

U.S. - OpenWater Data Processing Agreement

This Data Processing Agreement and Annex A (the “**DPA**”) is made and entered into by and between OpenWater Software, LLC (“**OW**”) and the customer identified as “Customer” or “You” on the first page of the Order Form (the “**Customer**”). Collectively, OW and the Customer may be referred to as the “**Parties**”.

This DPA supplements any written agreement (including an executed Order Form or renewal Order Form) between Customer and OW governing Customer’s use of OW’s products or services (the “**Agreement**”) when Data Protection Laws (as that term is defined below) apply and will be effective as of the day OW receives a complete and executed Agreement from Customer which incorporates this DPA (the “**DPA Effective Date**”).

This DPA reflects the parties’ agreement with respect to the Processing of Personal Information (as those terms are defined below) that the Customer provides to OW, and which OW may Process on behalf of Customer.

In consideration of the promises and covenants contained in the Agreement and this DPA, the Parties agree to comply with the following provisions with respect to any Personal Information:

1. This DPA is incorporated by reference into the Agreement. Except as modified in this DPA, and any other Addendum between the Parties, the terms of the Agreement shall remain in full force and effect.
2. **Definitions.** For purposes of this DPA, the following definitions shall apply:
 - a) “**OW**” means OpenWater Software, LLC.
 - b) “**OW Group**” means OW and any affiliated company, including without limitation, Advanced Solutions International, Inc., Advanced Solutions International (Europe) Limited, Advanced Solutions International-Canada Inc., and Advanced Solutions International (Asia-Pacific) Pty Ltd., engaged in the Processing of Personal Information.
 - c) “**California Personal Information**” means Personal Information that is subject to the protection of the CCPA.
 - d) “**CCPA**” means California Civil Code Sec. 1798.100 et seq. (also known as the California Consumer Privacy Act of 2018), as amended by the California Privacy Rights Act of 2020.
 - e) “**Business**”, “**Sell**”, “**Share**”, “**Contractor**” and “**Service Provider**” will have the meanings given to them in the CCPA.
 - f) “**Consumer**” will have the meaning given to it in the applicable Data Protection Laws.
 - g) “**Controller**” means the natural or legal person, public authority, agency or other body, that, alone or jointly with others, determines the purposes for and means of Processing of Personal Information.
 - h) “**Data Subject**” means the individuals whose Personal Information is processed by OW on behalf of the Customer pursuant to the terms of the Agreement and this DPA.
 - i) “**Data Protection Laws**” means applicable legislation relating to data protection and privacy in the United States which applies to the respective party in the role of Processing Personal Information under the Agreement, including without limitation, the CCPA and the VCDPA, in each case as amended, replaced or superseded from time to time.

- j) “**Personal Information**” means any information relating to an identified or identifiable individual where (i) such information is submitted by or for Customer to the Services Customer purchases under the Agreement or is collected and processed by or for Customer using the purchased Services (the “**Customer Data**”); and (ii) is protected similarly as personal data, personal information or personally identifiable information under applicable Data Protection Laws.
- k) “**Personal Information Breach**” means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Information transmitted, stored or otherwise Processed by OW and/or OW’s Sub-Processors in connection with the provision of Services under the Agreement. “Personal Information Breach” will not include unsuccessful attempts or activities that do not compromise the security of Personal Information, including unsuccessful log-in attempts, pings, port scans, denial of service attacks, and other network attacks on firewalls or networked systems.
- l) “**Processing**” means any operation or set of operations which is performed on Personal Information, encompassing the collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, or erasure of Personal Information. The terms “Process”, “Processes” and “Processed” will be construed accordingly.
- m) “**Processor**” means a natural or legal person, public authority, agency or other body which Processes Personal Information on behalf of the Controller.
- n) “**Subprocessor**” means any Processor engaged by OW or the OW Group to assist in fulfilling OW’s obligations with respect to the provision of Services under the Agreement. Subprocessors may include third parties or our affiliates.
- o) “**VCDPA**” means the Virginia Consumer Data Protection Act.

