

DMC Member and Network Consultant Data Protection Addendum

During the course of providing Services to, or on behalf of, Cytel Inc. or any of its affiliated companies (collectively, "Cytel") pursuant to the applicable data monitoring committee ("DMC") member agreement or network consultant ("Network Consultant") professional services agreement between Cytel and DMC member or Network Consultant (collectively, the "Agreement"), DMC member or Network Consultant may access or otherwise process personal data. The Parties agree that with regard to the processing of personal data pursuant to the Agreement or this DPA, Cytel is the data processor (and shall hereinafter be referred to as the "**Processor**"), and DMC member or Network Consultant is the data subprocessor (and shall hereinafter be referred to as the "**Subprocessor**"). The Parties have agreed that the Subprocessor will provide the Services to the Processor pursuant to and in accordance with the terms and conditions of this DPA. In the event of a conflict between the terms of this DPA and the Agreement, the terms of this DPA shall govern.

IT IS HEREBY AGREED as follows:

1. DEFINITIONS

Capitalized terms used but not defined in this DPA will have the meanings set forth in the Agreement. The following capitalized words and expressions shall have the following meanings unless the context otherwise requires:

"Controller" means the client or customer of the Processor who determines the purposes and means of the processing of personal data.

"DPA" means this Data Protection Addendum, its schedules and any other documents attached to or referred to as forming part of this DPA, which are hereby incorporated into this DPA by reference;

"Data" means all personal data processed by (or on behalf of) the Subprocessor for the Processor under or in connection with the Agreement, including in the provision of the Services;

"Data Subjects' Rights" means those rights of data subjects as set out in the GDPR including, without limitation, rights of access, rectification, erasure, restriction of processing, data portability, objection, and not to be subject to automated decision making (including profiling);

"EEA" means European Economic Area;

"EU" means the European Union;

"GDPR" means 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;

"data subject," "international organisation," "personal data," "personal data breach," "process/processing," "pseudonymisation," "representative," "special categories of personal data," "supervisory authority," and **"third country"** shall each have the meaning ascribed to them in the GDPR;

"Standard Contractual Clauses" means the European Commission approved Processor to Subprocessor Standard Contractual Clauses; and

“Third-Party Subprocessor” means any third party (i) who is engaged by a Subprocessor to carry out specific processing activities in respect of the Data for or on behalf of a Processor; or (ii) to whom the Subprocessor subcontracts any of its obligations under or in connection with this Agreement.

2. SCOPE OF PROCESSING

- 2.1 The duration of processing will be the same as the duration of the Agreement, except as otherwise agreed to in the Agreement or in writing by the Parties. The scope and further details of the processing activities to be performed by the Subprocessor under or in connection with the Agreement and this DPA are set out in Schedule 1 to this DPA (Scope of Processing) which shall be provided to you by Cytel under separate cover.
- 2.2 To the extent that any additional information is required to be included in Schedule 1 to this DPA pursuant to the GDPR or any other applicable EU or EU Member State law, or this Agreement otherwise requires updating, the Parties will work together in good faith to amend this DPA to ensure continued compliance with such legislation provided, however, that no amendment to this DPA is permitted without the prior written consent of both the Subprocessor and the Processor (such consent not to be unreasonably withheld or delayed).

3. GENERAL SUBPROCESSOR OBLIGATIONS

- 3.1 The Subprocessor shall, and shall procure that each of its employees, permitted Third-Party Subprocessors and any other individual acting under its authority who has access to the Data shall:
- 3.1.1 only process the Data to the extent and in such a manner as is necessary for the provision of the Services and for no other purpose(s) (including but not limited to any of its own purposes);
- 3.1.2 only process the Data in accordance with the terms of this DPA;
- 3.1.3 only process the Data in accordance with the written instructions of the Processor from time to time (including in respect of transfers of Data to a third country or international organisation outside the EEA), unless otherwise required to do so by applicable EU or EU Member State law (in any such case, the Subprocessor shall promptly inform the Processor of the relevant legal requirement before processing, unless prohibited from doing so on important public interest grounds);
- 3.1.4 keep the Data confidential and ensure that any person authorized to process the Data for or on behalf of the Subprocessor (including but not limited to any Subprocessor employees and staff as well as permitted Third-Party Subprocessors) have agreed to keep the Data confidential, or are otherwise under an appropriate statutory obligation of confidentiality in respect of the Data; and
- 3.1.5 on request from the Processor, provide an up-to-date copy of the Data in the format, on the media and within any commercially reasonable time periods required by the Processor.

