Data Processing Agreement

1. Preamble

a. SAS Agilitation is a French simplified joint stock company with a share capital of €88,083.00 located at 15 rue du Général Campredon 34000 Montpellier (France). Agilitation is registered with the Montpellier Commercial Court under Siren number 821 947 009.

b. As part of the use of its solutions, Agilitation may be required to act as a Processor on behalf of its Customers.

c. This DPA therefore provides a framework for the relationship between Agilitation and its Customers in accordance with the obligations laid down by Data Protection Regulations, and in particular by Article 28 of the GDPR for customers located in the European Union.

d. Agilitation may also collect some personal data about users, their representatives, employees or agents, in particular to:

- Manage the contractual relationship and provide Axeptio® services.
- Invoice services and ensure administrative follow-up.
- Improve service performance and security.
- Comply with applicable legal and regulatory obligations.

  In this context, Agilitation acts as data controller.

2. Definitions

a. When a term appears with an initial capital letter and is included in the list below, it then has the meaning assigned to it contractually, regardless of whether it is used in the singular or plural.

b. These definitions apply in the same way to any Annexes.

- ***Customer:*** *refers to the public or private legal entity that uses the Axeptio® software suite.*
- ***Personal Data*** *(or "Data") : any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;*
- ***Entrusted Data:*** *refers to Personal Data processed by Agilitation on behalf of the Customer.*
- ***DPA*** *or "Data processing Agreement" : This document. The DPA or personal data processing agreement is the document by which the controller and the processor organise their respective responsibilities with regard to one or more data processing operations carried out by the processor on behalf of and for the controller.*
- ***Data subject(s)****: refers to the natural persons whose personal data is processed or outsourced by the Parties.*
- ***Data Protection Regulations****: means the regulations in force in the states where the Customer deploys the Axeptio® software suite, in particular the GDPR.*
- ***General Data Protection Regulation*** *or* ***GDPR:*** *refers to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, applicable since 25 May 2018.*
- ***Sub-processors :*** *means any service provider called upon by Agilitation to fulfil its contractual obligations and who, in so doing, is required to process the Entrusted Data on behalf of Customer, at the request of Agilitation.*
- ***Software suite****: also referred to as "Axeptio". Refers to all the software developed and marketed by Agilitation.*
- ***Processing:*** *means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;*
- ***Violation:*** *means any breach of security resulting in the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to Personal Data transmitted, stored or otherwise processed.*

3. Purpose of the DPA

a. When the Software Suite is used by the Customer, Agilitation may process personal data on behalf of the Customer and therefore acts as a Processor within the meaning of the GDPR.

b. The DPA defines the conditions under which Agilitation carries out, in compliance with the regulations in force and on behalf of the Customer, the personal data processing operations necessary for the use of Axeptio.

c. As part of their contractual relationship, the parties undertake to comply with the Data Protection Regulations, in particular the GDPR and any applicable national Data protection legislation.

4. Controller

a. The Customer is, within the meaning of the GDPR, the Controller for the Data entrusted to Agilitation.

b. The Customer therefore determines the purposes for which Data is processed in order to provide the Axeptio® software suite and related services. These purposes are described in Appendix 1.

c. The Customer provides Agilitation with documented instructions on how it is authorised to process the Entrusted Data.These instructions are described in this DPA. If Agilitation considers that an instruction violates the Data Protection Regulations, it will inform the Customer.

d. Where required by Data Protection Regulations, the Customer undertakes to draft a Privacy Policy (or Data Protection Policy) and to share it with the Data Subjects.

