



Personal Data Processing Agreement

Regulation (EU) 2016/679 ("**the GDPR**") will apply from 25th May 2018. The GDPR introduces a number of new data protection requirements to protect the privacy of individuals, whilst enabling and facilitating the free flow of personal data. At Elwood Deere, we are actively preparing our business and our software solutions for compliance with the changes that the GDPR will introduce.

As part of this process, we are introducing certain contractual amendments required by Article 28 of the GDPR to the Software Licence Terms and Conditions (or any other agreement we have entered into with you) ("**the Terms**") under which Deere & Son Limited and its Affiliates, including Reapit PTY Limited and Jet Software Limited (collectively, "**the Company**") process personal data on your behalf or on behalf of your Affiliates (as defined below) (collectively "**the Customer**").

The attached Personal Data Processing Agreement ("**the PDPA**") is designed to ensure we are compliant with the requirements of the GDPR. By countersigning this letter:

1. The Company on one hand, and the Customer on the other, agree to be bound by the provisions of the PDPA with effect from 25th May 2018;
2. The Company on one hand, and the Customer on the other, agree that the PDPA is incorporated into the Terms and shall be effective and remain in force for as long as the Terms are effective;
3. The Company on one hand, and the Customer on the other, acknowledge that, save as specifically provided for in the PDPA, all of the provisions of the Terms shall remain unchanged and continue to apply.

Personal Data Processing Agreement ("PDPA")

- A. Having noted changes to data protection law being introduced by among others, the GDPR,
- B. Being mindful of their own direct responsibilities and liabilities under data protection law, and
- C. Considering Article 28 of the GDPR,

The parties have agreed to enter into this PDPA to govern their rights and obligations under Data Protection Law in relation to the processing of personal data, in so far as this is required by the GDPR.

1. DEFINITIONS 1.1. "**Affiliate**" means an entity that directly or indirectly controls or owns, or is owned or controlled, or is under common control or ownership with another entity. Any references to the Company or the Customer shall be construed to mean reference to their respective Affiliates;

1.2. "**The GDPR**" means 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, and repealing Directive 95/46/EC (General Data Protection Regulation);

1.3. "**Data Protection Law**" means The Data Protection Act 1998 (c 29) and any superseding and repealing legislation; the GDPR; and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any superseding and repealing legislation;

1.4. "**Data Controller**" has the same meaning as the one provided for in Article 4.7 GDPR. For the purposes of this PDPA and the Terms, the Data Controller is the Customer;

1.5. "**Data Processor**" has the same meaning as the one provided for in Article 4.8 GDPR. For the purposes of this PDPA and Terms, the Data Processor is the Company;

1.6. "**Reapit Australia**" means Reapit PTY Limited the Company's wholly-owned subsidiary domiciled in Australia, which may process personal data on behalf of the Customer in accordance with clause 8 of this PDPA;

1.7. "**The Terms**" means either the Company's standard software licence terms and conditions for Customers (as the same may be modified from time to time) or any other separately negotiated agreement between the Company and/or its Affiliates and the Customer and/or its Affiliates concerning the Customer's use of the Company's software;

1.8. "**SCCs**" means the standard contractual clauses annexed to Commission Decision (2010/87/EU) of 5 February 2010 found at <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32010D0087> and any superseding and repealing contractual clauses that may be adopted pursuant to a Decision of the EU Commission;

1.9. All definitions in Article 4 GDPR shall apply to this PDPA;

1.10. All capitalised terms shall have the meaning given in the Terms.

2. GENERAL PROVISIONS

2.1. This PDPA is hereby incorporated into and forms part of the Terms. In the event and to the extent of a conflict with any provision of the Terms relating to Data Protection Law, and Clause 6 thereof in particular, this PDPA shall prevail. Save as specifically amended herein, all of the provisions of the Terms, save to the extent modified by this PDPA, are unaffected and shall continue to apply.

2.2. The SCCs are hereby incorporated by reference into and form part of this PDPA. In the event and to the extent of a conflict with any provision of this PDPA or the Terms, the SCCs shall prevail.

