DATA PROCESSING AGREEMENT

Version: August 2020

This Data Protection Agreement ("**DPA**") sets out the parties' data protection obligations under Article 28 of the GDPR which arise from the Processor's Processing of Personal Data on behalf of the Controller under the Principal Agreement in respect of the Services.

The Controller and Processor are parties to the Principal Agreement whereby the Controller procures certain products and services from the Processor, or a related entity of the Processor.

The Controller and Processor will become bound by this DPA only where so specified in the Principal Agreement, and at the same time the Principal Agreement is entered into. This DPA will form an addendum to the Principal Agreement. This DPA becomes effective without any further action by the parties from the date of the Principal Agreement. This DPA will take effect as and from the date that the Principal Agreement commences (even where this DPA is entered into after that date).

Alternatively, the Controller and Processor may execute a copy of this DPA where marked below, and will become bound by this Agreement at that time.

The parties agree as follows:

1 INTERPRETATION

1.1 In this DPA, unless otherwise indicated by the context:

"**Commission**", "**Data Subject**", "**Member State**", "**Personal Data**", "**Personal Data Breach**", "**Processing**" and "**Supervisory Authority**"	these terms shall have the same meaning as in the GDPR.
Applicable Laws	means (a) European Union or Member State laws with respect to any Personal Data in respect of which the parties are subject to EU Data Protection Laws; and (b) any other applicable law with respect to the use, storage, collection or Processing of Personal Data including other Data Protection Laws
Business Day	means a day that is not a Saturday, Sunday or public holiday or bank holiday in the city and state in which the Processor is incorporated
Contracted Processor	means the Processor or a Subprocessor
Controller	has the same meaning as in the GDPR, and includes the recipient of Services from the Processor, as named in the Principal Agreement, and who becomes bound under this DPA as the "Controller" party
Data Protection Laws	means EU Data Protection Laws, and, to the extent applicable, the data protection or privacy laws of any other country
EU Data Protection Laws	means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or

	superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR
GDPR	means the EU General Data Protection Regulation 2016/679
Personal Data	means any Personal Data Processed by a Contracted Processor on behalf of the Controller
Principal Agreement	means the agreement whereby the Controller procures certain products and services from the Processor or a related entity of the Processor, and which incorporates this DPA by reference. The Principal Agreement will either be a "Software Purchase Agreement" or "Master Services Agreement" (or similar agreement) between the parties
Processor	means the relevant LiveTiles entity who provides the Services, as further described in the Principal Agreement, and who becomes bound under this DPA as the "Controller" party
Restricted Transfer	means:

(a)   a transfer of Personal Data from the Controller to a Contracted Processor; or

(b)   an onward transfer of Personal Data from a Contracted Processor to another Contracted Processor, or between two establishments of a Contracted Processor, or to a Subprocessor,

in each case, where such transfer would be prohibited by Data Protection Laws (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Data Protection Laws), in the absence of the Standard Contractual Clauses being in place between those parties

Services	means any goods or services provided from time to time by the Processor to the Controller, or by a related entity of the Processor to the Controller, under the terms of the Principal Agreement
Standard Contractual Clauses	means the contractual clauses referred to in **Schedule 2**, amended as indicated in those contractual clauses, and under **clause 11**
Subprocessor	means any person (including any third party) appointed by or on behalf of the Processor to Process Personal Data on behalf of the Processor and includes the entities listed in **Schedule 4**

1.2   In this DPA, unless otherwise indicated by the context:

(a)   words importing the singular include the plural and vice versa;

(b)   headings are for convenience only and do not affect interpretation of this DPA;

(c)   a reference to a clause, paragraph or schedule is a reference to a clause, paragraph or schedule of this DPA;

(d)   where any word or phrase is given a definite meaning in this DPA, any part of speech or other grammatical form of that word or phrase has a corresponding meaning;

(e) an expression importing a natural person includes a body corporate, partnership, joint venture, association or other legal entity;

(f) a reference to a statute, statutory provisions or regulation includes all amendments, consolidations or replacements thereof;

(g) a reference to a party to a document includes that party's legal personal representatives, successors and permitted assigns;

(h) a covenant or agreement on the part of or for the benefit of two or more persons binds or benefits them jointly and severally; and

(i) a reference to a body, whether statutory or not:

    (i) which ceases to exist; or

    (ii) whose powers or functions are transferred to another body;

is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

2 PROCESSING OF COMPANY PERSONAL DATA

2.1 The Processor will:

(a) comply with all applicable Data Protection Laws in the Processing of Personal Data; and

(b) not Process Personal Data other than on the Controller's documented instructions (including those instructions given under **clause 2.2**) unless Processing is required by Applicable Laws to which the relevant Contracted Processor is subject, in which case the Contracted Processor, shall to the extent permitted by Applicable Laws inform the Controller of that legal requirement before the relevant Processing of that Personal Data.

