

# ARDIAN



## BINDING CORPORATE RULES - SUMMARY

### **Intra group data transfers**

September 2018

# Table of Contents

- 1. Preamble ..... 3
- 2. Definitions ..... 3
- 3. Endorsement ..... 4
- 4. Entity with delegated data protection responsibilities ..... 4
- 5. Description of the processing ..... 4
- 6. Undertaking given by data exporter..... 4
- 7. Undertaking given by data importer acting as data controller ..... 4
- 8. Undertaking given by data importer acting as data processor ..... 5
- 9. Rights of data subjects ..... 5
- 10. Guarantee of implementation ..... 6
- 11. Training and education ..... 6
- 12. National mandatory requirements for entities..... 6
- 13. Security of processing and data ..... 7
- 14. Restriction on onward transfers ..... 7
- 15. Co-opération ..... 7
- 16. Control of compliance ..... 7
- 17. Complaint handling ..... 7
- 18. Liability ..... 8
- 19. Updates ..... 8
- 20. Effective date/term ..... 9

# 1. PREAMBLE

The aim of this document is to synthesize the Binding Corporate Rules of Ardian. The purpose of these Binding Corporate Rules is to organize the crossborder flows of personal data between entities of the Ardian group.

# 2. DEFINITIONS

The terms below will have the following meaning :

- > « personal data » : any information relating to a natural person (“data subject”) who is or can be identified, directly or indirectly, by reference to an identification number or to one or more factors specific to him. In order to determine whether a person is identifiable, all the means that the data controller or any other person uses or may have access to should be taken into consideration;
- > « recipient of the processing of personal data » : any authorized person to whom the data are disclosed, other than the data subject, the data controller, the sub-contractor and persons who, due to their functions, are in charge of processing the data;
- > « endorsing entity » : entities having signed these Binding Corporate Rules, namely ARDIAN France, its sister companies and their establishments, its subsidiaries and their establishments as well as any other company in which the aforementioned companies have a share of the registered capital regardless the amount of such share;
- > « data exporters »: endorsing entities established in France and other locations in the European Economic Area having endorsed these Binding Corporate Rules and transferring personal data to another endorsing entity established in a country outside the European Economic Area not ensuring an adequate level of protection;
- > « data importers » : endorsing entities established in a country outside the European Economic Area not ensuring an adequate level of protection according to the European Union Data Protection regulation 2016/679, and receiving from the data exporter elements intended to be processed in accordance with these Binding Corporate Rules;
- > « controller » : the natural or legal person, the department or any other organization who determines the purposes and means of the processing of personal data;
- > « data subject of a processing of personal data » : an individual to whom the data covered by the processing relates;
- > « personal data processor » : any person who processes personal data on behalf of the controller;
- > « third parties » : the natural or legal person, public authority, agency or any other body other than the data subject, the controller, the processor and the persons who, under the direct authority of the controller or the processor, are authorized to process the data;
- > « processing of personal data » : any operation or set of operations in relation to such data, whatever the mechanism used, especially the obtaining, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, deletion or destruction of personal data;
- > « transfer » : communicating, copying or moving personal data via a network, or communicating, copying or moving these data from one media to another, whatever the type of media, to the extent that the data are subject to processing in the recipient country.

### 3. ENDORSEMENT

The data exporters and the data importers agree to comply with these Binding Corporate Rules throughout the term of their endorsement, subject to compliance with local regulations.

### 4. ENTITY WITH DELEGATED DATA PROTECTION RESPONSIBILITIES

ARDIAN France shall be the entity with data protection responsibilities.

As the entity with delegated data protection responsibilities, it will be :

- in charge of ensuring the proper implementation of these Binding Corporate Rules;
- the prime contact with the supervisory authorities and data subjects;
- agree to take the responsibility for any violation of the Binding Corporate Rules by an endorsing entity.

### 5. DESCRIPTION OF THE PROCESSING

The nature of the data, the purposes of the processing and the scope of the transfers within the endorsing entities are detailed for each processing in the Binding Corporate Rules.