5. The Service Provider's commitments

a. Agilitation undertakes to isolate the Data Entrusted to it from any other Personal Data that it may process on behalf of third parties or on its own behalf.

b. Agilitation undertakes not to use the Entrusted Data for purposes other than those necessary to ensure the use of Axeptio, as defined in Appendix 1. However, the Customer authorizes Agilitation to use the Entrusted Data in aggregate form in order to ensure the security, proper operation and continuous improvement of the services. Agilitation processes this aggregated data as a Data Controller.

c. Agilitation undertakes to process on behalf of the Customer only the Personal Data necessary for the use of Axeptio, solely on the basis of and in accordance with the Customer's documented instructions and within the strictly limited framework defined by the Customer.

d. Any data collection based on the collection of consent implies that Agilitation can demonstrate compliance with, in particular, recitals 42 and 43 and articles 4.11, 6 and 7 of the GDPR as well as the existence of a time-stamped and auditable consent.

e. Agilitation undertakes to provide or give access to the Data Subjects, at the time of the first collection of their Personal Data, to the Privacy Policy communicated by the Customer.

f. In addition, if Agilitation is required to process the Entrusted Data pursuant to a legal obligation, it must inform the Customer prior to implementing the processing, unless such information is prohibited for compelling legal reasons.

6. Retention period and fate of Entrusted Data

a. The retention period for the data entrusted to Agilitation is defined in Appendix 1. It may be further specified by the Customer in documented instructions.

b. The Customer may download the Entrusted Data at any time via the interface provided. In any event, the Customer must ensure that he retrieves the Entrusted Data before closing his Axeptio® account.

c. At the end of the Contract, Agilitation securely deletes the Entrusted Data, unless required to keep it for legal or evidentiary purposes in the event of litigation. In such cases, the Entrusted Data will be deleted at the end of the applicable prescription period.

d. At the Customer's request, Agilitation will provide written confirmation of the securedn of the secured deletion of the Entrusted Data at the end of the service or at the end of the Contract.

e. These deletion operations are carried out no later than 30 days following the end of the contract. In the event of residual Personal Data that must be retained for legal or technical reasons, Agilitation guarantees that it will remain protected in accordance with the requirements of this DPA, only for as long as is strictly necessary.

7. Register of categories of processing activities

a. As part of its subcontracting mission, Agilitation keeps a register of the processing carried out on behalf of the Customer, including :

I. the name and contact details of the controller, any sub-processors and, where applicable, the data protection officer;

II. the categories of processing carried out on behalf of the Customer ;

III. transfers of Entrusted Data to a third country (if agreed by the Customer) or to an international organisation,

IV. identification of the third country or international organisation,

V. where applicable, documents attesting to the existence of appropriate guarantees

VI. a general description of the technical and organisational security measures taken to ensure the protection of the Entrusted Data.

b. The details of personal data processing carried out on behalf of the customer (type of data processed, purposes, retention period, etc.) are described in Appendix 1 of this DPA.

8. Impact assessments and prior consultation with the supervisory authority

a. Agilitation carries out an impact assessment relating to the protection of the Data entrusted to it if the criteria laid down by the GDPR so require.

b. Within the framework of the missions entrusted to it, Agilitation can assist the Client in carrying out its own impact assessments in relation with its use of Axeptio software suite.

9. Information and documentation

a. Agilitation provides the Customer with the information and documents necessary to demonstrate compliance with its obligations and to enable it to defend itself in the event of an action by a third party or a request by a supervisory authority relating to the Processing carried out on the Data Entrusted to it when using Axeptio®.

b. To this end, Agilitation provides a link to its Privacy Policy and this DPA on its website.

10. Control audit

a. Agilitation provides the Customer with the information necessary to demonstrate compliance with the obligations set out and to enable it to carry out audits and inspections.

b. If the Customer wishes to carry out such checks, they must inform Agilitation 15 working days in advance by registered post with acknowledgement of receipt to enable it to make the necessary arrangements. In any event, these inspections must be carried out during Agilitation's working hours, in compliance with its confidentiality rules and internal policies.

c. The Customer and any authorised representative must sign a confidentiality agreement prior to taking any action, in order to protect Agilitation's know-how and business secrets.

