

DATA TRANSFER AGREEMENT

This **Data Transfer Agreement** (hereinafter: „**DTA**“) is made and entered into between

The CLIENT, as defined in the Agreement and hereinafter referred to as „**CLIENT**“ or „**data exporter**“

and

PROVIDER, as defined in the Agreement and hereinafter referred to as „**Infobip**“ or „**data importer**“, and together with the CLIENT, the „**Parties**“.

INTRODUCTION

Whereas

- a) The Parties have entered into Agreement that require the processing of personal data;
- b) In the course of the processing of personal data as defined in the Agreement, it is necessary for the CLIENT to transfer as data exporter, personal data to Infobip as a data importer;
- c) The European Commission adopted the [Commission Implementing Decision \(EU\) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation \(EU\) 2016/679 of the European Parliament and of the Council \[2021\] OJ L199/31](#) (hereinafter: „**EU Standard Contractual Clauses**“);
- d) The United Kingdom's Information Commissioner issued the International Data Transfer Addendum to the EU Commission Standard Contractual Clauses under S119A(1) of the Data Protection Act (hereinafter: „**UK Addendum**“).

Now, therefore, the Parties agree as follows:

1. This DTA is made and entered into as of the Effective Date. The Effective Date of this DTA shall be the date when an agreement between the data exporter and data importer in accordance with Art. 28 of the GDPR comes into effect.
2. If and when the data exporter's and data importer's country of origin reach an adequacy regulation, this DTA shall cease to be in effect from the day the adequacy regulation enters into force.
3. This DTA is an addendum to the Agreement. All other original terms and conditions of the Agreement shall remain unchanged and in full force and effect. For all questions not regulated under this DTA, the provisions of the Agreement shall apply.
4. To the extent applicable, the Parties have agreed to the terms of this DTA to repeal the EU Standard Contractual Clauses for international data transfers that were in place before this DTA entered into force. The Parties agree to implement the DTA provisions with regard to the international data transfers subject to the European Union's and United Kingdom's data protection laws as set forth below.

A. EU Standard Contractual Clauses

1. The EU Standard Contractual Clauses are hereby incorporated into this Data Transfer Agreement by this reference.
2. The Parties will apply **Modules Two and Three** of the EU Standard Contractual Clauses to international transfers of personal data carried out by the CLIENT, acting as data exporter, to Infobip, acting as data importer, located in a third country for which the European Union did not issue a decision on an adequate level of personal data protection.
3. To implement the EU Standard Contractual Clauses, the Parties agree:
 - a. Not to apply the optional docking clause in Clause 7
 - b. To apply the General written authorisation (Option 2) in Clause 9 paragraph (a) and to introduce a notification period of 30 days in a way that paragraph reads as follows:

The data importer has the data exporter's general authorisation for the engagement of sub-processor(s) from an agreed list. The data importer shall specifically inform the data exporter in writing of any intended changes to that list through the addition or replacement of sub-processors at least 30 days in advance, thereby giving the data exporter sufficient time to be able to object to such changes prior to the engagement of the sub-processor(s). The data importer shall provide the data exporter with the information necessary to enable the data exporter to exercise its right to object.

- c. Not to apply the Option in Clause 11
- d. To apply Option 2 in Clause 17 and establish that the EU Standard Contractual Clauses are governed by the law of the country where the data exporter is located, and, if it is not applicable, then the governing law will be the law of the Republic of Croatia, in a way that paragraph reads as follows: *These Clauses shall be governed by the law of one of the EU Member States, provided such law allows for third-party beneficiary rights. The Parties agree that this shall be the law of the country where the data exporter is located. If it is not applicable, then the law of the Republic of Croatia.*
- e. To choose the jurisdiction of the country where the data exporter is located, and if it is not applicable, then the jurisdiction of the Croatian courts in Clause 18 paragraph (b), in a way that paragraph reads as follows: *The Parties agree that those shall be the courts of the country where the data exporter is located. If it is not applicable, then the courts of the Republic of Croatia.*

B. UK Addendum

The UK Addendum is applied to international transfers of personal data carried out by the CLIENT, acting as data exporter, to Infobip, acting as data importer, located in a third country for which the United Kingdom did not issue a decision on an adequate level of personal data protection, as follows:

International Data Transfer Addendum to the EU Commission Standard Contractual Clauses

VERSION B1.0, in force 21 March 2022

This Addendum has been issued by the Information Commissioner for Parties making Restricted Transfers. The Information Commissioner considers that it provides Appropriate Safeguards for Restricted Transfers when it is entered into as a legally binding contract.