4. SECURITY

- 4.1 In accordance with the GDPR, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing of the Data to be carried out under or in connection with the Agreement, as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons and the risks that are presented by the processing, especially from accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to the Data transmitted, stored or otherwise processed, the Subprocessor agrees and warrants that it shall implement appropriate technical and organisational security measures appropriate to the risk.

5. THIRD-PARTY SUBPROCESSORS

- 5.1 The Subprocessor is not authorized to use an additional Third Party Subprocessors without the prior written consent of the Processor. If Subprocessor is provided written consent to engage a Third Party Subprocessor the following subsections of this Section 5 shall apply.
- 5.2 Before engaging new Third-Party Subprocessors, the Subprocessor will provide written notice to the Processor regarding the engagement and all intended changes regarding the replacement or addition of Third-Party Subprocessors to allow for objections.
- 5.3 Processor may object in writing to a new Third-Party Subprocessor within five (5) calendar days after receipt of this Agreement or other notice. If the Processor objects on reasonable grounds, the Subprocessor and Processor will discuss reasonable alternative solutions in good faith. If no resolution is reached, the Subprocessor will not appoint the Third-Party Subprocessor in dispute and will seek alternative Third-Party Subprocessors, or if an alternative Third-Party Subprocessor is not found, the Processor has the right to terminate its Agreement with Subprocessor in accordance with the provisions of the Agreement.
- 5.4 Regarding any permitted Third-Party Subprocessor engaged in accordance with Sections 5.1 through 5.3 for carrying out any specific processing activities on behalf of the Processor, the Subprocessor shall ensure that the same data protection obligations as set out in this DPA as between the Processor and the Subprocessor are imposed on that Third-Party Subprocessor by way of a written agreement. If any relevant Third-Party Subprocessor fails to fulfill its data protection obligations, the Subprocessor shall remain fully liable to the Processor for the performance of the relevant Third-Party Subprocessor's obligations.

6. ASSISTANCE

- 6.1 The Subprocessor shall provide reasonable assistance to the Processor, and at the Processor's request, the Controller, in ensuring compliance with the obligations referred to below as and to the extent required by the GDPR and any other applicable data protection related legislation, taking into account the nature of processing and the information available to the Subprocessor, including in respect of:
- 6.1.1 implementing appropriate technical and organisational security measures to ensure the security of processing in respect of the Data;
- 6.1.2 the notification of any personal data breaches in respect of the Data to any relevant supervisory authority and communication of personal data breaches to any relevant data subjects;

- 6.1.3 carrying out data protection impact assessments; and
- 6.1.4 any consultation with any relevant supervisory authority prior to processing where a data protection impact assessment indicates that the processing would result in a high risk if measures are not taken by the Processor to mitigate the risk.

7. RIGHTS OF DATA SUBJECTS

- 7.1 The Processor shall be responsible for providing data subjects with the information required under the GDPR at the point of collection of their personal data. If required by the Processor, the Subprocessor will provide the relevant information to data subjects on the Processor's behalf in a form approved in advance by the Processor.
- 7.2 Taking into account the nature of the processing performed by the Subprocessor, the Subprocessor shall assist the Processor by appropriate technical and organisational measures, insofar as this is possible, for the fulfillment of the Processor's obligations to respond to requests for exercising Data Subjects' Rights.
- 7.3 The Subprocessor shall notify the Processor, and at the Processor's request, the Controller, in writing (email being sufficient) of each such request that it receives. Such written notification shall be made promptly following receipt of the request, and shall include any information in the Subprocessor's custody or control that may assist the Processor or Controller, as applicable, to respond to the request.
- 7.4 Unless otherwise required by applicable EU or EU Member State law, the Subprocessor shall not respond to any such requests or other communications which the Subprocessor receives from data subjects, without the prior written consent of and at the direction of the Processor.

