



## VENDOR PRIVACY STANDARDS FOR SUPPLIERS (GLOBAL)

These Vendor Privacy Standards (“VPS”) supplement any contract (and related statements of work, attachments, schedules, exhibits and the like) between “Supplier” and applicable “Avaya” legal entity(-ies) for the purchase of “Services” and / or “Products” and / or other technology solutions from Supplier when Supplier “Processes” “Personal Data” on behalf of Avaya (collectively the “Agreement”).

This VPS applies to all activities related to the Agreement and in which employees of Supplier or third parties commissioned by Supplier may Process Personal Data on behalf of Avaya. It contains, in conjunction with the Agreement, the documented instructions for the Processing of Personal Data as well as the subject-matter, duration, nature, purpose of the Processing, and shall govern the rights and obligations of the parties in connection with the Processing of Personal Data.

Certain sections of this VPS also apply to Non-Personal Data as defined in section 1.

### 1. Definitions

1.1 For the purpose of this VPS (i) “Personal data” means any information relating to an identified or identifiable natural person (“Data Subject”) or household; 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; (ii) “Processing”, “Process”, “Processed” means any operation or set of operations which is performed on Personal Data and/or Non-Personal Data or on sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction; (iii) “Data Controller” means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; (iv) “Data Processor” means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the Data Controller; (v) “Non-Personal Data” means data other than Personal Data that is subject to confidentiality obligations under the Agreement; (vi) “GDPR” means [the European General Data Protection Regulation](#) (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016); (vii) “Affiliate” means, with respect to any party, any entity that is under common control of, controls, or is controlled by that party; (viii) “Sell” means any sharing or disclosure of Personal Data to a third party in exchange for monetary or other valuable consideration.

### 2. Processing Personal Data on behalf of Avaya

- 2.1 Any Processing of Personal Data by Supplier under this VPS shall occur only:
- 2.1.1 on behalf of Avaya (including when Processing is initiated by Avaya’s users); and
  - 2.1.2 in accordance with the Agreement; and
  - 2.1.3 for the purpose of fulfilment of Avaya’s instructions.
- 2.2 Without limiting the generality of Sections 2.1.1 through 2.1.3, Supplier agrees that it shall not: (i) Sell any Personal Data; (ii) retain, use, or disclose the Personal Data for any purpose other than as necessary to provide the Services and/or Products set forth in the Agreement, including retaining, using, or disclosing the Personal Data for a commercial purpose other than as necessary to provide the Services and/or Products set forth in the Agreement; (iii) retain, use, or disclose the Personal Data outside of the direct business relationship between Avaya and Supplier. Supplier hereby certifies that it understands the restrictions set forth in this Section 2.2 and will comply with them.
- 2.3 This VPS and the Agreement are Avaya’s complete instructions at the time of signature of this VPS to Supplier for the Processing of Personal Data. However, such instructions may be amended, supplemented or replaced by Avaya in documented form at any time (new instruction). If such new instructions from Avaya exceed the scope of the Agreement, they shall be considered as request to amend the Agreement.
- 2.4 Supplier shall monitor the fulfilment of his obligations as per section 2.1 regularly and demonstrate its compliance to Avaya in writing within twenty (20) days of request.
- 2.5 Supplier will Process Personal Data for the duration of the Agreement, unless otherwise agreed upon in writing or required by applicable law.
- 2.6 The categories of data subjects affected by the Processing of Personal Data on behalf of Avaya within the scope of this VPS may include: employees, agents, advisors, freelancers and business partners of Avaya (who are natural persons); natural persons (employees etc.) of customers and prospective customers of Avaya, as well as of Avaya customers’ customers, etc.
- 2.7 The types of Personal Data affected by the Processing on behalf of Avaya within the scope of this VPS may include: name, contact information (company, title / position, email address, phone number, physical address), connection data, location data, video / call (recordings) data, information concerning family, lifestyle and social circumstances (including age, date of birth, marital status, number of children and name(s) of spouse and / or children) and metadata derived thereof, etc.

### 3. Supplier’s personnel

3.1 Supplier shall:

- 3.1.1 ensure all employees involved in Processing of Personal Data and/or Non-Personal Data on behalf of Supplier have committed themselves to confidentiality in writing, are prohibited from Processing Personal Data and/or Non-Personal Data without authorization, have received appropriate training on their responsibilities;
- 3.1.2 ensure the access to Personal Data and/or Non-Personal Data is limited to the personnel necessary to execute Supplier's obligations under the Agreement;
- 3.1.3 monitor the fulfilment of his obligations as per sections 3.1.1 and 3.1.2 regularly and demonstrate its compliance to Avaya in writing within twenty (20) days of request.
- 3.1.4 appoint in country / global data protection officer, to the extent required by the applicable law, and provide his / her contact details on request to Avaya in writing.