Part 1: Tables

Table 1: Parties

Start date	<i>Effective Date as defined above</i>	
The Parties	Exporter (who sends the Restricted Transfer): CLIENT	Importer (who receives the Restricted Transfer): Infobip
Parties' details	<i>Indicated in Annex IV to the Data Transfer Agreement</i>	<i>Indicated in Annex IV to the Data Transfer Agreement</i>
Key Contact	<i>Indicated in Annex IV to the Data Transfer Agreement</i>	<i>Indicated in Annex IV to the Data Transfer Agreement</i>

Table 2: Selected SCCs, Modules and Selected Clauses

Addendum EU SCCs		X The Approved EU SCCs, including the Appendix Information and with only the following modules, clauses or optional provisions of the Approved EU SCCs brought into effect for the purposes of this Addendum:				
Module	Module in operation	Clause 7 (Docking Clause)	Clause 11 (Option)	Clause 9a (Prior Authorisation or General Authorisation)	Clause 9a (Time period)	Is personal data received from the Importer combined with personal data collected by the Exporter?
1	N/A	N/A	N/A	N/A	N/A	N/A
2	X	N/A	N/A	General authorisation	30 days	N/A
3	X	N/A	N/A	General authorisation	30 days	N/A
4	N/A	N/A	N/A	N/A	N/A	N/A

Table 3: Appendix Information

“Appendix Information” means the information which must be provided for the selected modules as set out in the Appendix of the Approved EU SCCs (other than the Parties), and which for this Addendum is set out in:

Annex 1A: List of Parties: Annex I A to the Data Transfer Agreement

Annex 1B: Description of Transfer: Annex I B to the Data Transfer Agreement

Annex II: Technical and organisational measures including technical and organisational measures to ensure the security of the data: Annex II to the Data Transfer Agreement

Annex III: List of Sub processors

Annex IV: Details of the Parties

Table 4: Ending this Addendum when the Approved Addendum Changes

Ending this Addendum when the Approved Addendum changes	Which Parties may end this Addendum as set out in Section 19: X Importer X Exporter
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Part 2: Mandatory Clauses

Entering into this Addendum

- Each Party agrees to be bound by the terms and conditions set out in this Addendum, in exchange for the other Party also agreeing to be bound by this Addendum.
- Although Annex 1A and Clause 7 of the Approved EU SCCs require signature by the Parties, for the purpose of making Restricted Transfers, the Parties may enter into this Addendum in any way that makes them legally binding on the Parties and allows data subjects to enforce their rights as set out in this Addendum. Entering into this Addendum will have the same effect as signing the Approved EU SCCs and any part of the Approved EU SCCs.

Interpretation of this Addendum

- Where this Addendum uses terms that are defined in the Approved EU SCCs, those terms shall have the same meaning as in the Approved EU SCCs. In addition, the following terms have the following meanings:

Addendum	<i>This International Data Transfer Addendum which is made up of this Addendum incorporating the Addendum EU SCCs.</i>
Addendum EU SCCs	<i>The version(s) of the Approved EU SCCs which this Addendum is appended to, as set out in Table 2, including the Appendix Information.</i>
Appendix Information	<i>As set out in Table 3.</i>
Appropriate Safeguards	<i>The standard of protection over the personal data and of data subjects' rights, which is required by UK Data Protection Laws when you are making a Restricted Transfer relying on standard data protection clauses under Article 46(2)(d) UK GDPR.</i>
Approved Addendum	<i>The template Addendum issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 17.</i>
Approved EU SCCs	<i>The Standard Contractual Clauses set out in the Annex of Commission Implementing Decision (EU) 2021/914 of 4 June 2021.</i>
ICO	<i>The Information Commissioner.</i>
Restricted Transfer	<i>A transfer which is covered by Chapter V of the UK GDPR.</i>
UK	<i>The United Kingdom of Great Britain and Northern Ireland.</i>
UK Data Protection Laws	<i>All laws relating to data protection, the processing of personal data, privacy and/or electronic communications in force from time to time in the UK, including the UK GDPR and the Data Protection Act 2018.</i>
UK GDPR	<i>As defined in section 3 of the Data Protection Act 2018.</i>

4. *This Addendum must always be interpreted in a manner that is consistent with UK Data Protection Laws and so that it fulfils the Parties' obligation to provide the Appropriate Safeguards.*
5. *If the provisions included in the Addendum EU SCCs amend the Approved SCCs in any way which is not permitted under the Approved EU SCCs or the Approved Addendum, such amendment(s) will not be incorporated in this Addendum and the equivalent provision of the Approved EU SCCs will take their place.*
6. *If there is any inconsistency or conflict between UK Data Protection Laws and this Addendum, UK Data Protection Laws applies.*
7. *If the meaning of this Addendum is unclear or there is more than one meaning, the meaning which most closely aligns with UK Data Protection Laws applies.*
8. *Any references to legislation (or specific provisions of legislation) means that legislation (or specific provision) as it may change over time. This includes where that legislation (or specific provision) has been consolidated, re-enacted and/or replaced after this Addendum has been entered into.*

