

# PROCESSING AGREEMENT

1 September 2021  
Version: 2.0



# Processing Agreement Let's Get Digital

Version 2.0 – 1 September 2021

## *Appendix to the Main Agreement*

The Purchaser buys Let's Get Digital, whereby the Purchaser gets the position of Controller. Hereinafter, in this processing agreement, the Purchaser is therefore referred to as the Controller.

The Controller and *Let's Get Digital*, with its registered office and principal place of business in Groningen, registered with the Chamber of Commerce under number 74795597, further to be referred to as '**the Contractor**' or '**the Processor**', duly represented in this matter by **Mr R. Haring**, hereinafter individually referred to as "Party", or jointly as "Parties"

Whereas:

- a. Parties have concluded an agreement on the basis of which the Processor delivers the 'Let's Get Digital!' service to the Controller. Let's Get Digital makes a remote complete event experience possible.
- b. The Processor processes the Personal Data for the Controller for the performance of the Main Agreement.
- c. Both Parties will at any time comply with the applicable Privacy Legislation.
- d. The General Data Protection Regulation (hereinafter referred to as: GDPR) and the General Data Protection Regulation (Implementation) Act apply to the processing of Personal Data by the Processor.
- e. Parties wish to record on the basis of and in addition to the GDPR and the Uniform Administrative Conditions for the Execution of Works the following arrangements regarding the Processing of Personal Data in the Processing Agreement.

**And agree:**

### **Article 1. Definitions**

The concepts typed with a capital letter in the Processing Agreement have the meaning included in this article. Insofar as concepts are not included in this article, the meaning for the Processing Agreement will be the same as the definition in Section 4 of the GDPR.

- 1.1. **GDPR:** 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).
- 1.2. **Main Agreement:** the agreement concluded between the Controller and the Processor and on the basis of which the Processor processes Personal Data for the Controller.

- 1.3. **Personal Data:** all information regarding an identified or identifiable natural person (the “data subject”); “as identifiable” is regarded as a natural person who can be directly or indirectly identified, in particular on the basis of an identifier such as a name, an identification number, location data, an online identifier or on the basis of one or more elements that are characteristic for the physical, physiological, genetic, psychological, economic, cultural or social identity of this natural person.<sup>1</sup>
- 1.4. **Privacy Legislation:** the GDPR and other legislation and regulations concerning the processing of Personal Data.
- 1.5. **Sub-Processor:** every party engaged by the Processor for the performance of the Main Agreement who, for the benefit of the Processor processes Personal Data, and who does not fall under the definition of article 1.6 of the Processing Agreement.
- 1.6. **Confidential:** confidential and not intended for further disclosure or dissemination.
- 1.7. **Processing Agreement:** the present agreement, including appendices, drawn up as referred to in Section 28, subsection 3, of the GDPR.

## **Article 2. General provisions**

- 2.1. The Processor processes Personal Data for the benefit of the Controller and under the responsibility of the Controller. Processing exclusively takes place in accordance with the instructions in writing from the Controller, as agreed in the Main Agreement and this Processing Agreement, unless the Processor is obliged by law to process.<sup>2</sup>
- 2.2. The Processor processes the Personal Data provided by the Controller to the Processor exclusively for the benefit of the Controller in the context of the Main Agreement, with the exception of derogating legal provisions under Union law or member state law, in which case the Processor will inform the Controller of this statutory provision in advance of the processing. The Processor is also permitted to use the Personal Data for quality purposes, such as questionnaires of the data subjects, or for conducting scientific or statistical research of the quality of the Processor's provision of service.
- 2.3. The Processor will do everything possible to comply with the Processing Agreement and other applicable Privacy Legislation.
- 2.4. The Processor will immediately inform the Controller if the Processor is of the opinion that an instruction is present and/or absent as a result of which the performance of the Processing Agreement will breach the applicable Privacy Legislation.<sup>3</sup>
- 2.5. Parties will inform each other of relevant changes in the provision of service or with regard to Personal Data.
- 2.6. The Processor is not permitted to process Personal Data outside the European Union, unless permission in writing has been acquired for this from the Controller.