d. Agilitation may refuse the agent proposed by the Customer to carry out the checks.

e. In the event of refusal, the parties shall agree on the name of another agent who offers all the guarantees required both to ensure a quality audit and to preserve the confidentiality of the information consulted during the audit.

f. The Customer is responsible to Agilitation for guaranteeing the confidentiality of the information obtained, documents transmitted and observations made at Agilitation, which may only be used for the purpose specified in the contract.

g. Agilitation undertakes to contribute actively to such a procedure and to allow, subject to the foregoing, the Customer or its authorised representative to have access to the premises, systems, equipment and all other materials and installations through which Agilitation processes the Entrusted Data, in order to enable compliance monitoring.

h. The cost of such audits or inspections is payable by the Customer. In the event of duly proven major non-conformity, Agilitation may bear the costs associated with resolving this non-conformity. Such audits may be carried out at reasonable intervals, with a maximum of one per year.

11. Transfer of Data outside the European Union

a. Agilitation uses subsequent subcontractors under conditions that comply with the DPA. In this context, Agilitation may transfer personal data to these subcontractors located outside the European Union or affiliated with a parent company located outside the European Union, which the Customer acknowledges and accepts. The list of subcontractors to date is available in the appendix.

b. Agilitation ensures that the necessary measures are implemented to comply with the regulations on the protection of personal data for the said transfer, in particular:

§1. the existence of an adequacy decision by the European Commission in favour of the recipient country, in force at the time of the transfer ;

§2. and/or the signing of standard contractual clauses between Agilitation and the subsequent subcontractor, in accordance with the standard contractual clauses adopted by the European Commission;

§3. If necessary, in addition to the above, the adoption of additional technical or organisational measures to protect the rights and freedoms of Data Subjects ;

§4. The application, within the recipient organisation of the Entrusted Data located outside the EEA, of binding corporate rules (known as "*BCR*") approved by one or more European supervisory authorities, where these allow the transfer of Entrusted Data between Agilitation and the said recipient in compliance with the regulations relating to privacy without any other supervisory measures;

§5. Where applicable, the prior authorisation issued by a national supervisory authority for the protection of Personal Data;

§6. The implementation of any other mechanism recognised by the competent European authorities as constituting appropriate safeguards in accordance with privacy regulations.

c.Agilitation shall refrain from transferring the Entrusted Data to a country that does not offer an adequate level of protection within the meaning of the Data Protection Regulations.

d. Agilitation guarantees that, in the event that Data is transferred to a subsequent Subcontractor located outside the EU, the latter will comply with obligations that are at least as protective as those set out in this DPA.

12. Security and confidentiality

a. Agilitation undertakes to guarantee the confidentiality of documents, information and Personal Data processed, and to implement all technical and organisational measures to this end.

b. Agilitation undertakes in particular to:

I. Not to make any copies of the documents and data carriers entrusted to it, with the exception of those strictly necessary for the performance of its contractual obligations.

II. Not to use the documents, information and Personal Data processed for purposes other than those necessary for the operation of Axeptio, subject to the provisions set out in the DPA.

III. Not to disclose any documents, information or Personal Data to any third party other than its own personnel and any Sub-processors engaged in accordance with the DPA.

IV. Not to transfer documents, information or Personal Data to third parties without the Customer's express prior written consent, subject to the provisions of the DPA concerning Data processed by subsequent Subcontractors..

V. Limit disclosure and access to documents, information or Personal Data to that which is strictly necessary for Axeptio's operations.

VI. Take all measures to prevent any misappropriation or fraudulent access to computer files during the performance of the contractual relationship;

VII. Ensure that the persons authorised to process the Data Entrusted under this Agreement, such as, but not limited to, the sub-processors or its staff agree in writing to respect the confidentiality stipulated in the Contract and certify that they have received appropriate training in the protection of personal data.

VIII. Ensure that access to the Entrusted Data is strictly limited to only those persons who need such access in order to fulfil Agilitation's obligations.