3. **Processing of Personal Information.** To the extent that OW acts as a Processor on behalf of Customer of any Personal Information that Customer provides to OW, the parties agree as follows:

3.1 **Compliance with Data Protection Laws.** Customer instructs OW as a Processor to process the Personal Information described in **Annex A** that is the subject of the Agreement. Within the scope of the Agreement and in its use of the services, Customer will be responsible for complying with all requirements that apply to it under applicable Data Protection Laws with respect to its Processing of the Personal Information, including but not limited to those obligations set forth in the Agreement with respect to the accuracy, quality and legality of Customer Data and the means by which you acquired Customer Data, and your use of Customer Data with the Services. OW will process the Personal Information in compliance with applicable Data Protection Laws. OW is not responsible for compliance with any Data Protection Laws applicable to Customer or Customer’s industry that are not generally applicable to OW. Each party shall inform the other party if it determines that it is no longer able to comply with its responsibilities under applicable Data Protection Laws.

3.2 **Security.** OW will implement and maintain reasonable administrative, technical, organizational and physical data security measures for the protection of Personal Information from a Personal Information Breach. Customer is responsible for its secure

communications between its offices and OW's server, including protecting the security of Personal Information in transit to and from OW's server.

- 3.3 Permitted Purpose.** OW will Process the Personal Information only to the extent, and in such manner as is necessary to perform its obligations under the Agreement and this DPA and in accordance with Customer's instructions, except where and to the extent otherwise required to comply with the law. OW will not Process any Personal Information for any other purpose. OW will inform Customer, to the extent permitted, if OW becomes aware that it cannot Process Personal Information in accordance with Customer's instructions due to a requirement under any applicable law.
- 3.4 Subprocessors.** OW may engage Sub-processors to Process Personal Information on Customer's behalf. OW will make available to the Customer the current list of Subprocessors, which may be updated periodically. Customer acknowledges that OW may engage any affiliated company in connection with the provision of the OW products or services, such as providing support services to Customer, and may engage any data centers for hosting services, including Microsoft Azure, as a Subprocessor of any Personal Information for which OW is deemed a Processor. OW will impose data protection terms on any Subprocessor engaged by OW that provide at least the same level of protection for Personal Information as those in this DPA, to the extent applicable to the nature of the services provided by such Subprocessor. OW will remain responsible for any Subprocessor's compliance with the obligations of this DPA and for any acts or omissions of such Subprocessor that cause OW to breach any of its obligations under this DPA.
- 3.5 Confidentiality of Processing.** OW shall ensure that access to Personal Information is limited to those of its staff, agents and Subprocessors who need access to the Personal Information to meet OW's obligations under the Agreement and that all persons authorized to Process the Personal Information on its behalf are subject to appropriate confidentiality obligations with respect to that Personal Information, to the extent applicable to the nature of the services provided.
- 3.6 Cooperation and Data Subjects' Rights.** Taking into account the nature of the Processing, OW will reasonably and timely assist the Customer, at Customer's expense, to enable Customer to respond to: (i) any request from a Data Subject to exercise any of its rights under applicable Data Protection Laws (including its rights of access, correction, objection, erasure and data portability, as applicable), but Customer must first amend, transfer or delete any Personal Information through the use of Customer's rights and capabilities within the system; and (ii) any other correspondence, enquiry or complaint received from a data subject, regulator, data protection authority, or other third party in connection with the Processing of Personal Information. In the event that any such request, correspondence, enquiry or complaint is made directly to OW, OW will promptly inform Customer, providing details of the same and will not respond to such request unless authorized by Customer, except to direct the Data Subject to submit its request to Customer. OW will promptly and thoroughly investigate all allegations of unauthorized access to, use or disclosure of the Personal Information transmitted, stored or Processed by OW. OW will provide Customer, on request and at Customer's expense,

such other assistance as may reasonably be required by Customer to comply with its own obligations under applicable Data Protection Laws.

3.7 Data Protection Impact Assessment. At Customer's reasonable request, OW will provide Customer with reasonable and timely assistance, at Customer's expense, as Customer may require in order to conduct a data protection impact assessment if required by applicable Data Protection Laws.

3.8 Personal Information Breaches. In the case of a Personal Information Breach resulting from any act or omission of OW (or any of its Subprocessors) that is a breach of this DPA, OW will:

- (a) notify Customer without undue delay after knowledge of the Personal Information Breach and will provide timely information relating to the Personal Information Breach as it becomes known or reasonably requested by Customer; and
- (b) provide Customer with sufficient information and reasonable cooperation in order for Customer to fulfill its data breach reporting obligations under (and in accordance with the timescales required by) applicable Data Protection Laws.