## **Article 3. Duty of confidentiality<sup>4</sup>**

- 3.1. The Processor guarantees that all Personal Data will be treated with strict Confidentiality. Anyone who is involved on behalf of the Processor in the processing of the Personal Data will observe the Confidential nature of this Personal Data.
- 3.2. If third parties are engaged for the processing of Personal Data on the basis of this Processing Agreement, the Processor will impose the same confidentiality to the same extent on these third parties.
- 3.3. If, on the basis of a statutory obligation, the Processor must provide Personal Data, the Processor will verify the ground of the request and the identity of the person

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<sup>1</sup> Section 4 under 1 GDPR.

<sup>2</sup> Section 28, subsection 3 under a, GDPR.

<sup>3</sup> Section 28, subsection 3, GDPR.

<sup>4</sup> Section 28, subsection 3 under b, GDPR.

making the request and the Processor will inform the Controller immediately of this, if possible prior to providing the Personal Data, unless statutory provisions prohibit this.

- 3.4. The duty of confidentiality continues in existence after the end or termination of the Main Agreement.

**Article 4. Security measures<sup>5</sup>**

4.1. Parties will, in conformity with Section 32 of the GDPR, take all suitable technical and organisational measures for the protection of the Personal Data against loss or any form of unlawful processing. These measures guarantee a suitable security level having regard to the state of the art of technology, the administration costs, also having regard to the nature, the extent, the context and processing objectives and the risks, varying related to probability and seriousness, which the processing by the Processor of the Personal Data entails for the rights and freedoms of the data subjects.

4.2. Parties agree that the technical and organisational measures referred to in this article can change over time and that effective security measures require regular evaluation and improvement of the measures. Parties will therefore regularly evaluate, tighten and/or improve these measures, in order to continue to fulfil the requirements and obligations as referred to in this article.

4.3. Parties will take measures to ensure that each natural person who acts under the authority of one of the Parties and who has access to Personal Data will only process this on the instructions of one of the Parties, unless this person is obliged for this purpose under Union law or member state law.

4.4. Parties do not guarantee that the security will be effective under all circumstances. If expressly described security is absent from the Processing Agreement, Parties will make endeavours so that the security will meet the level that, having regard to the state of the art of technology, the sensitivity of the Personal Data and the costs attached to the security measures to be taken, will not be unreasonable.

4.5. If, in spite of the security measures, unauthorised processing of Personal Data takes place, the burden of proof that the Processor has not acted adequately will be vested in the Controller.

**Article 5. Duty to report a breach related to Personal Data<sup>6</sup>**

5.1. The Processor must promptly inform the Controller after the Processor has become aware of any breach of the security that (also) relates to, or can relate to, the processing of Personal Data and the Processor will assist the Controller during the fulfilment of the Controller's obligations ensuing from Section 33 and 34 of the GDPR.

5.2. Every breach of whatsoever nature falls under subclause 1, unless the Processor notices that the breach is so insignificant that this will virtually have no consequences for the data subjects. Also in the event of a high risk of a breach there will still not be a breach. The Processor will only be obliged to report a breach of the security if this breach has actually occurred.

5.3. The Processor must inform the Controller, without unreasonable delay, but no later than without forty-eight (48) hours, of the breach of security.

5.4. The Processor must take adequate measures for the prevention of a breach and to mitigate the consequences of any breach. The Controller must also include these measures and the breach in the data leaks register.

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<sup>5</sup> Section 28, subsection 3 under c, GDPR.

<sup>6</sup> Section 33 in conjunction with Section 34 GDPR.

- 5.5. In the event of a breach related to Personal Data, the Controller must report this to the supervisory authority and, if necessary, to the data subject.<sup>7</sup>
- 5.6. The Controller will decide whether the breach must be reported to the supervisory authority and/or the data subject; the Processor will assist the Controller as much as possible during such reporting. The Processor acknowledges that the Controller is obliged by law to do this under certain circumstances.

