpose of processing. The data importer shall carry out regular ⁴⁹ checks to ensure that these measures continue to ⁵⁰ provide an appropriate level of security.

² In line with recital 26 of the Regulation (EU) 2016/679, this requires rendering the data anonymous in such a way that the individual is no longer identifiable by anyone, and that this process is irreversible.

Number: 47 Author: kadam Subject: Comment on Text Date: 05-Dec-20 2:53:25 PM
Use verbs instead of abstract nouns; see *MSCD* 17.7.

Number: 48 Author: kadam Subject: Comment on Text Date: 05-Dec-20 2:54:24 PM
Wordy.

Number: 49 Author: kadam Subject: Comment on Text Date: 05-Dec-20 2:55:05 PM
Use a verb instead of an abstract noun; see *MSCD* 17.7.

Number: 50 Author: kadam Subject: Comment on Text Date: 05-Dec-20 2:57:15 PM
Refer to this clause.

- (b) The data importer shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- (c) In the event of a data breach concerning personal data processed by the data importer, the data importer shall take appropriate measures to address the data breach, including measures to mitigate its possible adverse effects.
- (d) If a data breach is likely to result in significant adverse effects, the data importer shall without undue delay notify both the data exporter and the competent supervisory authority within the meaning of Clause 9 of Section II [Supervision]. Each notification shall contain i) description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), ii) its likely consequences, iii) the measures taken or proposed to address the data breach and iv) details of a contact point from whom more information can be obtained. If the extent it is not possible for the data importer to provide the information at the same time, it may do so in phases without undue further delay.
- (e) In addition, in such cases, the data importer shall, also, if necessary in cooperation with the data exporter, notify without undue delay the data subjects concerned of the data breach, together with the information referred to in subparagraph c), ii) to iv), unless this would involve disproportionate efforts.
- (f) The data importer shall document all relevant facts relating to the data breach, including its effects and any remedial action taken, and keep a record thereof.

1.6 Special categories of personal data

In the extent the transfer includes personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions or offences (hereinafter "special categories of data"), the data importer shall apply specific restrictions and/or additional safeguards adapted to the specific nature of the data and the risks involved. This may for instance include restricting personnel permitted to access the personal data, additional security measures (such as pseudonymisation) or additional restrictions with respect to further disclosure.

1.7 Onward transfers

The data importer shall not disclose the personal data to a third party located outside the European Union³ (hereinafter "onward transfer") unless the third party is or agrees to be bound by these Clauses. Alternatively, an onward transfer by the data importer may only take place if:

³ The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereof. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purposes of these Clauses.

Number: 1	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:07:19 PM
Wordy.			
Number: 2	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:07:08 PM
Unclear; use instead language of prohibition subject to a condition.			
Number: 3	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:08:21 PM
Redundant.			
Number: 4	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:07:53 PM
Say instead <i>if</i> ; see MSCD 17.7.			
Number: 5	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:08:42 PM
Say instead reasonable.			
Number: 6	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:09:53 PM
On whom?			
Number: 7	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:14:18 PM
It's not clear what level of importance this connotes; see MSCD 9.7. Use instead <i>nontrivial</i> ; see MSCD 9.21.			
Number: 8	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:18:19 PM
Redundant; see https://www.adamsdrafting.com/dont-use-both-and-as-a-linking-expression/ .			
Number: 9	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:19:12 PM
Wordy.			
Number: 10	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:20:34 PM
Shorten by combining this sentence with the previous sentence.			
Number: 11	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:20:55 PM
Redundant.			
Number: 12	Author: kadam	Subject: Comment on Text	Date: 08-Dec-20 5:56:14 PM
Could be clearer.			
Number: 13	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:23:55 PM
Instead of using the passive voice and dropping the actor, use the active voice; see MSCD 3.11.			
Number: 14	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:24:50 PM
Awkward.			
Number: 15	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:27:00 PM
Instead say in the previous sentence <i>as it becomes available</i> .			
Number: 16	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:35:37 PM
Unclear.			
Number: 17	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:28:09 PM
Redundant.			
Number: 18	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:29:56 PM
Omit; see MSCD 13.17.			
Number: 19	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:36:41 PM
Awkward.			
Number: 20	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:37:59 PM
Awkward.			
Number: 21	Author: kadam	Subject: Comment on Text	Date: 08-Dec-20 7:52:15 PM
It's unclear whether this refers to the notice or to the information included.			
Number: 22	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:45:36 PM
Redundant.			
Number: 23	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 6:59:26 PM
Say instead <i>if</i> .			

- (b) The data importer shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- (c) In the event of a data breach concerning personal data processed by the data importer, the data importer shall take appropriate measures to address the data breach, including measures to mitigate its possible adverse effects.
- (d) If a data breach is likely to result in significant adverse effects, the data importer shall without undue delay notify both the data exporter and the competent supervisory authority within the meaning of Clause 9 of Section II [Supervision]. Such notification shall contain i) a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), ii) its likely consequences, iii) the measures taken or proposed to address the data breach and iv) the details of a contact point from whom more information can be obtained. To the extent it is not possible for the data importer to provide the information at the same time, it may do so in phases without undue further delay.
- (e) In addition, in such cases, the data importer shall also, if necessary in cooperation with the data exporter, notify without undue delay the data subjects concerned of the data breach, together with the information referred to in subparagraph c), ii) to iv), unless this would involve disproportionate efforts.
- (f) The data importer shall document all relevant facts relating to the data breach, including its effects and any remedial action taken, and keep a record thereof.

