

DATA PROCESSING AGREEMENT (DPA) 04/NOV/2022 V1.3

When Customer renews or purchases a new subscription subject to the General Terms and Conditions, the then-current DPA will apply and will not change during Customer's Subscription Term for that General Terms and Conditions, except: 1) where RIB introduces new or enhanced features, supplements or related software that were not previously included with the subscription, RIB may provide terms or make updates to the DPA that apply to Customer's use of those new or enhanced features, supplements or related software, or 2) where a change in law, regulation government requirement or obligation in any applicable country causes RIB to believe that the provisions of the DPA may conflict with that change in law, regulation, governmental requirement or obligation, RIB may amend the DPA that applies to such country. If RIB amends the DPA, it will provide written notice to the Customer and the amendments will take effect on the date specified in RIB's notice (or if no date is specified, then 10 business days after the date of RIB's notice to Customer).

Capitalized terms used but not defined in this DPA will have the meanings provided in the General Terms and Conditions.

1. Basis for the DPA

- (a) This DPA lays down the rights and obligations that apply when the Processor [**RIB**] processes personal data on behalf of the Controller [the **Customer**].
- (b) The DPA has been drawn up with a view to compliance by the parties with applicable data protection law that are generally applicable to information technology service providers that sets specific requirements concerning the content of a data processing agreement.
- (c) Controller must comply with all laws and regulations applicable to its use of Application, including laws related to confidentiality of communications, and applicable data protection law. Controller is responsible for determining whether the Application is appropriate for storage and processing of information subject to any specific law or regulation and for using the Application in a manner consistent with Controller's legal and regulatory obligations. Controller is responsible for responding to any request from a third-party regarding Controller's use of the Application.
- (d) The duration of the processing depends on the duration of the main contract.
- (e) The nature and purpose of the processing, as well as the type of personal data and categories of data subjects are specified in Schedule 1.

2. The Processor acts on instructions

- (a) The Processor processes personal data on documented instructions from the Controller, unless required to do so by applicable data protection law to which the Processor is subject; in such a case, the Processor shall inform the Controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest.
- (b) The Processor shall immediately inform the Controller if, in its opinion, an instruction infringes the applicable data protection law.
- (c) Unless otherwise specified in the General Terms and Conditions, Controller may not provide Processor with any sensitive or special personal data that imposes specific data security or data protection obligations on Processor in addition to or different from those specified in the DPA or General Terms and Conditions.

3. Confidentiality

- (a) The Processor ensures that the persons authorised to process personal data on behalf of the Controller have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

4. Security of processing

- (a) The Processor takes necessary measures to secure the data that it is processing. Details can be found in the Information Security Requirements Agreement.

5. Engagement of sub-processors

- (a) The Processor can engage, and the Controller consents to the Processor engaging, other processors (“sub-processors”) for the performance of this DPA. A list of the Processor’s sub-processors from time to time will be accessible on the Processor’s website.
- (b) The Processor will inform the Controller of any intended changes concerning the addition or replacement of other processors, thereby giving the Controller the opportunity to object to such changes. Where the Controller chooses to object to these changes, the Controller has every right to rescind the DPA prospectively.
- (c) The Processor will inform the Controller of the above changes by updating the list of sub-processors on the website one month before the change of sub-processors will take place.
- (d) The Processor will make sure that the same data protection obligations are imposed on sub-processors as those laid down in this DPA via a contract or other legal act whereby in particular the appropriate safeguards are provided that the sub-processor will take the necessary technical and organisational measures in such a manner that the processing complies with the requirements of the data protection regulation.
- (e) Where the sub-processor fails to fulfil its data protection obligations, the Processor shall remain fully liable to the Controller for the performance of the sub-processor’s obligations.

6. Transfer of personal data to third countries or international organisations

- (a) Processor shall be entitled to process Personal Data, including by using sub-processors, in accordance with this DPA outside the country in which the Controller is located as permitted under applicable data protection law. When Processor transfers data internationally, it shall engage in the required protocols pursuant to applicable data protection laws, including utilising adequate security measures as specified under such laws.

7. Assistance to the Controller

- (a) Taking into account the nature of the processing, the Processor assists the Controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Controller’s obligation to respond to requests for exercising the data subject’s rights laid down in applicable laws.
- (b) The Processor assists the Controller in ensuring compliance with the Controller’s obligations pursuant to applicable laws.
- (c) The Processor will immediately inform the Controller of any violation of the protection of personal data of which he becomes aware.

8. Erasure

- (a) The Controller acknowledges that a user can be removed, but the traces a user has left (for example, the user’s log information) cannot be deleted as they serve the purposes of the platform and are a condition for the correct and documented use of the RIB products by others.