2.2 The Controller instructs the Contracted Processor (and authorises them to instruct each Subprocessor) to:

(a) process the Personal Data; and

(b) transfer the Personal Data to any country or territory,

as reasonably necessary for the provision of the Services.

2.3 **Schedule 1** sets out certain information regarding the Contracted Processors' Processing of the Personal Data as required by article 28(3) of the GDPR (and, where relevant, equivalent requirements of other Data Protection Laws). The parties may agree from time to time to amend **Schedule 1** as necessary to meet those requirements.

3 PERSONNEL

The Processor shall take reasonable steps to ensure each employee, agent or contractor of any Contracted Processor who may have access to Personal Data, only has access to the Personal Data on a need to know basis, as strictly necessary for the purposes of providing the Services, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor. Each Contracted Processor shall also ensure that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

4   SECURITY

4.1   The Processor will, having considered the relevant solutions available, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, in relation to Personal Data, implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.

4.2   In assessing the appropriate level of security, the Processor shall take account of the risks that are presented by Processing, in particular in relation to a Personal Data Breach.

5   SUBPROCESSING

5.1   The Controller authorises the Processor to appoint (and permit each Subprocessor appointed in accordance with this **clause 5** to appoint) Subprocessors in accordance with this **clause 5**.

5.2   The Controller may continue to use those Subprocessors already engaged by them as at the date of this DPA, subject to the Processor as soon as practicable meeting the obligations set out in **clause 5.4**. At the date of this DPA, the Processor uses the Subprocessors listed in **Schedule 4** to provide the Services.

5.3   The Processor shall provide prior written notice of the appointment of any new Subprocessor, who may process the Personal Data, including full details of the Processing to be undertaken by the Subprocessor. Such notice may be given by the Processor from time to time, publishing the names of Subprocessors which it uses to process Personal Data, on the Processor's website (and the Controller will be deemed to have been notified of the same at that time). If, within 5 Business Days of receipt of that notice, or date of publication on the Processor's website, the Controller notifies the Processor in writing of any objection (on reasonable grounds) to the proposed appointment, then the Processor cannot make the appointment of the Subprocessor until reasonable steps have been taken to address the objections raised. However if the objections cannot be addressed then the Processor (or its related entity) may terminate the Principal Agreement if the failure to appoint the Subprocessor will inhibit or cause an unreasonable cost for the Processor (or its related entity) in providing the Services.

5.4   With respect to each Subprocessor appointed by the Processor, the Processor shall:

    (a)   before the Subprocessor first Processes any Personal Data (or where relevant, in accordance with **clause 5.2**), carry out adequate due diligence to ensure that the Subprocessor is capable of providing the level of protection for the Personal Data required by this DPA and for the due provision of the Services;

    (b)   take reasonable steps to ensure that the arrangement with the Subprocessor is governed by a written agreement including terms which offer at least the same level of protection for Personal Data as those set out in this DPA and which meet the requirements of articles 28(3) and 28(4) of the GDPR; and

    (c)   if that arrangement involves a Restricted Transfer, ensure that the Standard Contractual Clauses are at all relevant times incorporated into any agreement with the Subprocessor which involves the processing of Personal Data on behalf of the Controller, and make available copies of that agreement (which may be redacted to remove confidential commercial information not relevant to the requirements of this DPA) as reasonably requested by the Controller from time to time.

5.5   The Processor shall take reasonable steps to ensure that each Subprocessor observes each of the Processor's obligations under this DPA in relation to the Processing of Personal Data, as if those obligations were the principal obligations of the Subprocessor.

6 DATA SUBJECT RIGHTS

6.1 The Processor shall assist the Controller by implementing appropriate technical and organisational measures (in the context of the nature of the Processing), as far as practicable, for the fulfilment of the Controller's obligations, to respond to requests from a Data Subject to exercise their rights under Data Protection Laws.