2.3. This PDPA together with the Terms represent the Customer's complete and final documented instructions to the Company for the processing of personal data on the Customer's behalf, including for the avoidance of doubt with regard to transfers of personal data as described in Clause 8 below.

2.4. This PDPA applies where and only to the extent that the Company processes personal data that originates from the European Economic Area and/or is otherwise subject to Data Protection Law.

2.5. Each party's and all of its Affiliates' liability, taken together in the aggregate, arising out of or related to this PDPA or the SCCs, whether in contract, tort or under any other theory of liability, is subject to any limitation of liability provisions set out in the Terms, and any reference herein to the liability of any party means the aggregate liability of that party and all of its affiliates under the Terms.

2.6. Upon the parties' written agreement and subject to 30 days written notice being served by either party to the other, this PDPA may be replaced by standard contractual clauses adopted pursuant to Article 28(7) or Article 28(8) GDPR.

2.7. Following service of written notice pursuant to Clause 2.6, the Company may also modify this PDPA if required to do so by law or if it decides to implement approved codes of conducts or certifications pursuant to Article 28(5) GDPR or Binding Corporate Rules pursuant to Article 47 GDPR.

3. PERSONAL DATA PROCESSING

3.1. The Company may process, on behalf of the Customer, personal data:

3.1.1. Relating to the Customer's current and prospective clients in accordance with the Terms;

3.1.2. By automated means for the purpose of fulfilling its obligations under the Terms or as otherwise required by law;

3.1.3. such as individual names, addresses, email addresses, phone numbers, bank details, ID documentation, and any other information that may be capable of identifying a Customer's client or prospective client which the Customer or its representative inputs into the Licensed Programs or otherwise records in relation to the provision of the Services.

4. UNDERTAKINGS OF THE COMPANY

4.1. The Company undertakes to implement appropriate technical and organisational measures sufficient to ensure that any processing of personal data it undertakes on behalf of the Customer will meet the requirements of the GDPR and will ensure the protection of the rights of the data subject to whom the personal data relates. With regard to the above, the Company hereby undertakes to:

4.1.1. Only act on the documented instructions of the Customer, unless otherwise required by law;

4.1.2. Ensure that persons authorised to process the personal data, if any, are subject to a duty of confidence;

4.1.3. ensure a level of security of personal data processing appropriate to the risk involved in such processing;

4.1.4. Only engage third parties in the sub-processing of personal data on terms substantially similar to the terms of this PDPA;

4.1.5. assist the Customer, insofar as this is possible taking into account the nature of the relevant processing, in fulfilling the Customer's obligations with respect to the exercise of data subjects' rights laid down in Data Protection Law (it being understood that the Company will be entitled to make reasonable charges to the Customer reflecting the level of assistance required);

4.1.6. assist the Customer, while taking into account the nature of the processing and the information available to the Company, in meeting its obligations under Data Protection Law in relation to the security of processing, the notification of personal data breaches and data protection impact assessments;

4.1.7. save to the extent required by law, delete and/or return to the Customer all personal data obtained from the Customer within a reasonable time following the Customer's request following expiry of the Terms;

4.1.8. Allow for and contribute to audits conducted by or on behalf of the Customer and make available to the Customer information necessary to verify that the Customer and the Company are both meeting their obligations under this PDPA;

4.1.9. attend to queries related to Data Protection Law that the Customer may have in relation to this PDPA or the Terms, which are to be directed to craig@elwooddeere.com.

