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RESELLER Data Processing Addendum



Annex 5: Data Processing Addendum

This Data Processing Addendum (“DPA”) forms part of the OASE RESELLER AGREEMENT (“Agreement”) to reflect the parties’ agreement with regard to the processing of personal data.

WHEREAS This DPA serves as the binding contract between parties referred to in Article 28 (3) of the GDPR that sets out the subject-matter, duration of processing, nature and purpose of processing, the type of personal data and categories of data subjects as well as the obligations and rights of the Processor and Controller which maybe further supplemented by the Agreement.

WHEREAS In the provision of Services by Xylos to RESELLER pursuant to the Agreement, RESELLER acts as Controller and Xylos acts as Processor with respect to the personal data or as the case maybe, RESELLER acts as a Processor for its end users including such end user’s affiliated companies (as ultimate Controllers) and Xylos will act as a Sub-Processor acting on the instruction of the RESELLER vis-a-vis its end users.

The parties agree as follows:

A. Definitions

"Applicable EU Legislation" means

- i) the General Data Protection 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 (“**GDPR**”); and
- ii) to the extent applicable to the Services, any other EU or EU Member State data protection laws with respect to the processing of personal data under the Agreement.

The terms “personal data”, “to process/processing”, “controller”, “processor”, “data subject”, “personal data breach” and “supervisory authority” shall have the meaning as ascribed to them in the GDPR.

Compliance with Laws

Each party will comply with the Applicable EU Legislation as applicable to it. In particular, RESELLER will comply with its obligations as Controller (or on behalf of Controller) and Xylos will comply with its obligations as Processor.

This DPA is governed exclusively by Belgian law. Any disputes arising out of this DPA shall be settled by the courts of the arrondissement of Antwerp, Antwerp Division.

Data Processing

Xylos will process the personal data for the sole purpose of enabling, optimizing and providing the Services and/or for the purposes specified under the Agreement and this DPA.

Xylos will process the personal data as described in the table below in accordance with the instructions as documented in the Agreement and this DPA for the term of the Agreement.

Xylos will not access, use or otherwise process such personal data, except as necessary to provide the Services.

A. Duration of the processing	The terms of this PDA shall continue until the latter of the following: the termination of the AGREEMENT, or the date at which Xylos ceases to process personal data for the Controller
B. Nature and purpose of the processing	Xylos shall process personal data for the limited purpose of performing the obligations set out under the AGREEMENT;
C. Type and personal data to be processed	<p>Identification Data: First Name, Last Name, Organisation, E-mail address, Password</p> <p>Web site usage: Login, Logout, Clicks</p> <p>In no event will the data processed by Xylos include special categories of personal data as set out art.9 or 10 in GDPR.</p>
D. Categories of Data subjects	RESELLER's employees and/or appointees resellers and/or prospective resellers
E. Location(s) of the processing of personal data	<p>Xylos offices in Belgium</p> <p>Microsoft Azure Data Center in the Netherlands</p>
F. Third party(ies) (sub-processors) other than Xylos	<p>Following third parties will have access to the personal data:</p> <p>Microsoft Azure</p> <p>Microsoft Ireland Operations Ltd, Atrium Building Block B, Carmenhall Road, Sandyford Industrial Estate, Dublin 18, Ireland</p> <p>Please refer to https://azure.microsoft.com/en/us/support/trust-center/ for more informations on Microsoft Azure certifications, compliance and security processes.</p>
G. Third countries to which the personal data are transferred	No personal data will be transferred to third countries

RESELLER Obligations

RESELLER acts as Controller (or on behalf of the ultimate Controllers) and undertakes that all instructions for the processing of personal data under the Agreement or this DPA or as otherwise agreed or configured shall comply with the GDPR, and such instructions will not in any way cause Xylos to be in breach of the GDPR. RESELLER is solely responsible for ensuring the accuracy, quality, and legality of personal data processed by Xylos including the means by which RESELLER acquired personal data.

As part of the configuration of the Services, certain security features and data processing functionalities are made available to the RESELLER. RESELLER is responsible for properly configuring the Services to meet its specific processing and security requirements, to protect the personal data from unauthorized access.

Liability

In case of a proven breach by Xylos of its obligations under this DPA or under the GDPR, Xylos shall be liable for the proven direct damages incurred by the RESELLER.

Xylos shall not be liable for indirect, immaterial and/or consequential damages, including loss of profit, loss of opportunities, loss of and/or damage to data, loss of reputation, sanctions and/or fines, and unforeseeable damages.