1.6 Special categories of personal data

To the extent the transfer includes personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, ²⁴ trade union membership, genetic or biometric data ²⁵ the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions or offences ²⁶ hereinafter "special categories of data"), the data importer shall apply specific restrictions ²⁷ d/or additional safeguards ²⁸ adapted to the specific nature of the data and the risks involved. This may for instance include restricting personnel permitted to access the personal data, additional security measures ²⁹ (such as pseudonymisation) or additional ³⁰ restrictions with respect to further disclosure.

1.7 Onward transfers

The data importer shall not disclose the personal data to a third party located outside the European Union³ ³¹ hereinafter "onward transfer") unless the ³² rd party is ³³ agrees to be bound by these Clauses. Alternatively, an onward transfer by the data importer may only take place if:

³ The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereof. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purposes of these Clauses.

- Number: 24 Author: kadam Subject: Comment on Text Date: 05-Dec-20 7:00:30 PM
Omit.
-
- Number: 25 Author: kadam Subject: Comment on Text Date: 05-Dec-20 7:03:18 PM
Say instead *that uniquely identifies*.
-
- Number: 26 Author: kadam Subject: Comment on Text Date: 05-Dec-20 7:07:04 PM
Omitted: this phrase is otherwise used only in 1.2(d), so should be easy to avoid creating the defined term; see *MSCD* 6.115.
-
- Number: 27 Author: kadam Subject: Comment on Text Date: 05-Dec-20 8:05:48 PM
Don't use *and/or*; see *MSCD* 11.86. In this case, use instead *and*.
-
- Number: 28 Author: kadam Subject: Comment on Text Date: 05-Dec-20 8:06:23 PM
Wordy.
-
- Number: 29 Author: kadam Subject: Comment on Text Date: 05-Dec-20 8:08:52 PM
This sentence already consists of examples. Giving examples of examples might be overkill.
-
- Number: 30 Author: kadam Subject: Comment on Text Date: 05-Dec-20 8:07:40 PM
Use a verb instead of an abstract noun; see *MSCD* 17.7.
-
- Number: 31 Author: kadam Subject: Comment on Text Date: 05-Dec-20 8:12:35 PM
This defined term is unnecessary.
-
- Number: 32 Author: kadam Subject: Comment on Text Date: 05-Dec-20 8:18:43 PM
Use instead *recipient*.
-
- Number: 33 Author: kadam Subject: Comment on Text Date: 08-Dec-20 8:01:32 PM
This is redundant: agreeing to be bound has the effect of making you bound.

- (i) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 Regulation (EU) 2016/679 with respect to the processing in question;
- (ii) the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 Regulation (EU) 2016/679 that covers the onward transfer;
- (iii) the third party enters into an agreement with the data importer ensuring the same level of data protection as under these Clauses, and the data importer provides a copy of these safeguards to the data exporter; or
- (iv) the data importer has obtained the explicit consent of the data subject, after having informed him / her of the purpose(s) of the onward transfer, the identity of recipient(s) or categories of recipients and of the possible risks of such transfer to the data subject due to the lack of appropriate data protection safeguards for the onward transfer. In this case, the data importer shall inform the data exporter and, at the request of the data exporter, shall provide a copy of the information provided to the data subject.

Any disclosure may only take place subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

1.8 Processing under the authority of the data importer

The data importer shall ensure that any person acting under its authority, including a processor, does not process the data except on instructions from the data importer.

1.9 Documentation and compliance

- (a) The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer shall keep appropriate documentation of the processing activities under its responsibility.
- (b) The data importer shall make such documentation available to the competent supervisory authority on request.

MODULE TWO: Transfer controller to processor

1.1 Instructions

- (a) The data importer shall process the personal data only on documented instructions from the data exporter. The data exporter may give further instructions regarding the data processing, within the framework the contract agreed with the data importer, throughout the duration of the contract, but such instructions shall always be documented.
- (b) The data importer shall immediately inform the data exporter if it is unable to follow those instructions.

1.2 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B [Description of the transfer(s)].

Number: 1	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 8:19:05 PM
Wordy.			
Number: 2	Author: kadam	Subject: Comment on Text	Date: 08-Dec-20 8:09:36 PM
Say instead <i>that agreement</i> .			
Number: 3	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 8:21:46 PM
Could be more than one data subject.			
Number: 4	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 8:23:06 PM
Use a more economical way of avoiding gender-specific language; see <i>MSCD</i> 17.11.			
Number: 5	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 8:29:15 PM
Don't add a sentence at the end of the text constituting the last tabulated enumerated clause in a series; see <i>MSCD</i> 4.44. In this case, make this sentence part of that tabulated enumerated clause.			
Number: 6	Author: kadam	Subject: Comment on Text	Date: 08-Dec-20 8:16:54 PM
It would be clearer and more concise to place this in the first part of the provision.			
Number: 7	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 8:47:05 PM
Don't use <i>in particular</i> ; see <i>MSCD</i> 13.263. And purpose limitation clearly constitutes one of the safeguards, so it's unnecessary to include it; see <i>MSCD</i> 13.369.			
Number: 8	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 8:58:40 PM
This seems unnecessary: all contract parties have to be prepared to demonstrate compliance.			
Number: 9	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 8:59:49 PM
Redundant—a reasonableness standard is implicit.			
Number: 10	Author: kadam	Subject: Comment on Text	Date: 05-Dec-20 9:00:38 PM
Combine this sentence with the previous sentence.			