### 6. UNDERTAKING GIVEN BY DATA EXPORTER

The data exporters warrant that :

- > they carry out the preliminary formalities for the planned processing;
- > the processing of personal data is carried out in accordance with national law and these Binding Corporate Rules;
- > the data collected is adequate;
- > the transfer of personal data is limited to specific purpose;
- > they shall not collect or process "sensitive" data;
- > they shall store the personal data for a period no longer than is necessary for the purpose for which they are obtained and processed.

### 7. UNDERTAKING GIVEN BY DATA IMPORTER ACTING AS DATA CONTROLLER

Data importers :

- > may process and transfer non sensitive and sensitive data to another importer if the conditions set out in the previous article are fulfilled ;

- > undertake to collect and process the data transferred in a manner compatible with the purpose of the transfer;
- > undertake that data subjects benefit from the rights set out in these Binding Corporate Rules.

## 8. UNDERTAKING GIVEN BY DATA IMPORTER ACTING AS DATA PROCESSOR

Data importers warrant that :

- > they will have in place appropriate technical and organizational measures to protect the personal data;
- > they will have in place procedures so that any third party they authorize to have access to the personal data, including subcontractor, will respect and maintain the confidentiality and security of the personal data in compliance with the requirements of the Binding Corporate Rules;
- > they will process the personal data for purposes for which they are originally collected;
- > they will appoint one or more individuals in charge of ensuring the respect of these Binding Corporate Rules and authorized to respond to enquiries of data subjects and competent authority within a reasonable time;
- > they will submit their data processing facilities, data files and documentation needed for processing to the individuals designated by the responsible by delegation of data protection in order to ascertain compliance with the warranties and undertakings in these Binding Corporate Rules;
- > they will process the personal data in accordance with the data protection laws of the country in which the data exporter is established, subject to compliance with local laws;
- > they will comply with the instructions given for the implementation of the processing of personal data;
- > they will destroy any hard or soft copies of the file in which the information is stored, or will return any media containing personal data that may have been provided.

## 9. RIGHTS OF DATA SUBJECTS

In the event that personal data is transferred to a controller established in a country outside the European Economic Area that does not ensure an adequate level of protection, any data subject is entitled to :

- > obtain a copy of these Binding Corporate Rules;
- > be informed of the transfer of personal data relating to them, the purpose of the transfer, the recipient or the categories of recipients, the place where the data recipient is established and the absence of adequate protection;
- > obtain disclosure of all data processed relating to them and as appropriate, the rectification, erasure or blocking of data processing that does not comply with the principles set out by these Binding Corporate Rules;
- > object to the processing of personal data relating to them on compelling legitimate grounds relating to their particular situation;
- > claim enforcement of :

- the endorsing entities' duty to cooperate with each other and/or with the competent data protection authorities;
  - the obligation for the endorsing entities to immediately inform the entity with delegated data protection responsibilities if the applicable legislation may prevent it from fulfilling its obligations under these Binding Corporate Rules;
  - the obligation not to make onward transfer outside the group without informing the data subjects and without entering into an agreement with the entity;
  - the security and confidentiality obligation.
- > obtain, when they have suffered damage as a result of unlawful processing or any act incompatible with these Binding Corporate Rules, a correction of the actions or inactions that violated the Binding Corporate Rules and if appropriate, compensation for damage.
  - > contact the complaint-handling service, the competent data protection authority or the competent courts.

## 10. GUARANTEE OF IMPLEMENTATION

The endorsing companies agree to take such measure as may be necessary to ensure that each of them will adjust its processing activities to meet the requirements of these Binding Corporate Rules, subject to their compliance with local rules.

In the event these Binding Corporate Rules are not complied with, and subject to their compliance with local rules, any data subject may have recourse to the relevant data protection authority.

## 11. TRAINING AND EDUCATION

The endorsing companies agree to implement training programs dedicated to the protection of personal data for their employees that have permanent or regular access to personal data, that are involved in the collection of personal data or in the development of tools used to process personal data.

Employees are informed of the disciplinary sanctions that may be taken in the event that they fail to comply with these rules.

## 12. NATIONAL MANDATORY REQUIREMENTS FOR ENTITIES

In case of conflict between these Binding Corporate Rules and the endorsing entity's applicable legislation, the endorsing entity will promptly inform the entity with delegated data protection responsibilities.