Xylos' liability towards RESELLER shall in any case be limited to the total amount paid by RESELLER to Xylos during the last 12 months under the Agreement.

Organizational and technical measures

The parties will implement and maintain throughout the term of the DPA and will procure its Sub-Processors to implement and maintain through the term of the DPA, the appropriate technical and organizational security measures to protect personal data against accidental or unlawful destruction, loss, damage or alteration and against unauthorized disclosure, abuse or other processing in violation of the requirements of the GDPR.

The parties will ensure that it and its Sub-Processors involved in the processing of personal data will at all times comply with the minimum data security requirements set out below:

ORGANISATIONAL MEASURES

Security officers

Safety and risk plan

Security policy

Security and privacy awareness training for all staff

Incident response plan

Data security policy

Disciplinary follow-up in case of non-compliance with one of the measures

Disaster and recovery plan in case of e.g. physical/technical incidents

Continuity plan

Regular assessment of the effectiveness of the organizational and technical measures

Regular check of the adequacy of the processing systems and services

TECHNICAL MEASURES

Back-up systems

Measures in the event of fire/burglary/water damage, or physical/technical incidents

Access control (physical and logical)

Authentication system

Password policy

User-ID policy

Logging system, access tracking and analysis

Patching

Antivirus

Firewal

Network security

Monitoring, inspection and maintenance of the systems

Encryption of Personal Data

Pseudonymisation of Personal Data

Data Subjects rights

Taking into account the nature of the processing and the information available to Xylos, Xylos will assist RESELLER by appropriate technical and organisational measures, insofar this is possible, in responding to data subjects' requests exercising their rights under the GDPR. To that effect, Xylos will:

- (i) to the extent permitted by applicable law, promptly notify RESELLER of any request received directly from data subjects to access, correct or delete its personal data without responding to that request; and
- (ii) upon written request from RESELLER, provide RESELLER with information that Xylos has available to reasonably assist RESELLER in fulfilling its obligations to respond to data subjects exercising their rights under the GDPR.

Deletion Of Personal Data

Following the end term or termination of the Agreement, Xylos will destroy all personal data processed for the RESELLER that is in Xylos' possession or control, unless requirements arising from the GDPR requires storage of the personal data.

Upon the RESELLER's written request, Xylos shall certify in writing the destruction of the personal data.

Data Protection Impact Assessments

In the event that RESELLER is required under Applicable EU Legislation to conduct a "Data Protection Impact Assessment", Xylos will assist where reasonably possible, subject to the nature of the processing and the information available to Xylos, in the fulfilment of the RESELLER's obligation as related to the use of the Services, subject to the extent RESELLER does not otherwise have access to the relevant information.

If required under Applicable EU Legislation Xylos shall provide reasonable assistance to RESELLER in the cooperation or prior consultation with the "Data Protection Authorities" in relation to any applicable "Data Protection Impact Assessment".

Breach notification

If a personal data breach occurs or has occurred, both parties shall, immediately after becoming aware of the occurrence, notify each other by telephone or by email.

When notifying the incident, or if not reasonably possible, without unreasonable delay after notification of the personal data breach, the Processor shall provide the Controller with the following information relating to the personal data breach:

- (i) the nature of the personal data breach,
- (ii) the categories of data subject(s), where possible,
- (iii) the estimated number of data subject(s),
- (iv) the categories of personal data,
- (v) the estimated number of personal data,
- (vi) the name and contact details of the data protection officer, if the Processor has appointed such an officer, or, in the absence of a data protection officer, another contact point where more information about the personal data breach can be obtained,
- (vii) the likely effects and risks, including the likely effects and risks for the data subjects,
- (viii) the measures taken to handle the personal data breach, including, where appropriate, measures to mitigate any adverse effects and risks.

Xylos shall assist the RESELLER as far as possible in notifying the Personal Data breach to the supervisory authority and/or the Data Subject(s). In any event, Xylos shall treat all inquiries/requests from the Controller in connection with the Personal Data breach as a matter of priority.

Annex 6: OASE Platform Use Policy

OASE is a product developed and owned by XYLOS and provides the oase.findwatchdo.com Platform located at oase.findwatchdo.com (the “Platform”).

RESELLER can only use the Platform subject to compliance with all the terms, conditions and notices contained or referenced hereinafter (the “Policy”).

Accessing the Platform

RESELLER is responsible for making all arrangements necessary to have access to the Platform. XYLOS reserves the right to withdraw or amend the Platform, and any service or material that XYLOS provides on the Platform, in its sole discretion and without notice to RESELLER. XYLOS will not be liable if, for any reason, all or any part of the Platform is unavailable at any time or for any period.

