



## Data Processor Code of Conduct

## 1. INTRODUCTION

This Code of Conduct:

- 1.1 is drawn up in accordance with and further to the Harel Mallac Data Protection Policy (hereinafter referred to as the “**Main Policy**”) and the relevant data privacy laws and regulations in force.
- 1.2 must be read in conjunction with the Main Policy and shall not affect any other obligations under law. In the event of any conflict between this Code and the Main Policy, the terms of this Code shall prevail.
- 1.3 shall form an integral part of the Main Policy and any capitalized, technical and/or legal terms herein shall have the same meanings ascribed to them as in the Main Policy.
- 1.4 applies to all entities of the Harel Mallac Group (hereinafter referred to as the ‘**Group**’), their data processors and their respective officers, employees, volunteers, trainees and sub-processors.

## 2. PURPOSE

2.1 The purpose of this Code of Conduct is to:

- i. detail some of the safeguards which must be undertaken by the data controller prior to and during the processing of personal data by a data processor appointed by the data controller in order to assist in the processing of personal data; and
- ii. the different safeguards, measures and obligations that are automatically binding on all data processors upon them contracting with any data controller in the Group, for the processing of personal data (without limiting any contractual and/or statutory obligations binding the data processor.) In the event of any conflict between this Code and any binding data processing agreement between the data controller in the Group and the data processor, the terms of the said data processing agreement shall prevail.

2.2. The following circumstances (without limitation) will likely give rise to the processing of personal data by a data processor:

- ❑ where a service is provided by a third party to a data controller in the Group e.g. maintenance of printers on which personal data is stored, archiving management services, provision of accounting and/or auditing services, installation and/or maintenance services, payroll services etc.
- ❑ sub-contracting of works by the data controller in the Group to a third party;
- ❑ the licensing of a software by a third party to a data controller in the Group, where the third party has certain access rights to data;
- ❑ the administration by a third party of a social media site/platform for a data controller in the Group;
- ❑ the processing of job adverts and applications by a third party for the data controller in the Group;
- ❑ due diligence exercise conducted by a third party for the data controller in the Group;
- ❑ Profiling and/or data analytics by a third party for the data controller in the Group.

## 3. SAFEGUARDS BY THE DATA CONTROLLER

3.1. Without limitation, the data controller in the Group must undertake the following measures, prior to and during the processing of personal data by a data processor appointed by the data controller to assist in the processing of personal data:

- ❑ Adequate screening of the data processor in order to ascertain what data privacy measures and security it has in place for the purposes of the required processing for the data controller. The data controller should be satisfied that the data processor has suitable and sufficient technical security measures, and organisational measures, in place with respect to data privacy.
- ❑ Ascertain where the processing of data will take place and who will have access to such data;
- ❑ Ensure that a written agreement is signed between the data controller and data processor for provision of the service, which should include the data processing agreement. The said written agreement must commit the data processor to apply appropriate security measures with respect to data privacy;
- ❑ Take reasonable steps to monitor and ensure that these measures and this Code are being complied with by the data processor.
- ❑ Ensure the following regarding personal data collected:  
**Lawful processing:** processed lawfully and fairly;

**Purpose Limitation:** collected and processed for a specific and lawful purpose;  
**Data Minimisation:** adequate, relevant and not unnecessary;  
**Accuracy:** accurate and up to date;  
**Storage Limitation:** not be held for longer than is necessary;  
**Rights of the Data Subject:** processed in accordance with the rights of data subjects.

#### **4. OBLIGATIONS OF THE DATA PROCESSOR**

4.1. Irrespective of whether or not a data processing agreement is signed between the data controller in the Group and its data processor, it is understood that the data controller has agreed to entrust the processing of personal data to the data processor in reliance upon the fact that the data processor will comply with this Code of Conduct, applicable data privacy laws and regulations in force and specifically the following obligations:

The data processor shall:

- i. Process the personal data for the sole purpose requested by the data controller and in accordance with the express instructions of the data controller only (to the fullest extent under law).
- ii. keep confidential the personal data that it processes on behalf of data controller and shall ensure that anyone acting under its authority keeps personal data confidential.
- iii. notify the data controller immediately in writing should it be compelled under law to process personal data in any way not specifically requested by the data controller.
- iv. notify the data controller immediately in writing beforehand of any transfer of personal data abroad.
- v. implement appropriate technical and organizational measures to ensure a level of security appropriate to the data privacy risk. The measures must also be aimed at preventing the unnecessary collection and further processing of personal data.
- vi. periodically evaluate and strengthen, supplement or improve the measures it has implemented insofar as requirements or (technological) developments prompt it to do so.
- vii. Give the data controller the opportunity to periodically check compliance with this Code of Conduct and data privacy laws and regulations in force.
- viii. Notify the data controller in writing of any personal data breach in accordance with applicable laws and regulations in force i.e. within 72 hours after becoming aware of the personal data breach.
- ix. Notify the data controller in writing of complaints and/or requests from data subjects whose personal data are being processed by it on behalf of data controller in accordance with the controller's Data Privacy Rights Management Policy and any other related policies.
- x. provide the data controller with reasonable assistance requested by the data controller in connection with a request from, or audit by, a Supervisory Authority or other competent authority, or in connection with a request or complaint from data subjects whose personal data are being processed by the data processor on behalf of data controller.
- xi. Assist the data controller in complying with applicable data privacy laws and regulations in force that may require a data controller to conduct data protection impact assessments and/or to consult with Supervisory Authorities.
- xii. shall not outsource the processing of personal data, whether the whole or in part to a subcontractor without the prior written authorisation of the data controller. The data processor's subcontractor must also, as a minimum, comply with this Code of Conduct. In case the subcontractor fails to fulfil its data protection obligations under this Code, the data processor shall remain fully liable towards the data controller for the (non-) performance of the subcontractor's obligations under this Code.
- xiii. Delete promptly all personal data in its possession after such processing agreement with the data controller, unless otherwise is agreed by the controller and data processor and provide prompt written confirmation to the data controller of same.

- xiv. If the personal data is required to be transferred outside of the Republic of Mauritius, the data controller must provide its prior written consent. Unless otherwise agreed to between the data controller and data processor in writing, the same safeguards in this Code shall apply to any personal data transferred abroad.

The Chief Executive of the Harel Mallac Group reserves the sole right to bring any amendments to this Code of Conduct as and when he deems fit.

**Code of Conduct Information**

<b>Code of Conduct prepared by:</b>	<b>Group Head of Legal Affairs</b>
<b>Code of Conduct came into effect on:</b>	<b>1<sup>st</sup> October 2020</b>