Hierarchy

9. *Although Clause 5 of the Approved EU SCCs sets out that the Approved EU SCCs prevail over all related agreements between the parties, the parties agree that, for Restricted Transfers, the hierarchy in Section 9 will prevail.*
10. *Where there is any inconsistency or conflict between the Approved Addendum and the Addendum EU SCCs (as applicable), the Approved Addendum overrides the Addendum EU SCCs, except where (and in so far as) the inconsistent or conflicting terms of the Addendum EU SCCs provides greater protection for data subjects, in which case those terms will override the Approved Addendum.*
11. *Where this Addendum incorporates Addendum EU SCCs which have been entered into to protect transfers subject to the General Data Protection Regulation (EU) 2016/679 then the Parties acknowledge that nothing in this Addendum impacts those Addendum EU SCCs.*

Incorporation of and changes to the EU SCCs

12. *This Addendum incorporates the Addendum EU SCCs which are amended to the extent necessary so that:*
- a. *together they operate for data transfers made by the data exporter to the data importer, to the extent that UK Data Protection Laws apply to the data exporter's processing when making that data transfer, and they provide Appropriate Safeguards for those data transfers;*
 - b. *Sections 9 to 10 override Clause 5 (Hierarchy) of the Addendum EU SCCs; and*
 - c. *this Addendum (including the Addendum EU SCCs incorporated into it) is (1) governed by the laws of England and Wales and (2) any dispute arising from it is resolved by the courts of England and Wales, in each case unless the laws and/or courts of Scotland or Northern Ireland have been expressly selected by the Parties.*
13. *Unless the Parties have agreed alternative amendments which meet the requirements of Section 12, the provisions of Section 14 will apply.*
14. *No amendments to the Approved EU SCCs other than to meet the requirements of Section 12 may be made.*
15. *The following amendments to the Addendum EU SCCs (for the purpose of Section 12) are made:*
- a. *References to the "Clauses" means this Addendum, incorporating the Addendum EU SCCs;*
 - b. *In Clause 2, delete the words:*

"and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679";
 - c. *Clause 6 (Description of the transfer(s)) is replaced with:*

"The details of the transfers(s) and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred) are those specified in Annex I.B where UK Data Protection Laws apply to the data exporter's processing when making that transfer.";
 - d. *Clause 8.7(i) of Module 1 is replaced with:*

"It is to a country benefitting from adequacy regulations pursuant to Section 17A of the UK GDPR that covers the onward transfer";
 - e. *Clause 8.8(i) of Modules 2 and 3 is replaced with:*

"the onward transfer is to a country benefitting from adequacy regulations pursuant to Section 17A of the UK GDPR that covers the onward transfer;"
 - f. *References to "Regulation (EU) 2016/679", "Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)" and "that Regulation" are all replaced by "UK Data Protection Laws". References to specific Article(s) of "Regulation (EU) 2016/679" are replaced with the equivalent Article or Section of UK Data Protection Laws;*
 - g. *References to Regulation (EU) 2018/1725 are removed;*
 - h. *References to the "European Union", "Union", "EU", "EU Member State", "Member State" and "EU or Member State" are all replaced with the "UK";*
 - i. *The reference to "Clause 12(c)(i)" at Clause 10(b)(i) of Module one, is replaced with "Clause 11(c)(i)";*
 - j. *Clause 13(a) and Part C of Annex I are not used;*
 - k. *The "competent supervisory authority" and "supervisory authority" are both replaced with the "Information Commissioner";*

l. In Clause 16(e), subsection (i) is replaced with:

“the Secretary of State makes regulations pursuant to Section 17A of the Data Protection Act 2018 that cover the transfer of personal data to which these clauses apply;”;

m. Clause 17 is replaced with:

“These Clauses are governed by the laws of England and Wales.”;

n. Clause 18 is replaced with:

“Any dispute arising from these Clauses shall be resolved by the courts of England and Wales. A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of any country in the UK. The Parties agree to submit themselves to the jurisdiction of such courts.”; and

o. The footnotes to the Approved EU SCCs do not form part of the Addendum, except for footnotes 8, 9, 10 and 11.

Amendments to this Addendum

16. The Parties may agree to change Clauses 17 and/or 18 of the Addendum EU SCCs to refer to the laws and/or courts of Scotland or Northern Ireland.

17. If the Parties wish to change the format of the information included in Part 1: Tables of the Approved Addendum, they may do so by agreeing to the change in writing, provided that the change does not reduce the Appropriate Safeguards.