Intellectual Property rights

(a) The Platform and their entire contents, features and functionality (including but not limited to all information, software, text, displays, images, video and audio, and the design, selection and arrangement thereof) are owned by XYLOS, its licensors or other providers of such material, and are protected by international copyright and other intellectual property or proprietary rights laws. No right, title or interest in or to the Platform or any content on the Platform is transferred to RESELLER, and all rights not expressly granted, are reserved by XYLOS.

(b) RESELLER is not allowed to reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store or transmit any of the material on the Platform, except as follows: (i) RESELLER may store files that are automatically cached by its Web browser for display enhancement purposes; (ii) if XYLOS provides social media features at any time, RESELLER may take such actions as are enabled by such features.

(c) RESELLER is not allowed to: (i) use any illustrations, photographs, video or audio sequences or any graphics separately from the accompanying text; or (ii) access or use for any commercial purposes any part of the Platform or any services or materials available through the Platform.

(d) XYLOS’ name, logo, and all related names, logos, product and service names, designs and slogans, are trademarks of XYLOS or its affiliates or licensors. RESELLER may not use such marks without the prior written permission of XYLOS. All other names, logos, product and service names, designs and slogans on the Platform are the trademarks of their respective owners.

SUBSCRIBER's obligations and representations

(a) RESELLER may use the Platform only for lawful purposes and in accordance with this Policy.

(b) RESELLER guarantees that: (i) it is legally authorized to form a binding contract with XYLOS; (ii) it will not use the Platform in any way that violates any applicable local or international law or regulation; (iii) it will not send, knowingly receive, upload, download, use or re-use any material which does not comply with the 'Content Standards' (defined below); (iv) it will not impersonate or attempt to impersonate XYLOS, a XYLOS' employee, another user or any other person or entity; (v) it will not do anything that could disable, overburden, damage, or impair the Platform or interfere with any person's use of the Platform; (vi) it will not use any robot, spider or other automatic device, process or means to access the Platform for any unlawful purpose or in violation of this Policy; (vii) it will not introduce any viruses, trojan horses, worms, logic bombs or other material which is malicious or technologically harmful; and (viii) it will not co-brand or frame the Platform or hyper-link to it without the express prior written permission of an authorized representative of XYLOS.

User contributions

(a) XYLOS may from time-to-time provide interactive services such as message boards, chat rooms, forums, webinars, and other interactive features (collectively, "Interactive Services") that allow RESELLER to post, submit, publish, display or transmit to other persons (hereinafter, "post") content or materials (collectively, "User Contributions") on or through the Platform. All User Contributions must comply with the Content Standards set out in this Policy.

(b) Any User Contribution that RESELLER posts will be considered non-confidential and non-proprietary, to the extent permitted by law. By providing a User Contribution, RESELLER grants XYLOS and its successors the right to use, reproduce, modify, perform, display, distribute and otherwise disclose to third parties any such material. RESELLER promises that it owns or controls all rights in and to the User Contributions and have the right to grant such license to XYLOS. RESELLER agrees that it will have no claim or other recourse against XYLOS for infringement of any proprietary right with respect to its User Contributions. RESELLER acknowledges and agrees to waive any moral (or similar) rights that it may have in any territory in respect of User Contributions, including but not limited to, the right to be attributed as the author of the User Contributions.

(c) If RESELLER provides a User Contribution to be published or displayed on public areas of the Platform, or transmitted to other users of the Platform or any third parties, RESELLER accepts that its User Contributions are posted on and transmitted to others at its own risk. Additionally, XYLOS cannot control the actions of other users of the Platform or any third parties with whom RESELLER may choose to share its User Contributions. Therefore, XYLOS cannot and does not guarantee that RESELLER's User Contributions will not be viewed by unauthorized persons.

(d) User Contributions must be accurate and comply with all applicable laws in the country from which they are posted. RESELLER understands and acknowledges that it is responsible for any User Contributions it submits or contributes, and RESELLER, not XYLOS, has fully responsibility for such content, including its legality, reliability, accuracy and appropriateness. XYLOS is not responsible, or liable to any third-party, for the content or accuracy of any User Contributions posted by RESELLER or any other user of the Platform.