**Article 6. Audit and obligation to cooperate**

- 6.1. The Processor will keep track of detailed, current and precise information with regard to the processing of Personal Data executed by the Processor in the context of the Processing Agreement, and will make this available to the Controller upon request, in order to demonstrate the fulfilment of the obligations set out in Section 28 of the GDPR.
- 6.2. The Processor will make audits possible, which specifically concern compliance with this Processing Agreement by the Controller, or by an inspector authorised by the Controller.<sup>8</sup> Both Parties must agree in advance who, or which entity, will conduct the audit.
- 6.3. Audits can be conducted no more than once per year.
- 6.4. The results of audits will be Confidential, are not permitted to be used for a purpose other than the verification of compliance with this Processing Agreement and will not be saved for longer than necessary for this objective. At the end, the results will be handed over in writing to the Processor.
- 6.5. If the Processor is of the opinion that any instruction that follows from this audit results in a breach of the GDPR, of other provisions under Union law or member state law concerning data protection, or is otherwise unlawful, the Processor will immediately inform the Controller.
- 6.6. The costs of the audits or inspections will be borne by the Controller, unless it is evident from the audit that the Processor does not fulfil trivial obligations under this Processing Agreement, which harm the rights of the data subjects in an intrusive manner. In that case any additional costs will be borne by the Processor.
- 6.7. The Processor will be obliged to assist the Controller and/or to provide cooperation to data protection impact assessments within the meaning of Section 35 of the GDPR, and to any prior consultation of the supervisory authority within the meaning of Section 36 of the GDPR.

**Article 7. Rights of the data subjects**

- 7.1. The Processor will provide assistance to the Controller, by means of suitable technical and organisational measures, during the fulfilment of the duty to safeguard the requests from the data subject for the exercise of the data subject's rights set out in Section 12 up to and including 22 of the GDPR.
- 7.2. In the event that a data subject addresses a request for exercising his/her statutory rights (Section 15-22 of the GDPR) to the Processor, the Processor will forward the request to the Controller and the Controller will further deal with the request. The Processor is permitted to inform the data subject of this.
- 7.3. If the Controller cannot independently deal with the request, the Processor will provide the required cooperation for meeting the request of the data subject.
- 7.4. If the Processor is of the opinion to be able to personally deal with the request adequately, the Processor will be authorised to independently execute the requests

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<sup>7</sup> Section 33 in conjunction with Section 34 GDPR.

<sup>8</sup> Section 28, subsection 3 under h, GDPR.

of the data subject, provided that the Controller is informed of the request and the further dealing therewith.

**Article 8. Engagement of Sub-Processors**

- 8.1. The Processor will receive on the basis of this Processing Agreement general permission for the engagement of Sub-Processors within the meaning of Section 28, subsection 2, of the GDPR. The Sub-Processors, who are already known at the concluding of this Processing Agreement, are mentioned in Appendix 2.
- 8.2. The engagement of Sub-Processors only takes place by means of an agreement in writing (electronic or physical) with the Sub-Processor, which agreement imposes the same, or stricter, obligations as ensue for the Processor from the Processing Agreement, in particular with regard to the application of suitable technical and organisational measures in order for the processing to comply with the provisions of the GDPR.
- 8.3. The Processor will inform the Controller of changes concerning adding or the replacement of other Processors, whereby the option will be offered to the Controller to make objections to these changes.
- 8.4. The Processor remains fully liable for the fulfilment of the Processor's obligations on the basis of the Processing Agreement, including the Personal Data processed by the Sub-Processor, if the Processor uses Sub-Processors.

**Article 9. Guarantees and indemnity**

- 9.1. The Controller guarantees that an adequate basis is present for the processing by the Processor.
- 9.2. The Controller guarantees that the contents, the use and the instructions for the processing of the Personal Data, as referred to in this Processing Agreement, are not unlawful and do not infringe any third-party rights. The Controller indemnifies the Processor against all rights and claims related thereto.
- 9.3. The Processor indemnifies the Controller against all claims by third parties, also including supervisory authorities, which are exclusively based on the acts or omissions on the part of the Processor or its Auxiliary Persons. For all the remainder the Controller indemnifies the Processor.

**Article 10. Liability**

- 10.1. Insofar as this Processing Agreement does not provide rules with regard to liability, the liability rules ensuing from the Main Agreement will apply.
- 10.2. The liability of the Processor for consequential loss is always excluded. Indirect damage is taken to mean all damage that is not direct damage and thereby in any event, but not limited to, consequential loss, lost profit, lost savings, reduced goodwill, loss due to business interruption, loss due to not achieving marketing purposes, loss related to the use of the data or data files prescribed by the Controller, or loss, corruption, or destruction of data or data files.
- 10.3. The liability of the Processor in the context of the processing of Personal Data in any event will not be more than the maximum amount of the cover of the liability insurance of the Processor.