8. PERSONAL DATA BREACHES

- 8.1 In the case of any actual personal data breach in respect of the Data, the Subprocessor shall promptly notify the Processor, and at the Processor's request, the Controller, in writing (email being sufficient) no later than 24 hours after becoming aware of such breach.

9. INTERNATIONAL TRANSFERS OF DATA

- 9.1 The Subprocessor shall not process in or transfer any Data to any third country or international organisation outside the EEA except on the instructions or with the prior written approval of the Processor. The Processor consents to the processing or transfer of Data to the third countries and international organisations outside the EEA set forth in Part D of Schedule 1.
- 9.2 In order to ensure compliance with the GDPR regarding any agreed transfers of personal data to third countries or international organisations outside the EEA, unless another valid transfer mechanism exists for such transfers which satisfies the GDPR's requirements, such transfers shall be governed by the Standard Contractual Clauses set out in Schedule 2 to this DPA, which shall be deemed to be executed by the Parties and come into full force and effect upon execution of this DPA.

10. ACCOUNTABILITY

- 10.1 Upon written request from the Processor, the Subprocessor shall make available to the Processor, and at the Processor's request, the Controller, all information necessary to demonstrate compliance with its obligations under this DPA and allow for and contribute to audits, including inspections, conducted by the Processor, the Controller, or another auditor mandated by the Processor or Controller.
- 10.2 The Subprocessor shall immediately inform the Processor, and at the Processor's request, the Controller, if, in the Subprocessor's opinion, any instruction from the Processor or Controller with respect to the processing of Data under or in connection with this DPA infringes the GDPR, or other applicable EU or EU Member State data protection law or regulation.
- 10.3 The Subprocessor shall notify the Processor of all communications it receives from any third party relating to the Data, which suggest non-compliance by the Processor, the Subprocessor or any other person with the GDPR or any other law or regulation relating to privacy or the protection of personal data, including communications from data subjects and regulatory bodies, and shall not do anything or enter into any communication with such third party unless expressly authorised to do so by the Processor, unless permitted or required by law or regulation.

11. RETURN OR DISPOSAL

- 11.1 Upon completion of the Services or upon the expiry or termination of the Agreement for any reason, the Subprocessor shall (and shall procure that any permitted Third-Party Subprocessor shall), at the Processor's or Controller's discretion and to the extent technically feasible:
- 11.1.1 return all Data processed under or in connection with this Agreement (including any and all copies thereof) to the Processor or Controller, as applicable (or to any other person as directed by the Processor or Controller to the Subprocessor in writing); or
- 11.1.2 securely delete and destroy such Data (including any and all copies thereof) and certify to the Processor or Controller, as applicable, in writing that it has done so,
- in each case unless EU or EU Member State law requires the storage of such Data, in which case the Subprocessor shall promptly inform the Processor or Controller, as applicable, of such requirement.
- 11.2 The Subprocessor agrees (and shall procure that any permitted Third-Party Subprocessor shall agree) that, at the request of the Processor or any relevant supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in this Section 11.

12. GENERAL

- 12.1 **Additional obligations.** The Subprocessor agrees to take any other actions required to be imposed upon subprocessors of the Processor under the data processing agreement between the Controller and the Processor.

[END OF MAIN AGREEMENT]



**SCHEDULE 1
SCOPE OF PROCESSING**

This Schedule will be provided under separate cover or included in the applicable DMC member agreement or Network Consultant agreement and forms an integral part of the DPA.