Content Standards

These content standards apply to all User Contributions and use of Interactive Services, if offered. User Contributions must in their entirety comply with all applicable local and international laws and regulations. Without limiting the foregoing, User Contributions must not:

- Contain any material that is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory or otherwise objectionable
- Promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation or age
- Infringe any patent, trademark, trade secret, copyright or other intellectual property or other rights of any third-party
- Infringe the legal rights (including the right of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws
- Promote any illegal activity, or advocate, promote or assist any unlawful act
- Cause annoyance, inconvenience or needless anxiety or be likely to upset, embarrass, alarm or annoy any other person
- Impersonate any person, or misrepresent your identity or affiliation with any person or organization
- Involve commercial activities or sales
- Be likely to deceive or give the impression that they emanate from or are endorsed by us, or any other person or entity

Monitoring and enforcement; termination

XYLOS has the right, but not the obligation, to review, screen or edit any User Contribution. RESELLER accepts that such contributions does not reflect the views of XYLOS and are not endorsed by XYLOS.

XYLOS has the right to: (a) remove or refuse to post any User Contributions for any reason; (b) take any action with respect to User Contributions that it deems necessary or appropriate; (c) disclose RESELLER's identity or other information about RESELLER to any third-party who in XYLOS' opinion reasonably claims that material posted by RESELLER infringes its rights, including its intellectual property rights or its right to privacy; (d) take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Platform; (e) terminate or suspend RESELLER's access to all or part of the Platform.

Without limiting the foregoing, XYLOS has the right to fully cooperate with law enforcement authorities requesting or directing XYLOS to disclose the identity or other information of anyone posting any materials on or through the Platform. XYLOS does not undertake to review material before it is posted on the Platform, and cannot ensure prompt removal of objectionable material after it has been posted. Accordingly, XYLOS assumes no liability for any action or inaction regarding transmissions, communications or content provided by any user or third-party. XYLOS has no liability or responsibility to anyone for performance or nonperformance of the activities described in this section.

Copyright infringement

XYLOS takes claims of copyright infringement seriously. XYLOS will respond to notices of alleged copyright infringement where appropriate. If RESELLER believes any materials accessible on or from the Platform infringe its copyright, RESELLER may request removal of those materials (or access thereto) from the Platform by submitting written notification to : oase@xylos.com.

The written notice must include substantially the following:

- i. RESELLER's physical or electronic signature.
- ii. Identification of the copyrighted work RESELLER believes to have been infringed or, if the claim involves multiple works on the Platform, a representative list of such works.
- iii. Identification of the material RESELLER believe to be infringing, in a sufficiently precise manner to allow XYLOS to locate that material.
- iv. Adequate information by which XYLOS can contact RESELLER (including RESELLER's name, postal address, telephone number and, if available, e-mail address).
- v. A statement that RESELLER has a good faith belief that use of the copyrighted material is not authorized by the copyright owner, its agent or the law.
- vi. A statement that the information in the written notice is accurate.
- vii. A statement, under penalty of perjury, that RESELLER is authorized to act on behalf of the copyright owner.

If RESELLER knowingly misrepresent that material or activity on the Platform is infringing its copyright, RESELLER will be held liable for damages (including costs and legal fees).

Reliance on information posted

The information presented on or through the Platform is made available solely for general information purposes. XYLOS does not make any statements regarding the accuracy, completeness or usefulness of this information. Any reliance Subcontractor places on such information is strictly at its own risk. The Platform includes content provided by third parties, including materials provided by other users and third-party licensors. XYLOS is not responsible, or liable to RESELLER or any third-party, for the content or accuracy of materials provided by any third parties.

Privacy

All information XYLOS collects on the Platform is subject to XYLOS Privacy Policy. By using the Platform, RESELLER consents automatically to all actions taken by XYLOS with respect to RESELLER's information in compliance with the Xylos Privacy Policy.

Subscriptions and other Terms and Conditions

In addition to this Policy and the Privacy Policy (collectively, the "Platform Policies"), all subscriptions to XYLOS' products and services, are governed by the Agreement.

Links from the Platform

If the Platform contains links to other sites and resources provided by third parties, these links are provided for RESELLER's convenience only. XYLOS has no control over the contents of those sites or resources, and accept no responsibility for them or for any loss or damage that may arise from RESELLER's use of them. If RESELLER decides to access any third-party Platforms linked to the Platform, RESELLER does so entirely at its own risk and subject to the terms and conditions of use for such third-party Platforms.