6.2 The Processor shall:

(a) promptly notify the Controller if a Contracted Processor receives a request from a Data Subject to exercise any of their rights under a Data Protection Law in respect of their Personal Data; and

(b) ensure that the Contracted Processor does not respond to that request except on the documented instructions of the Controller, or as required by Applicable Laws to which the Contracted Processor is subject.

7 PERSONAL DATA BREACH

7.1 The Processor shall notify the Controller without undue delay upon the Processor or their Subprocessor becoming aware of a Personal Data Breach affecting the Personal Data disclosed by the Controller to the Processer, providing the Controller with sufficient information to allow the Controller to meet any obligations to report or inform Data Subjects, or relevant authorities, of the Personal Data Breach under the Data Protection Laws.

7.2 The Processor shall co-operate with the Controller and take such reasonable commercial steps as are directed by the Controller to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

8 DATA PROTECTION IMPACT ASSESSMENT AND PRIOR CONSULTATION

The Processor will provide reasonable assistance to the Controller with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which the Controller reasonably considers to be required of it by article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to Processing of Personal Data by, and taking into account the nature of the Processing and information available to, the Contracted Processors.

9 DELETION OR RETURN OF GROUP MEMBER PERSONAL DATA

9.1 Subject to this clause, the Processor shall as soon as reasonably practicable following the completion of the Services involving the Processing of the Personal Data, upon written request from the Controller either:

(a) delete and procure the deletion of all copies of the Personal Data (as directed by the Controller); or

(b) deliver a copy of the Personal Data to the Controller,

or a combination of the above.

9.2 Each Contracted Processor may retain the Personal Data to the extent required by Applicable Laws and only to the extent and for such period as required by Applicable Laws and always provided that the Processor shall ensure the confidentiality of all such Personal Data and shall ensure that such Personal Data is only Processed as necessary for the purpose(s) specified in the Applicable Laws requiring its storage and for no other purpose.

10   AUDIT RIGHTS

10.1   The Processor shall make available to the Controller, following the Controller's reasonable request, all information reasonably and solely necessary to demonstrate compliance with this DPA, and shall allow for and contribute to audits, including inspections, by the Controller or an auditor nominated by the Controller in relation to the Processing of Personal Data by the Contracted Processor. Any request for information, or request for an audit, by the Controller under this **clause 10** shall only be made in good faith and for a bona fide purpose.

10.2   Information and audit rights of the Controller only arise under **clause 10.1** to the extent that the Principal Agreement does not otherwise give it information and audit rights meeting the relevant requirements of Data Protection Law (including, where applicable, article 28(3)(h) of the GDPR).

10.3   The Controller may only mandate an auditor for the purposes of **clause 10.1** if the auditor is identified in the list set out in **Schedule 3** to this DPA, as that list is amended by agreement between the parties in writing from time to time. The Processor shall not unreasonably withhold or delay agreement to the addition of a new auditor to that list.

10.4   The Controller shall give the Processor or the relevant Subprocessor reasonable notice of any audit or inspection to be conducted under **clause 10.1** and shall make (and ensure that each of its mandated auditors makes) reasonable endeavours to avoid causing (or, if it cannot avoid, to minimise) any damage, injury or disruption to the Contracted Processors' premises, equipment, personnel and business while its personnel are on those premises in the course of such an audit or inspection. A Contracted Processor need not give access to its premises for the purposes of such an audit or inspection:

(a)   to any individual unless he or she produces reasonable evidence of identity and authority;

(b)   outside normal business hours at those premises, unless the audit or inspection needs to be conducted on an emergency basis and the Controller has given notice to the Processor or the relevant Subprocessor that this is the case before attendance outside those hours begins; or

(c)   for the purposes of more than one audit or inspection, in respect of each Contracted Processor, in any calendar year, except for any additional audits or inspections which:

(i)   the Controller reasonably considers necessary because of genuine concerns as to the Processor's compliance with this DPA; or

(ii)   the Controller is required or requested to carry out by Data Protection Law, a Supervisory Authority or any similar regulatory authority responsible for the enforcement of Data Protection Laws in any country or territory,

where the Controller has identified its concerns or the relevant requirement or request in its notice to the Processor or relevant Subprocessor of the audit or inspection.

10.5   The Controller will pay or reimburse the Processor for the Processor's reasonable costs in complying with this **clause 10**.

10.6   The Controller will maintain the confidentiality of information disclosed to it under this **clause 10** (**Confidential Information**), and will ensure that its auditors and other agents or personnel of the Controller who have access to such information (**Representatives**), also maintain confidentiality. The Controller will, and will ensure that its Representatives, only use or disclose the Confidential Information solely for the purposes of complying with Applicable Laws, and will only disclose the Confidential Information where required by Applicable Laws.