9. Monitoring and audits

- (a) The Processor makes available to the Controller all information necessary to demonstrate compliance with applicable personal data protection laws and this DPA and allows and contributes to audits, including inspections, conducted by the Controller or another auditor mandated by the Controller only if:
 - a. There has sufficient evidence that Processor failed its compliance with the technical and organizational measures that protect the production systems of the Application;
 - b. A personal Data Breach has occurred;
 - c. An audit is formally requested by Controller’s data protection authority; or
 - d. Mandatory applicable data protection law provides Controller with a direct audit right and provided that Controller shall only audit once in any twelve month period unless mandatory applicable data protection law requires more frequent audits.

The Controller acknowledges and agrees in writing that it will not seek to access any confidential information or personal data of third parties (including Processor's other customers), and the Processor may take any steps (in the Processor's discretion) necessary to ensure the Controller is not given or does not obtain access to such confidential information or personal data.

- (b) Controller shall provide at least sixty days advance notice of any audit unless applicable mandatory data protection law or a competent data protection authority requires shorter notice. The frequency and scope of any audits shall be mutually agreed between the parties acting reasonably and in good faith. Controller audits shall be limited in time to a maximum of two business days. Beyond such restrictions, the parties will use current certifications or other audit reports to avoid or minimize repetitive audits. Controller shall provide the results of any audit to Processor.
- (c) Controller shall bear the costs of any audit unless such audit reveals a material breach by Processor of this DPA, then Processor shall bear its own expenses of an audit. If an audit determines that Processor has breached its obligations under the DPA, Processor will promptly remedy the breach at its own cost.

10. California Consumer Privacy Act ("CCPA")

- (a) If Processor is processing personal data within the scope of the CCPA, Processor makes the following additional commitments to Controller. Processor will process Customer Data and personal data on behalf of Controller and, not retain, use, or disclose that data for any purpose other than for the purposes set out in the DPA and as permitted under the CCPA, including under any "sale" exemption. In no event will Processor sell any such data. These CCPA terms do not limit or reduce any data protection commitments Processor makes to Controller in the DPA, General Terms and Conditions, or other agreement between Processor and Controller.

11. Changes and the notification obligation of the Controller

- (a) Any changes to this DPA will be submitted to the Controller representatives as defined in the Quote.
- (b) It is the obligation of the Controller to notify the Processor if the "representative of the Controller" is changed or the contact information of the representative changes.

12. Deletion and return

- (a) Upon termination of the processing services, the Processor shall, at the choice of the Controller, either delete or return all personal data, as well as documents, other data and generated processing or usage results relating to the contractual relationship, unless there is an obligation to store or retain them under applicable laws. The Processor's data shall be irretrievably de-identified, deleted or put beyond use, in accordance with applicable data protection law. The Processor will not be required to destroy or return to the Controller any data which is stored electronically pursuant to a routine data backup process on its servers or backup sources, provided that the Processor has put the data beyond use. If there are legal storage obligations, the data must be de-identified, deleted or put beyond use after the end of the storage obligation. The Processor shall document the de-identification, deletion or putting beyond use (as applicable) in a suitable manner. If requested by the Controller, the Processor will provide the Controller with a certificate signed by the Processor's authorised officer that the data has been deleted, returned or put beyond use (as applicable). In this paragraph, "put beyond use" means that the Processor: (i) is not able, or will not attempt, to use the data to inform any decision in respect of any individual or in a manner that affects the individual in any way; (ii) does not give any other organisation access to the data; (iii) surrounds the data with appropriate technical and organisational security measures; and (iv) commits to permanent deletion of the data if, or when, this becomes possible.
- (b) Prior to the termination of the contractual services, the processor may only delete data that are no longer required with the prior consent of the responsible party. Consent to deletion can also be given by agreement of the contractual parties to a deletion concept.

Schedule 1 to the DPA

Data exporter

Customer is the data exporter. The data exporter is a user of Application or Professional Services.

Data importer

The data importer is RIB, a global producer of software and services.

Data subjects

The persons in the Customer's enterprise

Categories of data

The personal data transferred concern the following categories of data:

- Full name
- Name of organisation/enterprise
- E-mail address
- The activities of users in RIB's products

In addition to this, the user may when signing up for RIB's products himself/herself actively choose to complete information concerning the following:

- Title
- Initials
- Tel. no./mobile tel. no.
- Department

Special categories of data (if appropriate)

The personal data transferred concern the following special categories of data:

None, unless it is set out in the General Terms and Conditions (including the Quote) if any.

Processing operations

The personal data transferred will be subject to the following basic processing activities:

Collects and registers personal data when persons in the enterprise of the Controller sign up for RIB's products. The Processor uses the data collected only to carry on the business and deliver the products offered by the enterprise. That means that the Processor uses the data e.g. to improve the user experience and to adapt the products. Data may also be used to communicate with the Customer, e.g. to inform the Customer of security conditions and product information.

Duration of the processing

The processing is not for a fixed term and goes on until the DPA is terminated or rescinded prospectively by one of the parties.