Linking to the Platform and social media features

RESELLER may link to OASE homepage, provided RESELLER does so in a way that is fair and legal and does not damage XYLOS' reputation or take advantage of it, but RESELLER must not establish a link in such a way as to suggest any form of association, approval or endorsement on XYLOS' part (unless RESELLER has received the express written consent of XYLOS). The Platform may provide certain social media features that enables RESELLER to:

- Link from its own or certain third-party Platforms to certain content on the Platform
- Send e-mails or other communications with certain content or links to specific content on the Platform
- Cause limited portions of content on the Platform to be displayed or appear to be displayed on its own or certain third-party Platforms

RESELLER may use these features solely as they are provided by XYLOS, and solely with respect to the content they are displayed with, and otherwise in accordance with any additional terms and conditions XYLOS provides with respect to such features. Subject to the foregoing, RESELLER is not allowed to:

- Establish a link from any Platform that is not owned by it
- Cause the Platform or portions of them to be displayed, or appear to be displayed by, for example, framing, deep linking or in-line linking, on any other site
- Link to any part of the Platform other than the homepage
- Otherwise take any action with respect to the materials on the Platform that is inconsistent with any other provision of this Policy

The Platform from which RESELLER is linking, or on which RESELLER makes certain content accessible, must comply in all respects with the Content Standards set out in this Policy. RESELLER agrees to cooperate with XYLOS in causing any unauthorized framing or linking immediately to cease. XYLOS reserves the right to withdraw linking permission without notice. XYLOS may disable all or any social media features and any links at any time without notice in its discretion.

No promises

RESELLERS' use of the Platform or items obtained through the Platform are at its own risk. the Platform is provided on an "as is" and "as available" basis, without any promises of any kind, either express or implied. Neither XYLOS nor any company or person associated with XYLOS makes any promise, warranty or representation with respect to the completeness, security, reliability, quality, accuracy or availability of the Platform. Without limiting the foregoing, neither XYLOS nor anyone associated with XYLOS promises, represents or warrants that the Platform or items obtained through the Platform or any portion thereof will be accurate, reliable, error-free or uninterrupted, that defects will be corrected, that the Platform or the server that makes them available are free of viruses or other harmful components, or that the Platform or items obtained through the Platform will otherwise meet RESELLERS' needs or expectations. XYLOS hereby disclaims all warranties of any kind,

whether express or implied, statutory or otherwise, including but not limited to any warranties of merchantability, non-infringement and fitness for particular purpose.

Limitation of liability

To the maximum extent permitted by law, in no event shall XYLOS, its licensors, employees, agents, officers or directors be liable to RESELLER or any third-party for any special, punitive, incidental, indirect or consequential damages of any kind, or any damages whatsoever, including, without limitation, those resulting from loss of use, loss of data, or loss of profits, whether or not XYLOS has been advised of the possibility of such damages, and on any theory of liability, arising out of or in connection with the use of the Platform or of any Platform referenced or linked to from XYLOS' Platform. RESELLER will be responsible for all claims and damages resulting from the misuse of the Platform by RESELLER.

Changes

XYLOS reserves the right, in its sole discretion, to change the terms of this Policy at any time. Any changes are effective immediately upon posting to the Platform. RESELLER's continued use of the Platform constitutes its agreement to all such terms and conditions.

Equitable relief

RESELLER acknowledges that a breach of any confidentiality or proprietary rights provision of this Policy may cause XYLOS irreparable damage, for which the award of damages would not be adequate compensation. Consequently, XYLOS may institute an action to enjoin RESELLER from any and all acts in violation of those provisions, which remedy shall be cumulative and not exclusive, and XYLOS may seek the entry of an injunction enjoining any breach or threatened breach of those provisions, in addition to any other relief to which XYLOS may be entitled at law or in equity.

Severability

If any provision of this Policy is held by a court of competent jurisdiction to be contrary to law, such provision shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law and the remaining provisions of this Policy will remain in full force and effect.

Waiver and amendment

If XYLOS fails to insist upon strict performance of RESELLERS' obligations under any of these terms and conditions, or if XYLOS fails to exercise any of the rights or remedies to which it is entitled under this Policy, this will not constitute a waiver of such rights or remedies and will not relieve RESELLER from compliance with such obligations. No waiver by XYLOS of any default will constitute a waiver of any subsequent default, and no waiver by XYLOS of any of these terms and conditions will be effective unless it is expressly stated to be a waiver and is communicated to RESELLER in writing.

Future business transactions

As XYLOS continues to develop its business, it might undergo a change of ownership such as a merger and/or a sale of all or substantially all our stock or assets. In such transactions, user information generally is one of the transferred business assets, and by submitting any data or contributions (collectively, "Data") to XYLOS, RESELLER agrees that such Data may be transferred to such parties in these circumstances.

Entire AGREEMENT

This Policy, together with the documents expressly referred to herein, constitutes the sole and entire agreement between RESELLER and XYLOS with respect to the Platform and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the Platform.