## 13. SECURITY OF PROCESSING AND DATA

The endorsing entities agree to take all useful precautions, with regard to the nature of the data and the risks of the processing, to preserve the security of the data and, in particular, prevent their alteration and damage, or access by non-authorized third parties.

In the event that personal data is transferred to data subcontractor, each subcontractor shall offer adequate guarantees to ensure the implementation of the security and confidentiality measures.

## 14. RESTRICTION ON ONWARD TRANSFERS

In the event that personal data is transferred from the endorsing entities to non-endorsing entities, the entities at the origin of the transfers agree to inform the data subjects.

For all of these onward transfers, each endorsing entity shall conclude a contract with the non-endorsing entities :

- > when the transfer is made within the European Union or a country ensuring an adequate level of protection, such contract shall include a clause specifying the security and confidentiality measures taken by the entity to which the transfer is made; the clause shall remind that said entity can in any case act only on instructions from the endorsing entity;
- > when the transfer is made to a non-endorsing entity established outside the European Union, and does not benefit from an exception authorizing the transfer, such contract shall be drafted on the basis of standard contractual clauses adopted by the European Commission.;

## 15. CO-OPERATION

The endorsing entities agree to co-operate and help each other to handle a request or complaint from data subjects, closely co-operate with the competent personal data protection authorities and follow the audit requirements.

The endorsing entities agree to abide by the advice and recommendations of the competent data protection authorities in the place where they are established.

## 16. CONTROL OF COMPLIANCE

The endorsing companies agree to appoint one or more officers in charge of ensuring compliance with these Binding Corporate Rules. Their names and contact details will be updated at least once annually.

## 17. COMPLAINT HANDLING

Data subjects may lodge a complaint about unlawful processing or an act relating to them that is incompatible with these Binding Corporate Rules, by sending a letter or e-mail to the Data Protection Officer (DPO) to which should be attached a copy of an identity document. The letter (or e-mail) must be sent with a document describing the reasons of the complaint and including any relevant supporting document.

The person responsible for investigation :

- > manages and receives complaints lodged by data subjects ;
- > helps to find a solution;

- > where applicable, opens an investigation to gather and review the facts ;
- > shall act with independence, neutrality and impartiality in the exercise of his or her mission.

Upon receipt of his or her complaint, and no later than within five (5) business days, the data subject receives information on the identity of the employee in charge of handling the complaint and the approximate length of time required to handle the complaint, or an immediate answer or a request for additional documents.

The period to review a complaint may not exceed two (2) months from the receipt. The period to review a request that may subsequently be submitted to the DPO of the entity with delegated data protection responsibilities may not exceed one (1) month.

At the end of the review, a letter is sent to the data subject informing him or her whether the complaint, after legal analysis, is found justified or is dismissed as well as of the other available remedies (the competent data protection authorities or the competent courts and where applicable the DPO if the data subject has not already referred the matter to him).

## 18. LIABILITY

The entity with delegated data protection responsibilities accepts responsibility for and agrees to take the necessary action to remedy the acts of endorsing entities established outside the European Union and not ensuring a sufficient level of protection and to pay compensation for any damages resulting from the violation of the Binding Corporate Rules by said entities.

If it is proved that the endorsing entity established outside the European Union and not ensuring a sufficient level of protection is not liable for the act resulting in the damage claimed by the data subject, ARDIAN France will discharge itself from any responsibility.

The endorsing entities may be partially or totally exempted from liability as the data controller if they establish that they are not responsible for the violation or the damage.

ARDIAN France has sufficient assets to cover the payment of compensation for breaches of these Binding Corporate Rules.

## 19. UPDATES

### 1. UPDATES TO THE CONTENT OF THE BINDING CORPORATE RULES

In the event of changes to the content of these Binding Corporate Rules, the text shall be reported to the relevant data protection authority and the endorsing entities.

Any updates to the list of entities or any substantial changes to the Binding Corporate Rules should be reported once a year to the data protection authorities.

### 2. UPDATES TO THE LIST OF THE ENDORSING ENTITIES

Any changes to the list of the entities should be reported once a year to the relevant data protection authorities.

No transfer is made to a new entity until the new entity is effectively bound by these Binding Corporate Rules and can deliver compliance.

## 20. EFFECTIVE DATE/TERM

These Binding Corporate Rules will be effective for an unlimited period of time upon the date of the first signature.