18. From time to time, the ICO may issue a revised Approved Addendum which:

- a. makes reasonable and proportionate changes to the Approved Addendum, including correcting errors in the Approved Addendum; and/or*
- b. reflects changes to UK Data Protection Laws;*

The revised Approved Addendum will specify the start date from which the changes to the Approved Addendum are effective and whether the Parties need to review this Addendum including the Appendix Information. This Addendum is automatically amended as set out in the revised Approved Addendum from the start date specified.

19. If the ICO issues a revised Approved Addendum under Section 17, if any Party selected in Table 4 “Ending the Addendum when the Approved Addendum changes”, will as a direct result of the changes in the Approved Addendum have a substantial, disproportionate and demonstrable increase in:

- a its direct costs of performing its obligations under the Addendum; and/or*
- b its risk under the Addendum,*

and in either case it has first taken reasonable steps to reduce those costs or risks so that it is not substantial and disproportionate, then that Party may end this Addendum at the end of a reasonable notice period, by providing written notice for that period to the other Party before the start date of the revised Approved Addendum.

20. The Parties do not need the consent of any third party to make changes to this Addendum, but any changes must be made in accordance with its terms.

Alternative Part 2 Mandatory Clauses:

Mandatory Clauses

Part 2: Mandatory Clauses of the Approved Addendum, being the template Addendum B.1.0 issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 17 of those Mandatory Clauses.

C. ANNEXES

Annex I

A. List of Parties

Data exporter(s): [Identity and contact details of the data exporter(s) and, where applicable, of its/their data protection officer and/or representative in the European Union]: ***Indicated in Annex IV of the Data Transfer Agreement.***

Activities relevant to the data transferred under these Clauses: ***The same as described in the agreement between the data exporter and data importer in accordance with Art. 28 of the GDPR.***

Role (controller/processor): ***controller/processor***

Data importer(s): [Identity and contact details of the data importer(s), including any contact person with responsibility for data protection]: ***Indicated in Annex IV of the Data Transfer Agreement.***

Activities relevant to the data transferred under these Clauses: ***The same as described in the agreement between the data exporter and data importer in accordance with Art. 28 of the GDPR.***

Role (controller/processor): ***processor/sub-processor***

B. Description of transfer

Categories of data subjects whose personal data is transferred: ***The same as described in the agreement between the data exporter and data importer in accordance with Art. 28 of the GDPR.***

Categories of personal data transferred: ***The same as described in the agreement between the data exporter and data importer in accordance with Art. 28 of the GDPR.***

Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures: ***Non-applicable.***

The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis): ***Continuous basis.***

Nature of the processing: ***The same as described in the agreement between the data exporter and data importer in accordance with Art. 28 of the GDPR.***

Purpose(s) of the data transfer and further processing: ***The same as described in the agreement between the data exporter and data importer in accordance with Art. 28 of the GDPR.***

The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period: ***The same as described in the agreement between the data exporter and data importer in accordance with Art. 28 of the GDPR.***

For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing: ***The same as described in the agreement between the data exporter and data importer in accordance with Art. 28 of the GDPR.***

C. Competent supervisory authority

Identify the competent supervisory authority/ies in accordance with Clause 13: *The authority from the country where the data exporter is located. If it is not applicable, then the Croatian Data Protection Authority.*

Annex II - Technical and organisational measures including technical and organisational measures to ensure the security of the data

Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons:

Information about the technical and organisational measures implemented by the data importer can be found in the following link:

https://cf-cdn.infobip.com/assets/downloads/Technical_and_organisational_measures.pdf.

For transfers to (sub-) processors, also describe the specific technical and organisational measures to be taken by the (sub-) processor to be able to provide assistance to the controller and, for transfers from a processor to a sub-processor, to the data exporter:

The same measures as the ones described above.

Annex III – List of sub-processors

The data exporter has authorised the use of the same sub-processors as described in the agreement between the data exporter and data importer in accordance with Art. 28 of the GDPR.

Annex IV – Details of the Parties

The Parties	Exporter (who sends the Restricted Transfer)	Importer (who receives the Restricted Transfer)
Parties' details	Details of the Parties are specified in the agreement between the data exporter and data importer in accordance with Art. 28 of the GDPR.	Details of the Parties are specified in the agreement between the data exporter and data importer in accordance with Art. 28 of the GDPR.
Key Contact	The data exporter shall provide the data importer with the email address and other contact details for data protection enquiries, including personal data breach notifications. The data importer shall store the data exporter's email address and other contact details in its systems. In any case, the data importer reserves the right to send personal data breach notifications to the authorised user of the data exporter's account (e.g., its related business contacts).	Chief Privacy Officer privacy@infobip.com Utinjska 29, 10000 Zagreb, Croatia