#### **4. Security of Processing**

- 4.1 Supplier has implemented and shall maintain appropriate technical and organizational measures (that at a minimum comply with the measures available at [www.avaya.com/en/privacy-toms-suppliers-0519-en/](http://www.avaya.com/en/privacy-toms-suppliers-0519-en/)) for the Processing of Personal Data and/or Non-Personal Data on behalf of Avaya. Supplier shall ensure a level of security appropriate to the risks that are presented by the Processing, taking into account the risk of varying likelihood and severity for the rights and freedoms of natural persons. Supplier shall regularly test, assess and evaluate the effectiveness of such technical and organizational measures for ensuring the security of the Processing.

#### **5. Sub-processors (sub-contractors) and international Personal Data transfers**

- 5.1 The use of sub-processors by Supplier is subject to prior written consent of Avaya. This also applies to sub-processors that are Affiliates of Supplier and any other sub-processors. Avaya hereby declares its consent to the usage of Supplier's respective Affiliates as sub-processors. On request of Avaya, Supplier shall provide Avaya with a list of all Supplier Affiliates used as sub-processors.
- 5.2 Supplier shall impose the same data protection obligations on any further sub-processors (including its Affiliates) in writing as set out in this VPS (in particular providing sufficient guarantees to implement appropriate technical and organizational measures). Supplier shall be liable for the acts and omissions of its sub-processors to the same extent Supplier would be liable if performing the services of each sub-processor directly under the terms of this VPS.
- 5.3 Supplier shall comply with all applicable data privacy laws regarding the international transfers of Personal Data. For any transfer of Personal Data to a country outside the European Economic Area or Switzerland ("EEA / CH") the requirements of Chapter V GDPR must be fulfilled.
- 5.3.1 If Avaya transfers Personal Data originating from the EEA / CH to Supplier located in countries outside the EEA / CH that have not received a binding adequacy decision by the European Commission, such transfers shall be subject to (i) Standard Contractual Clauses (as per European Commission's Decision 2010/87/EU) which are available at [www.avaya.com/en/privacy-eumodelclauses-suppliers-4735](http://www.avaya.com/en/privacy-eumodelclauses-suppliers-4735) (the "**Model Clauses**") and will be deemed to have been incorporated into this VPS by reference and executed by EEA / CH based Avaya entity and non-EEA / CH based Supplier entity; or (ii) other appropriate transfer mechanisms that provide an adequate level of protection in compliance with the GDPR.
- 5.3.2 If Supplier transfers Personal Data originating from the EEA / CH to any third-party sub-processors (including its Affiliates) located in countries outside the EEA / CH that have not received a binding adequacy decision by the European Commission, such transfers shall be subject to (i) the Model Clauses; or (ii) other appropriate transfer mechanisms that provide an adequate level of protection in compliance with the GDPR.
- 5.3.3 In this context Supplier agrees that the Model Clauses shall also apply with respect to Personal Data of customers of Avaya, to the extent that such customers are deemed to be Data Controllers of the Personal Data processed by Supplier and such Personal Data is being processed by Supplier ("**Customer Controllers**"). To the fullest extent permitted by applicable law, Customer Controllers shall be entitled to assert against Supplier rights and remedies under the Model Clauses as a third-party beneficiary hereto, with respect to those provisions of the Model Clauses affording a right, benefit or privilege to the Customer Controllers.

#### **6. Requests from Data Subjects**

- 6.1 Supplier shall, in accordance with applicable laws, promptly notify Avaya if Supplier receives a request from Data Subject to exercise his rights (such as: right of access, right to rectification, restriction of Processing, erasure ("right to be forgotten"), data portability, object to Processing, right not to be subject to an automated individual decision making, etc.) connected to the Processing under the Agreement and this VPS. Supplier shall cooperate and assist Avaya in ensuring compliance with Avaya's obligations to respond to such requests.