IX. These provisions do not prevent disclosure of the documents, information and Data Entrusted to the Service Provider where required by the law applicable to the Service Provider. In any event, the Customer must be notified in advance of any such disclosure, unless prohibited by applicable law.

X.Include data protection principles by design and by default in tools, products, applications or services.

b. Information exchanged between the Parties in the course of their contractual relations is subject to business secrecy (articles L 151-1 and L. 151-2 of the French Commercial Code).

c. The Parties shall use all necessary means to preserve this information.

13. Safety measures

a. Agilitation takes the appropriate technical and organisational measures to guarantee a level of Data security appropriate to the risks and to help the Customer meet its legal obligations. These measures may include, but are not limited to:

I. encryption of Personal Data in transit and at rest ;

II. the use of access management systems to limit access rights to authorized persons only;

III. logging and monitoring of processing activities;

IV. regular backups and disaster recovery plans;

V. periodic checks to assess the effectiveness of security measures.

b. Agilitation ensures that the safety measures in place are kept up to date.

c. Agilitation provides the customer with detailed documentation of the security measures implemented, on request.

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14. Sub-processor

a. By accepting the DPA, the Customer is informed and agrees that the service providers listed in Appendix 1 may be authorised as further sub-processors to enable the use of Axeptio.

b. The use of another sub-processor by Agilitation at a later date will require the prior information of the Customer.

c. The Customer may raise a justified objection to this designation within 15 working days following notification of the change of subcontractors. He must then provide Agilitation with a reasoned and sufficiently relevant written statement to explain its refusal.

d. Agilitation will ensure that sub-processors is contracted under the conditions laid down by the regulations and that the required guarantees are maintained over time. As such, Agilitation ensures that its subcontractors are subject to obligations similar to those set out in this DPA and remains fully responsible for the performance of its subsequent subcontractors' obligations. It will provide the Customer with proof of this by any means, if the Customer so requests in writing.

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15. Exercise of their rights by data subjects

a. Agilitation provides the tools and documentation necessary to enable the Customer to respond to requests from Data Subjects in compliance with the requirements of the Data Protection Regulation.

b. Agilitation will forward to the Customer requests to exercise the rights of the Data Subjects, together with all relevant information, by electronic mail to the email address indicated by the Customer. Agilitation does not respond directly to Data Subjects when it receives a request.

c. If necessary and to the extent possible, Agilitation assists the Customer in responding to these requests in order to facilitate the exercise of the following rights:

- Right of access to personal data
- Right to object to processing
- Right to withdraw consent
- Right to Data portability
- Right to limit Processing

d.Agilitation shall ensure that its assistance enables the Customer to meet the applicable legal deadlines for responding to Data Subjects' requests.

e. Exceptions - In cases permitted by law, the right to rectification and the right to erasure are not applicable when using Axeptio® because the consents collected by Axeptio® enable its customers to demonstrate compliance with a legal obligation. To guarantee the reliability of the Data and the traceability of consents, the consent register is unalterable.

16. Notifications

a. If an instruction from the Customer is contrary to a Data Protection Regulation, Agilitation will inform the Customer.

b. In the event of Violation of Entrusted Data, Agilitation :

I.notifies the Customer by any means possible as soon as possible after the facts have been discovered. In the event of a Data Breach involving risks for Data Subjects, notification shall be made within a period not exceeding 72 hours following discovery of the breach. This notification is sent to the e-mail address provided by the Customer.

II. sends all the relevant documented information enabling the Customer to notify this Breach to the competent supervisory authority and to the Data Subjects, including the following information: the nature of the breach, the date and circumstances of its discovery, the categories and approximate number of personal data affected by the breach and of Data Subjects, the likely consequences of the Data Breach and the measures taken or proposed to remedy the breach.