The Controller, and the Controller shall ensure its Representatives, do not use or disclose Confidential Information for any other purpose.

11   RESTRICTED TRANSFERS AND THE STANDARD CONTRACTUAL CLAUSES

11.1   Subject to **clause 11.3**, the Controller (as **"data exporter"**) and each Contracted Processor, as appropriate, (as **"data importer"**) hereby enter into the Standard Contractual Clauses in respect of any Restricted Transfer from the Controller to that Contracted Processor.

11.2   The Standard Contractual Clauses shall come into effect under **clause 11.1** on the later of:

(a)   the data exporter becoming a party to them;

(b)   the data importer becoming a party to them; and

(c)   commencement of the relevant Restricted Transfer.

11.3   **Clause 11.1** shall not apply to a Restricted Transfer unless its effect, together with other reasonably practicable compliance steps (which, for the avoidance of doubt, do not include obtaining consents from Data Subjects), is to allow the relevant Restricted Transfer to take place without breach of applicable Data Protection Law.

11.4   The Controller may:

(a)   by at least 30 Business Days written notice to the Processor from time to time propose any variations to the Standard Contractual Clauses (including any Standard Contractual Clauses entered into under this clause), as they apply to Restricted Transfers which are subject to a particular Data Protection Law, which are required, as a result of any change in, or decision of a competent authority under, that Data Protection Law, to allow those Restricted Transfers to be made (or continue to be made) without breach of that Data Protection Law; and

(b)   propose any other variations to this DPA which the Controller reasonably considers to be necessary to address the requirements of any Data Protection Law.

11.5   If the Controller gives notice under **clause 11.4(a)**:

(a)   the Processor shall promptly co-operate (and ensure that any affected Subprocessors promptly co-operate) to ensure that equivalent variations are made to any agreement put in place under **clause 5.4(c)**; and

(b)   the Controller shall not unreasonably withhold or delay agreement to any consequential variations to this DPA proposed by the Processor to protect the Contracted Processors against additional risks associated with the variations made under **clauses 11.4(a)** and **11.5(a)**.

11.6   If the Controller gives notice under **clause 11.4(b)**, the parties shall promptly discuss the proposed variations and negotiate in good faith with a view to agreeing and implementing those or alternative variations designed to address the requirements identified in the Controller's notice as soon as is reasonably practicable.

12   TERMINATION

12.1   Termination by mutual agreement

This DPA may be terminated at any time by a written document signed by all parties.

12.2   Termination by the Controller

(a)   The Controller may terminate this DPA at any time, and for any reason, on the provision of written notice to the Processor.

(b)   The Processor may terminate this DPA at any time by written notice to all other parties, provided that at the time such notice is given, the Processor:

(i)   is no longer Processing any Personal Data on behalf of the Controller; and

(ii)   the Contracted Processor has complied with **clause 9**.

12.3   Automatic termination

This DPA will automatically terminate if the Processor or its related entity are no longer providing Services to the Controller, or if the Principal Agreement otherwise terminates.

12.4   Provisions which survive termination

Upon the termination of this DPA, the obligations under **clauses 6**, **7**, **9**, **10** and **11** will continue to apply following termination.

13   GENERAL

13.1   Assignment

A party must not assign or novate this DPA without each other party's prior written consent.

13.2   Variation

This DPA may only be amended or modified by a document in writing signed by the parties.

13.3   Notices

Any notice or demand to be given or made under this DPA must be in writing signed by a party's authorised representative. A notice will be deemed to be received (a) in the case of a notice given by hand, on delivery; (b) in the case of a notice sent by pre-paid post, 5 days following the date of postage; and (c) in the case of a notice sent by email, upon the recipient or their mail server confirming receipt of the email.

13.4   Entire agreement

It is expressly acknowledged, by and between the parties, that the terms set out in this DPA, together with the Principal Agreement, contain the entire agreement concluded between the parties, and that this DPA supersedes any and all prior agreements, representations, or understandings between the parties, whether written or oral, in respect of the same subject matter.

13.5   Waiver

Any waiver of a right or remedy under this DPA will only be valid if the waiver is given in writing and signed by the party giving the waiver.

13.6   Severance

If a provision of this DPA or part thereof is unenforceable, then that provision (or relevant part) may be severed without affecting the enforceability of any other provision of this DPA.