3.9 Deletion or Return of Personal Information. At Customer's discretion, OW will delete or return to Customer all Personal Information (including all copies of the Personal Information) Processed pursuant to this DPA, in its possession or control after the end of the provision of services. This requirement shall not apply to the extent that OW is required by applicable law to retain some or all of the Personal Information, in which event OW shall isolate and protect the Personal Information from any further processing except to the extent required by such law.

3.10 Audit. OW shall keep appropriate records of its Processing of Personal Information on behalf of Customer as required by applicable Data Protection Laws. Subject to the confidentiality obligations in the Agreement, at Customer's reasonable request, and no more than once during any twelve (12) month period (unless required by instruction of a competent data protection authority or as necessary due to a Personal Information Breach), and upon giving at least ten (10) business days' prior written notice, OW will make available to Customer such information as may reasonably be necessary to demonstrate compliance with this DPA.

4. Additional Provisions for California Personal Information.

4.1 Scope. These Additional Provisions for California Personal Information will apply only with respect to California Personal Information.

4.2 Roles of the Parties. When Processing California Personal Information in accordance with Customer's instructions, the parties acknowledge and agree that Customer is a Business and OW is a Service Provider for purposes of the CCPA.

4.3 Responsibilities. The parties agree that OW will Process California Personal Information as a Service Provider strictly for the purpose of performing the services

under the Agreement (the “**Business Purpose**”) or as otherwise permitted by the CCPA. For the avoidance of doubt, OW is prohibited from (a) selling, sharing, retaining, using or disclosing California Personal Information for any other purposes; and (b) combining the California Personal Information that OW receives from Customer with Consumer personal information OW receives from another business or that OW collects on its own from Consumers (unless such combination is necessary for certain business purposes identified in the implementing regulations).

4.4 Unauthorized Use. Customer may, upon notice to OW, take reasonable and appropriate steps to stop and remediate any unauthorized use of California Personal Information.

5. **Limitation of Liability.** OW’s and each of its affiliates’ liability, taken in aggregate, arising out of or related to this DPA, whether in contract, tort or any other theory of liability, is subject to the limitations and exclusions of liability set out in the Agreement and any reference to the liability of OW means aggregate liability of OW and all of its affiliates under the Agreement (including all DPAs).
6. **Warranty.** Customer warrants that it (a) shall comply with all requirements and obligations of applicable Data Protection Laws, including any applicable requirement to provide notice to Data Subjects of the use of OW as Processor; (b) shall have sole responsibility for the accuracy, quality and legality of Personal Information and the means by which Customer acquired Personal Information; and (c) is entitled to transfer the relevant Personal Information to OW so that OW may lawfully use, Process and transfer the Personal Information in accordance with the Agreement on Customer’s behalf. The consent management tools available through the OW platform permit the Customer to manage consent messages for end users. OW recommends that Customer use these features.
7. **Amendments.** Notwithstanding anything else to the contrary in the Agreement, OW reserves the right to make any updates and changes to this DPA.
8. **Parties to this DPA.** Notwithstanding the signatures below of any other OW affiliated company, such other OW affiliated companies are not a party to this DPA unless they have been engaged to provide services.

The authorized signatory of Customer has duly executed this DPA by their signature to the Agreement. The members of the OW Group have executed this DPA below, to the extent applicable to it:

OpenWater Software, LLC (by and on behalf of the OW Group, as applicable)

By: Jocelyn Y. Dyer

Name: Jocelyn Y. Dyer

Title: Global Vice President and General Counsel

Date: January 25, 2023

ANNEX A: DATA PROCESSING DESCRIPTION

This Annex A forms part of the Agreement and DPA and describes the Processing that OW will perform on behalf of the Customer.

1. Duration of the Processing of Customer Personal Information

OW will Process Personal Information for the duration of the Agreement, unless otherwise agreed upon in writing.

2. The nature and purpose of the Processing of Customer Personal Information

The purpose of Processing Personal Information by OW is the performance of Services pursuant to the Agreement. OW will Process Personal Information as necessary to perform the Services pursuant to the Agreement, and as further instructed by Customer in its use of the Services.

3. The types of Customer Personal Information to be Processed

The Customer may submit Personal Information to OW, the extent of which is determined and controlled by the Customer in its sole discretion, and which may include, but is not limited to the following categories of Personal Information:

Name, email address, phone numbers, contact details, company or organization name, position held, education qualifications, professional data, and payment details.