#### **7. Notification and incidents**

- 7.1 Supplier shall:
  - 7.1.1 Immediately notify Avaya of any actual or alleged incident of unauthorised or accidental disclosure of or access to any Personal Data and/or Non-Personal Data or other breach of this VPS by Supplier or any of its staff, sub-processors or any other identified or unidentified third party (the "**Security Breach**");
  - 7.1.2 Promptly provide Avaya with full cooperation and assistance in respect of any Security Breach and all information in Supplier's possession concerning the Security Breach, including, but not limited to, the following: (i) the possible cause and consequences of the breach; (ii) the categories of Personal Data and/or Non-Personal Data involved; (iii) a summary of the possible consequences for the relevant Data Subjects; (iv) a summary of the unauthorised recipients of Personal Data and/or Non-Personal Data; and (v) the measures taken by Supplier to mitigate any related risk and / or loss or damage or (potential loss or damage);

- 7.1.3 Take all necessary and appropriate corrective actions, including as may be instructed by Avaya and applicable privacy laws and regulations, to remedy or mitigate any Security Breach at Supplier's sole cost and expense.
- 7.1.4 Not make any announcement or publish or otherwise authorise any broadcast of any notice or information about a Security Breach (the "**Breach Notice**") without the prior written consent from Avaya; and prior written approval by Avaya of the content, media and timing of the Breach Notice.
- 7.2 In case of reporting and notification obligations of Avaya to competent data protection supervisory authorities and / or affected Data Subjects resulting from data breaches in connection with the Personal Data Processing of Supplier, Supplier shall, upon request, provide support to Avaya to comply with these obligations, taking into account the nature of the Processing and the information available to Supplier. The same applies in the event of any reporting or consultation obligations of Avaya to the competent data protection supervisory authorities in connection with an intended Personal Data Processing, which bears an increased risk for the rights and freedoms of concerned Data Subjects.
- 7.3 Supplier shall inform Avaya about audits or similar measures of a competent supervisory authority, if Personal Data in connection with this VPS is affected. This also applies if a competent data protection authority commences investigations at Supplier due to a breach of data protection regulations in connection with this VPS.
- 8. Assistance**
- 8.1 Upon request of Avaya, Supplier shall assist Avaya without undue delay in ensuring compliance with its obligations pursuant to Articles 30 (Records of Processing Activities), 32 (Security of Processing), 35 (Data protection impact assessment) and 36 (Prior consultation) of GDPR, taking into account the nature of processing and the information available to Supplier. To the extent any other data privacy legislation contains a similar privacy impact assessment obligation, Supplier shall assist Avaya in ensuring compliance with such obligation.
- 9. Return and deletion of Personal Data.**
- 9.1 Personal Data (including any copy of it) shall not be kept longer than is required for the Processing purposes, unless (i) a longer retention period is required by applicable law or (ii) Avaya instructs Supplier in writing to (a) keep certain Personal Data longer or (b) return certain Personal Data earlier.
- 9.2 The return of any data storage medium provided by Avaya to Supplier shall be conducted without undue delay (i) after termination / expiration of the Processing activity or (ii) earlier as instructed by Avaya.
- 10. Audits**
- 10.1 On written request of Avaya, Supplier shall provide Avaya without undue delay with any reasonable information requested to effectively monitor the compliance with this VPS and the Agreement.
- 10.2 Avaya (and any third party on Avaya's behalf) and Customer Controllers may audit Supplier's compliance with the terms of this VPS and the Agreement at any time. This may include, but is not limited to, access to Supplier's data Processing facilities, data files and documentation relevant for the Processing activities on behalf of Avaya.
- 11. Miscellaneous.**
- 11.1 Without prejudice to any other obligations under this VPS or the Agreement, Supplier will provide all Personal Data and/or Non-Personal Data Processing activities (i) with reasonable care and skill; and (ii) in accordance with good industry practice and applicable privacy laws and regulations.
- 11.2 Supplier hereby indemnifies Avaya for all claims, actions, costs, expenses and damages (including without limitation reasonable attorney's fees and costs) suffered by Avaya as a result of Supplier's failure to comply with this VPS or applicable privacy laws and regulations. Any disclaimers or limitations of liability including, but not limited to, those contained in the Agreement do not apply in the event Supplier is not compliant with this VPS or applicable privacy laws and regulations.
- 11.3 The term of this VPS corresponds to the term of the Agreement. The terms which by their nature are intended to survive termination or expiration of this VPS, will continue and survive any termination or expiration of this VPS.
- 11.4 Notwithstanding anything to the contrary in the Agreement, in the event of a conflict between the terms of this VPS and the terms of the Agreement, the terms of this VPS shall prevail.
- 11.5 The effective date of this VPS is the date when Supplier countersigns this VPS.