

AFFILIATED EMPLOYER - DATA PROTECTION AGREEMENT

INTRODUCTION

- 1.1 **Background.** COPRÉ is an occupational benefits institution entered in the register of occupational benefits institutions in accordance with the provisions of the [Federal Law on Occupational Retirement, Survivors' and Disability Pension Plans \(LPP; SR 831.40\)](#) and entrusted, in particular, under the LPP with providing pensions and other benefits to employees of its affiliated companies. The Employer has chosen to join COPRÉ and may, in this context, transmit Personal Data of the Employer to COPRÉ, particularly concerning its employees.
- 1.2 **Subject-matter.** This Agreement reflects the Parties' agreement regarding the terms and conditions governing the processing and security of the Employer as per the signed convention by all parties. It is only available jointly to a signed convention between the existing parties and has no independent reach to the Convention.
- 1.3 **Definitions.** As used in this Agreement, capitalised terms, whether in their singular or plural form, shall have the meanings specified. The terms "data subject", "processing", "controller" and "processor" as used in this Agreement shall have the meanings specified in the Applicable Legislation on data protection.

APPLICABLE LEGISLATION

- 1.4 **Legislation on data protection.** The Parties acknowledge and agree that Swiss Data Protection Legislation and, if applicable, the data protection Legislation of other countries may, depending on the circumstances, apply to the processing of the Employer's Personal Data.
- 1.5 **Legislation on occupational pension benefits.** The processing of the Employer's Personal Data, and more broadly the relationship between the Parties, are otherwise governed by Swiss legislation on occupational pension benefits, including but not limited to the LPP and its implementing ordinances, and by the regulations adopted by COPRÉ pursuant to such legislation.
- 1.6 **Compliance with legislation.** Each Party shall comply with its obligations under any applicable law.

DATA PROCESSING

- 1.7 **Roles and compliance.** The Parties acknowledge and agree that in the context of their relationship and the processing of Personal Data of the Employer:
- (a) the subject-matter and details of the processing are described in **Annexe A**;
 - (b) Each Party acts as an independent controller as regards its own processing activities.
- 1.8 **Nature and purpose of processing.** COPRÉ shall process

the Employer's Personal Data in accordance with this Agreement, any Convention concluded between the Parties to the relative declaration about the data protection kept updated by Copré on its website, as well as its obligations under the laws and regulations, for the purpose of providing its Services to the Employer and to the data subjects (insured persons and pensioners).

- 1.9 **Obligations of the Employer.** The Employer shall particularly be responsible for the quality, lawfulness and relevance of the data it discloses to COPRÉ and shall be liable to third parties affected by the processing and to the competent data protection authorities. In particular, the Employer undertakes to provide sufficient information to the data subjects regarding the collection and processing of their personal data, obtain their valid agreement if such agreement is legally required and to cooperate with them regarding the exercise of their rights.

DELETION OF DATA

Subject to legal obligations limiting the disclosure or recovery of data, COPRÉ shall, at the end of the Term, return to the Employer all its Personal Data to which COPRÉ has access. Thereafter, COPRÉ shall delete or anonymise the Employer's Personal Data unless COPRÉ is required by law to retain the Employer's Personal Data in whole or in part.

DATA SECURITY

- 1.10 **Security measures**
- 1.10.1 **Security measures of COPRÉ.** COPRÉ implements and maintains appropriate technical and organisational measures to protect the Employer's Personal Data against a Security Incident. These measures include but are not limited to the following:
- (a) the use of firewalls;
 - (b) the means to ensure the ongoing confidentiality, integrity, availability and resiliency of processing systems and services;
 - (c) the means to limit access to the Employer's Personal Data to those personnel who need to access it in relation to the provision of the Services;
 - (d) the means to restore the availability of and access to the Employer's Personal Data within appropriate time frames in the event of a Security Incident; and
 - (e) a process for regularly testing, assessing and evaluating the effectiveness of the technical and organisational measures for ensuring the security of the processing.
- 1.10.2 **Compliance with security measures by COPRÉ staff.** COPRÉ shall take appropriate measures to ensure compliance with the above-mentioned security measures by its employees and Sub-Conventional,

particularly by ensuring that all persons authorised to handle the Employer's Personal Data are committed to maintain confidentiality or are subject to an appropriate legal obligation of confidentiality.

1.11 Security Incidents

1.11.1 **Notification of Security Incidents to the Employer.** If COPRÉ becomes aware of a Security Incident likely to result in a high risk to the privacy or fundamental rights of the data subject, COPRÉ undertakes to inform the Employer thereof as soon as possible by any useful means (particularly via the contact person identified by the Employer). COPRÉ shall describe, to the extent possible, the nature of the Security Incident, as well as any measures taken by COPRÉ to mitigate the potential risks and any measures that COPRÉ recommends be taken by the Employer. The actions of COPRÉ in relation to this Section 1.11.1 shall not constitute, and may not be construed as, an acknowledgement by COPRÉ of any fault or liability in relation to the Security Incident that has occurred.

1.11.2 **Obligations of the Parties.** Each of the Parties shall be responsible for its own compliance with the legal provisions applicable to it, including but not limited to any obligation to notify the Security Incident to any competent authority and/or data subjects. In this context, each of the Parties shall provide the other with such assistance as may be reasonably required to enable it to comply with its obligations.

RECIPROCAL SUPPORT

1.12 **Principles.** Each Party shall provide, subject to its full remuneration in this regard, such assistance as may be reasonably necessary and requested by the other Party to enable it to demonstrate compliance with its obligations under Swiss Data Protection Legislation, as detailed in Section 1.13 below.