III. undertakes to cooperate with the Customer to enable it to comply with its obligations to notify the competent supervisory authority, and if necessary, the Data Subjec.s This assistance includes the provision of information requested by the Customer and the deployment of corrective measures to prevent recurrence of the Violation.

IV. keeps a documented record of all Personal Data breaches, including the events relating to the breach, its effects and the measures taken to remedy it.

c. Agilitation's DPO can be contacted at dpo@axeptio.eu. The DPO carries out the following functions:

I. Monitor compliance with the provisions of Data Protection Regulations and internal data protection policies

II. Act as a point of contact for the Customer and the relevant supervisory authorities for any questions relating to the processing of personal data.

Agilitation warrants that its DPO will cooperate with the Customer in any matter concerning compliance with the obligations set forth in this DPA.

d. In the event of any contradiction between the DPA drawn up in French and the DPA drawn up in English, the French version shall prevail

17. Liability and compensation

a. Agilitation may be held liable for damages caused by the Processing of Entrusted Data if it has acted in breach of its obligations under the Data Protection Regulation or this DPA.

b. If Agilitation and the Customer are jointly liable for damage caused by non-compliant Processing, they shall share liability in accordance with their respective share of fault, as provided for in Article 82 of the GDPR.

c. Agilitation agrees to indemnify the Customer for any damages, fines or claims suffered as a result of:

I. A breach of legal or contractual obligations by Agilitation

II. The use of non-compliant subcontractors.

d. In any event, Agilitation's liability is limited to the amounts set forth in Axeptio®'s General Terms and Conditions of Use.

Appendix 1 : Details of personal data processing

a. The categories of Personal Data Processed are :

I. About visitors to websites and applications :

- Token identifier, randomly generated or supplied by the customer; IP address.
- Data regarding the characteristics of the end-user/user-agent's terminal and browser. E.g.: type of terminal used, browser.
- Data relating to consent expressed in relation to the deposit of cookies: date and time of choice; consent or refusal; types of cookies or vendors (cookie issuers) concerned.
- Browsing data: e.g. URL of websites viewed, date and time, URL, UTM parameters.
- If you use the "Axeptio For Publishers" widget: property TC-String from IAB Europe. This information is shared with the relevant IAB body depending on the geographical area.

II. About employees of Axeptio's Customer :

- Identification and user account data (widget management back-office): Ex: last name, first name, e-mail address, phone number.
- Communication with Axeptio's support teams
- Browsing data on the Axeptio back-office and data related to the use of our products and services

b. Type of Processing: supply of a consent management platform for requesting and collecting consent for the processing of personal data (widget cookies, Terms, marketing consent, etc.).

This service entails the following Processing operations on the Entrusted Data: recording/writing, organization, structuring, storage, extraction, consultation (with the customer's authorization), distribution or any other form of provision, deletion (at the end of the Contract).

c. Purpose of processing :

- Creating, storing and making available a register of consents
- Aggregate statistics on the use and performance of the widget by visitors to the customer's sites.

d. Data subjects :

- Users of the customer's website or app
- Employees of the customer when they create an account on the widget management back-office.

e. Processing duration : In general, the Data Entrusted to Axeptio® is kept by Axeptio® for the duration of the commercial relationship, unless otherwise instructed and documented by the customer.

By way of exception, and unless otherwise instructed and documented by the Customer, evidence of consent is kept for a period of 5 years from the date of each recording of consent. This period corresponds to the common law limitation period applicable to civil liability actions, whether contractual or in tort, as set out in article 2224 of the French Civil Code, under the terms of which “personal or movable actions are prescribed by five years from the day on which the holder of a right knew or should have known the facts enabling him to exercise it”. The purpose of this retention period is to provide Agilitation and its customers with the necessary evidence in the event of an audit by a data protection authority, or in the event of a dispute concerning the validity of consent.