**Article 11. Retention, destruction or return of Personal Data**

- 11.1. The Processor will save the Personal Data in conformity with and for as long as necessary for the complete execution of the intended processing objectives, which are evident from the Main Agreement and this Processing Agreement.

- 11.2. As soon as, for whatsoever reason and in whatsoever manner, the Processing Agreement is terminated, the Processor will - at the discretion of the Controller - return all Personal Data present at the Processor in the original copy form to the Controller and/or will remove and/or destroy this original Personal Data and any copies thereof. If the processing objectives have not yet been reached and/or longer processing of Personal Data is required, Parties will first try to bring a new processing agreement into effect before proceeding with the destruction or returning.
- 11.3. Parties can mutually agree to a retention period, which Parties will adhere to.

**Article 12. Duration and termination of the agreement**

- 12.1. The duration of the Processing Agreement is equal to the duration of the Main Agreement. The termination of the Main Agreement will terminate the Processing Agreement by operation of law. The Processing Agreement cannot be terminated separately from the Main Agreement, unless a new Processing Agreement comes into effect with the Main Agreement.
- 12.2. Parties will be entitled to terminate the Processing Agreement if the other Party is not, or is no longer, capable of complying with the Processing Agreement and/or the GDPR and/or other applicable legislation and regulations concerning the processing of Personal Data.
- 12.3. Parties will not terminate the Processing Agreement in the context of the previous subclause before a reasonable period has been given during which the other Party can demonstrate still to be able to meet the standard breached or to remedy the defect.
- 12.4. The obligations, which by their nature are intended to continue also after termination of this Processing Agreement, will remain in existence after the termination of the Processing Agreement.

**Article 13. Concluding provisions**

- 13.1. The law of the Netherlands governs the Processing Agreement.
- 13.2. All disputes arising between the Controller and the Processor will be submitted to the court with competent jurisdiction in the place where the Processor is established.
- 13.3. If there is conflict between the Main Agreement and the Processing Agreement, the Processing Agreement will be the guiding principle.

**Signature**

The Controller agrees in the Offer to this Processing Agreement.

Signature Processor/*Let's Get Digital*

**Ruben Haring**

Town/city: Groningen

Date: 11 November 2020



# Appendix 1: The Personal Data to be processed and the objectives

## **Nature and objective of the various processing**

*Let's Get Digital* processes the personal data because use is made of our tooling. The objective of our tools is to improve (digital) events. In addition, we offer the option to generate an account within our system and in this manner to bring people into contact with each other during an (online) event.

## **Data subjects categories**

*Let's Get Digital* processes the personal data of all data subjects during the event concerned. One can consider the following categories hereby:

- *Participants in the event*
- *Speakers at an event*
- *Exhibitors at an event*
- *People of the organisation whether or not present at the event.*

## **Personal Data categories**

*Let's Get Digital* processes the following personal data:

- *First name and surname*
- *Gender*
- *Date of birth*
- *Place of birth and/or place of residence*
- *Address details*
- *Telephone number(s)*
- *Email address(es)*
- *IP address(es)*
- *Internet browser and device type that are used*
- *other personal data that is actively provided by either the controller or the end user, for example by means of filling in a profile on the application/website and/or correspondence and/or by telephone*



## Appendix 2: Sub-processors

**All sub-processors of *Let's Get Digital* are situated within the EU and only process data within the EU.**

### **TransIP**

Objective: Hosting, our servers are in their datapark

Certification: <https://www.transip.nl/legal-and-security/certificeringen/>

Office: Vondellaan 47, 2332AA Leiden

### **Digital Ocean**

Objective: Hosting of our servers at the time of scaling up

Certification: <https://www.digitalocean.com/legal/>

### **Processors during the online events:**

#### **Daily.co**

Setting up one to one discussions

#### **Firebase**

Objective: sending messages

#### **SambaLive**

In platform webinar software