13.7   Further Assurance

Each party will from time to time do all things (including executing all documents) necessary or desirable to give full effect to this DPA.

13.8 Counterparts

This DPA may be executed in any number of counterparts each of which will be an original but such counterparts together will constitute one and the same instrument and the date of the DPA will be the date on which it is executed by the last party.

13.9 No merger

Nothing in this DPA merges, extinguishes, postpones, lessens or otherwise prejudicially affects any right, power or remedy that a party may have against another party or any other person at any time.

13.10 Consents and approvals

Where this DPA gives any party a right or power to consent or approve in relation to a matter under this DPA, that party may withhold any consent or approval or give consent or approval conditionally or unconditionally. The party seeking consent or approval must comply with any conditions the other party imposes on its consent or approval.

13.11 Governing Law and Jurisdiction

(a) Subject to **clause 13.11(b)**, this DPA is governed by the same laws as the same jurisdiction which governs the Principal Agreement.

(b) To the extent required to comply with the GDPR, and only in relation to matters relating to the compliance of this DPA or a party's actions under it in relation to GDPR, this DPA shall also be governed by the laws of each Member State where EU Data Protection Laws apply.

(c) Each party irrevocably submits to the jurisdiction described in **clause 13.11(a)** with respect to any disputes or claims howsoever arising under this DPA.

Executed as an agreement

(As indicated in the pre-amble to this DPA, the parties may become bound to this DPA either under the Principal Agreement, or by signing this DPA where marked below)

Date signed:

SIGNED by the authorised person named below for and on behalf of the Processor:

Name of the Processor	Signature
	Name of person signing

SIGNED by the authorised person named below for and on behalf of the Controller:

Name of the Controller	Signature
	Name of person signing

Schedule 1

This Schedule 1 includes certain details of the Processing of Personal Data as required by article 28(3) GDPR.

Subject matter and duration of the Processing of the Personal Data

The Personal Data to be processed includes all Personal Data disclosed from time to time by the Controller pursuant to this DPA or in relation to the Services.

The nature and purpose of the Processing of Personal Data

The effective provision of the Services.

The nature of the Processing shall be agreed between each Contracted Processor and the Controller from time to time.

The types of Personal Data to be Processed

Personal Data may include first name, last name, email address, contact information, IT information (IP addresses, usage data, cookies data, location data, browser data), financial information (credit card details, account details, payment information), employment details (employer, job title, geographic location, area of responsibility), CRM data concerning sales leads and customer lists, and any notes provided by the data exporter regarding the foregoing.

The categories of Data Subject to whom the Personal Data relates

- Potential and actual customers;
- LiveTiles personnel;
- Approved LiveTiles implementation partners;
- Third parties that have, or may have, a commercial relationship with the data exporter (e.g. software providers, strategic partnerships, joint ventures and contractors); and
- Employees and other personnel of the above entities.

The obligations and rights of the Controller

The obligations and rights of the Controller are as set out in the Principal Agreement and this DPA.

Schedule 2

STANDARD CONTRACTUAL CLAUSES

The Standard Contractual clauses which apply to the Processor (if any) may be found at the Processor's website.

The Standard Contractual clauses will only be binding on the parties, if the Processor is one of LiveTiles APAC Pty Ltd or LiveTiles Corporation.

Schedule 3

LIST OF MANDATED AUDITORS

BDO Global

Schedule 4

LIST OF SUBPROCESSORS

Subprocessors engaged in the processing of personal data on behalf of the Controller in connection with the Processor's provision of Services include the following entities:

Sub-Processor	Country	Purpose	GDPR-compliant
1password	Europe	Secure credential management	Yes
Asana	USA	Project mgmt.	Yes
Azure (Microsoft)	USA / Australia / Europe	Hosting	Yes
E-conomic	Denmark	Financial operations	Yes
Hubspot	USA	Marketing	Yes
Intercom	USA	Chat support	Yes
Lastpass	Europe	Secure credential management	Yes
Marketo	Australia	Marketing	Yes
Mixpanel	USA	Marketing	Yes
Oasis	USA	Personnel administration	Yes
Office365 (Microsoft)	Australia	Collaboration	Yes
Salesforce	Australia	CRM	Yes
Segment.io	USA	Marketing	Yes
Timelog	Denmark	Time capture	Yes
Xero	Australia	Financial operations Personnel administration	Yes
Zendesk	USA	Support	Yes