1.13 **Requests from data subjects.** If COPRÉ receives a request from a data subject concerning Personal Data of the Employer, COPRÉ shall normally invite the data subject to submit the request to the Employer, except in the case of information to which the Employer does not have legal access. The foregoing shall be without prejudice to COPRÉ's own obligations under applicable law. Each of the Parties shall provide reasonable assistance to the other Party as regards the exercise of data subjects' rights. The measures shall cover all rights of the data subjects under applicable Data Protection Legislation, including but not limited to access, rectification, limitation, objection, erasure and portability of the Employer's Personal Data.

DATA TRANSFERS

1.14 **Authorised countries.** Unless otherwise provided in the Convention, the Employer agrees that COPRÉ may store and process the Employer's Personal Data in Switzerland.

1.15 **Special authorisation.** COPRÉ shall inform (unless COPRÉ is required by law not to make disclosures) the

Employer prior to any transfer of the Employer's Personal Data to a country not mentioned in Section 1.14 above and the Employer undertakes to authorise such transfer provided that COPRÉ can guarantee by any useful means an adequate level of protection of the Employer's Personal Data.

1.16 **Authorisation for Sub-Conventional.** The Employer agrees that if COPRÉ engages a processor in accordance with Section 0 below to carry out specific processing activities in a third country not recognised by the European Commission and Switzerland as ensuring an adequate level of data protection, COPRÉ may use the European Commission's Standard Conventional Clauses, or any other valid means, to comply with the requirements of the Swiss Data Protection Legislation, and the Employer hereby agrees to such transfer provided that the conditions for the validity of such means are met.

SUBCONVENTIONING

1.17 COPRÉ shall ensure that any person acting under its authority, particularly a sub-Conventional, processes the data only on its instructions, in accordance with a Convention stipulating obligations at least equivalent to those of COPRÉ towards the Employer under this Agreement.

REGISTER OF PROCESSING ACTIVITIES

1.18 The Employer acknowledges that COPRÉ is required to:

- (a) collect and store certain information, including the name and contact details of each processor and/or controller with whom COPRÉ acts and, where applicable, the local representative of the controller and/or the data protection officer as well as the categories of processing carried out; and
- (b) make such information available to any competent authority.

1.19 The Employer undertakes to provide COPRÉ with all information reasonably necessary for COPRÉ to perform its obligations.

MISCELLANEOUS PROVISIONS

1.20 **Application of the Convention.** The provisions of any Convention shall apply to those aspects of the relationship between the Parties that are not governed by this Agreement.

1.21 **Order of priority.** In the event of any conflict or inconsistency between the terms of this Agreement and those of any Convention, the terms of this Agreement shall prevail.

1.22 **Term of the Agreement.** This Agreement shall enter into force upon signature and shall remain in force until the resignation by one Partie (including, if applicable, any period after termination of the Convention during which COPRÉ continues to provide Services temporarily (the **Term**)).

DEFINITIONS

- 1.23 **Agreement** means this document.
- 1.24 **Convention** means affiliation convention between the Employer and COPRÉ regarding the provision of Services to which the present agreement is integrated.
- 1.25 **COPRE** – meaning in the Convention.
- 1.26 the **Employer's Data** means the data (i) transmitted by the Employer to COPRÉ or collected by COPRÉ (from the Employer or from third parties on behalf of the Employer) in the context of performing the Services and (ii) held or processed by COPRÉ.
- 1.27 the **Employer's Personal Data** shall mean personal details or personal data, that is, any information relating to an identified or identifiable natural person, whether directly or indirectly, particularly 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 his or her physical, physiological, genetic, mental, economic, cultural or social identity, in accordance with the applicable Data Protection Legislation, contained in the Employer's Data.
- 1.28 **Term of the Agreement:** see Section 1.22.
- 1.29 **Employer** – meaning in the Convention.
- 1.30 **Security Incident** means a security breach that results in the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data of the Employer.
- 1.31 **Applicable Data Protection Legislation** means either the Swiss Data Protection Legislation or, where applicable, Other States' Data Protection Legislation.
- 1.32 **Other States' Data Protection Legislation** means any data protection legislation other than Swiss Data Protection Legislation.
- 1.33 **Swiss Data Protection Legislation** means the Swiss Federal Act on Data Protection and its implementing ordinances, as amended during the Term.
- 1.34 **Partie** designates in singular COPRE or the Employer and in plural both jointly.
- 1.35 **Services** means all services provided by COPRÉ to the Employer or to the data subjects (insured persons and pensioners), including all services provided under a Convention.

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ANNEXE A – SUBJECT-MATTER AND DETAILS OF DATA PROCESSING

Categories of data

The personal data processed via the Services may include the following categories of data:

- Identity (name, gender, date of birth, age);
- Contact details (e-mail address, postal address, telephone number or other contact information);
- Official documents (passport, ID, driving licence, insurance card, AVS number);
- Pension-related data (e.g. accrual of vested termination benefits, vested benefits account, buy-ins, etc.);
- Occupational data (employers, positions held, income, pension entitlements);
- Family life (marital status, number of dependent children);
- Bank details (bank account, Postfinance, etc.); and
- In the event of disability or death, health information (such as medical certificates, medical examinations, death certificate, disability insurance decision, etc.).

Data subjects

The personal data processed via the Services may concern the following categories of data subjects:

- Insured persons (particularly employees of the Employer)
 - Pensioners
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