5. UNDERTAKINGS OF THE CUSTOMER

5.1. The Customer hereby:

5.1.1. acknowledges it is solely responsible for the accuracy, quality, and legality of personal data and the means by which it was acquired;

5.1.2. Grants permission to the Company to use third party sub-processors for the purposes of fulfilling its obligations under this Agreement (and the Company shall, upon request, make a list of such sub-processors available to the Customer within a reasonable time);

5.1.3. Instructs the Company to process personal data on its behalf for the purposes of fulfilling its obligations under this Agreement;

5.1.4. Acknowledges that, as a Data Controller, it is ultimately responsible for ensuring that personal data is processed in accordance with Data Protection Law;

5.1.5. Waives its right to make any claims against the Company for any share of liability under Article 82(5) GDPR.

6. THIRD PARTIES

6.1. The Company has engaged one or more secure cloud storage providers to provide data storage facilities on behalf of its Customers ("Storage Providers"). All information provided by Customers in the United Kingdom, whether personal data or not, will be physically stored in the United Kingdom. The Company has and will procure that any agreements it enters into with Storage Providers will be on substantially similar terms to the terms of this PDPA. In the event the Company engages alternative Storage Providers or other sub-processors it will notify the Customer in writing.

6.2. As between the Company and the Customer, the Customer shall be solely responsible for the conduct of any third parties that it decides to engage for the purposes of carrying out activities which involve the Customer authorising the extraction of Personal Data entered into the Licensed Programs and/or the integration of such Personal Data onto third party software systems. For the avoidance of doubt, any such third parties shall act as additional Data Processors of the Customer, and not as sub-processors of the Company.

7. SECURITY MEASURES

7.1. The company maintains a robust set of security measures for ensuring the ongoing confidentiality, integrity and availability of personal data, and the resilience of the hardware and software systems in use. Such security measures are subject to continuing technical progress and development.

7.2. Further information on the security measures the Company has in place can be provided upon request made via email to craig@elwooddeere.com.

8. PERSONAL DATA TRANSFERS OUTSIDE THE EUROPEAN ECONOMIC AREA

8.1. The Customer acknowledges that the Company's Affiliate Reapit Australia operates under the same data protection policies as those adopted by the Company. The Customer further acknowledges that personal data stored in the United Kingdom may be accessed by Reapit Australia to the extent necessary to provide the services specified in the Terms, including but not limited to:

8.1.1. 24/7 Customer support;

8.1.2. Software development, modifications and/or enhancements to RPS or any other Licensed Program(s) identified in the Terms.

8.2. Reapit Australia's access to personal data provided by the Customer pursuant to clause 8.1, to the extent that it includes the processing of personal data of residents of the United Kingdom or the European Union, shall be governed by the SCCs which are hereby incorporated into the PDPA by reference.

8.3. For the purposes of the SCCs the Company and the Customer agree as follows:

8.3.1. The SCCs are binding on both the Company and the Customer in their entirety;

8.3.2. Insofar as the Customer's personal data is transferred outside the European Economic Area to third parties other than Reapit Australia, the Company and the Customer each agree to be bound by and comply with their obligations under the SCCs;

8.3.3. The Customer is the data exporter;

8.3.4. Reapit Australia is the data importer;

8.3.5. For the purposes of Clauses 5(j) and 11(4) of the SCCs, there are no sub-processing agreements to be notified, apart from the agreements specified in Clause 6.1 of this PDPA. A copy of the relevant agreements will be made available upon request, it being acknowledged that the Company will be entitled to redact commercial information, or clauses unrelated to the SCCs, pursuant to Clause 4(h) of the SCCs;

8.3.6. For the purposes of Clauses 9 and 11 of the SCCs, the governing law shall be the law of the country of incorporation of the Customer;

8.3.7. For the purposes of Appendix 1 to the SCCs, the relevant information is Clause 3 of this PDPA;

8.3.8. For the purposes of Appendix 2 to the SCCs, the relevant information is Clause 7 of this PDPA;

8.4. In the event that the Company adopts Binding Corporate Rules pursuant to Article 47 GDPR and/or Clause 2(7) of this PDPA, international personal data transfers carried out by the Company shall be governed by such Binding Corporate Rules and not by the SCCs.

9. SEVERABILITY

9.1 If any provision of this PDPA is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision shall be deemed deleted. Any modification to or deletion of a provision under this Clause shall not affect the validity and enforceability of the rest of this PDPA