**SCHEDULE 2
CONTROLLER-TO-PROCESSOR STANDARD CONTRACTUAL CLAUSES**

**Commission Decision C(2010)593
Standard Contractual Clauses (processors)**

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection.

Cytel Inc, 1050 Winter St., Suite 2700 Waltham, MA 02451
(the data **exporter**)

And

The DMC member, as defined in the applicable DMC member agreement between Cytel Inc, (or one of its Affiliates)
(the data **importer**)

each a “party”; together “the parties”,

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Schedule 1.

Clause 1

Definitions

For the purposes of the clauses:

- a) *'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority'* shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹;
- b) *'the data exporter' means the controller who transfers the personal data;*

¹ Parties may reproduce definitions and meanings contained in Directive 95/46/EC within this Clause if they considered it better for the contract to stand alone.

- c) *'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;*
- d) *'the subprocessor' means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;*
- e) *'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;*
- f) *'technical and organisational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.*

Clause 2

Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Schedule 1 which forms an integral part of the Clauses.

Clause 3

Third-party beneficiary clause

- 1 The data subject can enforce against the data exporter this Clause, Clause 4(2) to 4(9), Clause 5(1) to (5), and 5(7) to (10), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.
- 2 The data subject can enforce against the data importer this Clause, Clause 5(1) to 5(5) and 5(7), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.
- 3 The data subject can enforce against the subprocessor this Clause, Clause 5(1) to 5(5) and 5(7), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

- 4 The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4

Obligations of the data exporter

The data exporter agrees and warrants:

- 1 that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;
- 2 that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;
- 3 that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Schedule 1 to this contract;
- 4 that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;
- 5 that it will ensure compliance with the security measures;
- 6 that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;
- 7 to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(2) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;
- 8 to make available to the data subjects upon request a copy of the Clauses, with the exception of Schedule 1, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;
- 9 that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and
- 10 that it will ensure compliance with Clause 4(1) to (9).

Clause 5

Obligations of the data importer²

The data importer agrees and warrants:

- 1 to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- 2 that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- 3 that it has implemented the technical and organisational security measures specified in Schedule 1 before processing the personal data transferred;
- 4 that it will promptly notify the data exporter about:
 - 14.1 any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,
 - 14.2 any accidental or unauthorised access, and
 - 14.3 any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;
- 5 to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;
- 6 at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;
- 7 to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Schedule 1 which shall be

² Mandatory requirements of the national legislation applicable to the data importer which do not go beyond what is necessary in a democratic society on the basis of one of the interests listed in Article 13(1) of Directive 95/46/EC, that is, if they constitute a necessary measure to safeguard national security, defence, public security, the prevention, investigation, detection and prosecution of criminal offences or of breaches of ethics for the regulated professions, an important economic or financial interest of the State or the protection of the data subject or the rights and freedoms of others, are not in contradiction with the standard contractual clauses. Some examples of such mandatory requirements which do not go beyond what is necessary in a democratic society are, *inter alia*, internationally recognised sanctions, tax-reporting requirements or anti-money-laundering reporting requirements.

- replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;
- 8 that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;
 - 9 that the processing services by the subprocessor will be carried out in accordance with Clause 11;
 - 10 to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

Clause 6

Liability

- 1 The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.
- 2 If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.
- 3 If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

Clause 7

Mediation and jurisdiction

- 1 The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:
 - 1.1 to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

- 1.2 to refer the dispute to the courts in the Member State in which the data exporter is established.
- 2 The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8

Cooperation with supervisory authorities

- 1 The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.
- 2 The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.
- 3 The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (2).

Clause 9

Governing Law

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

Clause 10

Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

Clause 11

Subprocessing

- 1 The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under

- the Clauses³. Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.
- 2 The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
 - 3 The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.
 - 4 The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5 (10), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

Clause 12

Obligation after the termination of personal data processing services

- 1 The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.
- 2 The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

³ This requirement may be satisfied by the subprocessor co-signing the contract entered into between the data exporter and the data importer under this Decision.