In accordance with the provisions of the DPA, Entrusted Data is deleted at the end of the commercial relationship, except where required by law or for archiving purposes in the event of litigation, until the expiry of the limitation period.

f. Location : Processing is performed in the following locations:

- France
- Ireland (sub-processors)

If subsequent Subcontractors located outside the European Union are used, the Entrusted Data may be transferred in accordance with the provisions set out in the DPA, subject to having one of the guarantees set out in the GDPR.

g. Security Measures

This section describes the minimum security measures generally applicable to the use of Axeptio® services:

- **Awareness**: implementation and maintenance of an awareness program aimed at protecting Entrusted Data. This awareness program is provided to Axeptio® employees when they are hired (initial training) and on an ongoing basis during their employment. The awareness program is delivered in a hybrid format, both face-to-face and electronically, and includes a testing aspect.
- **Policies and procedures**: implementation and maintenance of information security policies and procedures.
- **Malware prevention:** prevention: protection of all hardware and software assets against the installation and propagation of malware or viruses
- **Network security:** use of effective security measures based on industry best practice to ensure that Entrusted Data is protected
- **User access control :** appropriate access controls to ensure that only authorized users have access to Entrusted Data
- **Security incident response**: maintenance of a security incident response program based on industry best practice designed to identify and respond to suspected and actual security incidents involving Entrusted Data.

h. Secure technical means for returning, transferring and/or disposing of Data

- Data return: Secure online CSV file transfers
- Data transfer: Secure online CSV file transfers
- Data deletion: Creation of a formal data deletion request to database administrators in the change management tool.

i. Technical means to meet the rights of Data Subjects

Access Right	Ability to consult and retrieve Entrusted Data in the consent register from the customer account
Right to rectify	Not applicable to the consent register: Axeptio® guarantees its customers the reliability and traceability of consents to enable them to comply with their legal obligations. By its very nature, the consent register cannot be altered.
Right to erasure	Not applicable to the consent register: Axeptio® guarantees its customers the reliability and traceability of consents to enable them to comply with their legal obligations. By its very nature, the consent register cannot be altered.
Right to portability	Ability to extract entrusted data from the register of consents from the customer account
Right to Object	The Axeptio® widget can be used to manage the objection rights of Data Subjects. The information is recorded in the consent register to enable the customer to demonstrate that the request has been taken into account.
Right to consent withdrawal	The Axeptio® widget can be used to manage the right to withdraw consent. The information is recorded in the consent register to enable the customer to demonstrate that the request has been taken into account.
Right to restrict processing	Ability to stop publishing the Axeptio® widget at any time from the customer account

j. Sub-processors :

This list is subject to change in accordance with the provisions of the DPA.

Sub-processor	Servers' location	Supplier's native country	Types of services concerned	Tasks types performed

Amazon Inc. (AWS EMEA, S3 Files)	Ireland	Parent company : USA Contracting company : Ireland	Cloud hosting	Hosting
Amazon Inc. (Cloudfront)	Ireland	Parent company : USA Contracting company : Ireland	CDN	Loading and displaying files needed to run Agilitation widgets
MongoDB Ltd	Ireland	Parent company : USA Contracting company : Ireland	Database manager	Creating and managing Agilitation end-user and customer databses
Snowflake Computing Netherlands B.V.	Ireland	Parent company : USA Contracting company : Netherlands	Data analysis	Analytics study of the data collected via widgets displayed on customers sites
Zebrafish Labs Inc (Imgix)	Depending on end-user location. European Union for users located in Europe.	Parent and contracting company : USA	CDN	Display of widget visual illustrations. Can be deactivated by customer.
Planhat AB	European Union	Parent and contracting company : Sweden	Customers & prospects relationship	Manage customers & prospects relationship
Intercom R&D Unlimited Company	Ireland	Parent company : USA Contracting company : Ireland	Ticketing for client support	Ticketing client support
Frontegg Ltd.	Ireland	Parent & contracting company : Israel	Authentication and access control platform	Authentication and access control for customer users