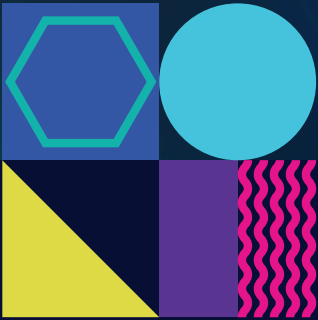


**CLEVERTOUCH®**

by Boxlight®



Clevertouch Security

# Data Processing Agreement

This Data Processing Agreement (“DPA”) applies to (and is incorporated within) the end user licences agreement(s) (as applicable) and any and all other agreements between Sahara Presentation Systems Ltd trading as Clevertouch (“CleverTouch”) governing Customer’s use of the Clevertouch Services (“a variety of web services for digital signage management”).

This DPA is an agreement between you and the entity you represent (“Customer”, “you” or “your”) and Sahara Presentation Systems Ltd trading as Clevertouch and the Clevertouch Contracting Party or Clevertouch Contracting Parties (as applicable) (together “Clevertouch”). Unless otherwise defined in this DPA, all capitalised terms used in this DPA will have the meanings given to them in Clause 15 of this DPA.

## 1. Data Processing.

1.1 Scope and Roles. This DPA applies when Customer Data is processed by Clevertouch. In this context, Clevertouch will act as processor to Customer, who can act either as controller or processor of Customer Data.

1.2 Customer Controls. Customer can use the built-in customer controls to assist it with its obligations under the Applicable Data Protection Law, including its obligations to respond to any requests from data subjects (further to Clause 7 below). Taking into account the nature of the processing, Customer agrees that it is unlikely that Clevertouch would become aware that Customer Data is inaccurate or outdated. Nonetheless, if Clevertouch becomes aware that Customer Data is inaccurate or outdated, it will inform Customer without undue delay. Clevertouch will have the right to suspend or terminate a Customer account if any information provided during registration is not accurate. Clevertouch will co-operate with Customer to erase or rectify inaccurate or outdated Customer Data by providing the customer controls that Customer can use to access, erase or rectify its own Customer Data. Customer also agrees that it is unlikely that Clevertouch would become aware of nor be processor of any information stored on or linked to the Clevertouch Services, and anything used in connection with the provision of the Services. This shall be deemed “Customer Content”. As such Customer shall be responsible for ensuring that the Customer Content does not contravene any Applicable Data Protection Laws. And Customer shall assist Clevertouch in maintaining written records of personal data processing, as required and when applicable under the Applicable Data Protection Laws.

1.3 Details of Data Processing are set out in Annex A

1.4 Compliance with Laws. Each party will comply with all laws, rules and regulations applicable to it and binding on it in the performance of this DPA, including Applicable Data Protection Laws.

## 2. Customer Instructions.

2.1 The parties agree that this DPA constitutes Customer's documented instructions regarding Clevertouch's processing of Customer Data ("Documented Instructions"). Clevertouch will process Customer Data only in accordance with these Documented Instructions (which if Customer is acting as a processor, could be based on the instructions of its controllers). Additional instructions outside the scope of the Documented Instructions (if any) require prior written agreement between Clevertouch and Customer, including agreement on any additional fees payable by Customer, if Clevertouch declines to follow instructions requested by Customer that are outside the scope of, or changed from, those given or agreed to be given in this DPA. Taking into account the nature of the processing, Customer agrees that it is unlikely Clevertouch can form an opinion on whether Documented Instructions infringe Applicable Data Protection Law. If Clevertouch does form such an opinion, it will immediately inform Customer, in which case, Customer is entitled to withdraw or modify its Documented Instructions.

## 3. Confidentiality of Customer Data.

3.1 Clevertouch will not access or use, or disclose to any third party, any Customer Data, except, in each case, as necessary to maintain or provide the Services, or as necessary to comply with the law, a request from a supervisory authority or a valid and binding order of a governmental body (such as a subpoena or court order). If a supervisory authority or governmental body sends Clevertouch a demand for Customer Data, Clevertouch will attempt to redirect the supervisory authority or governmental body to request that data directly from Customer. As part of this effort, Clevertouch may provide Customer's basic contact information to the supervisory authority or governmental body. If compelled to disclose Customer Data to a governmental body, then Clevertouch will give Customer reasonable notice of the demand to allow Customer to seek a protective order or other appropriate remedy unless Clevertouch is legally prohibited from doing so.

## 4. Confidentiality Obligations of Clevertouch Personnel.

4.1 Clevertouch shall only grant access to the Customer Data for all such natural persons working under its management ("personnel") and who need access to be able to perform their duties. Clevertouch imposes appropriate contractual obligations upon its personnel, including relevant obligations regarding confidentiality, data protection and data security. This is not a requirement if they are already covered by a legally sanctioned duty of confidentiality

## 5. Security of Data Processing

5.1 Clevertouch has taken into account the nature, scope, context and purposes of the processing and risks imposed to the rights of individuals and has implemented appropriate technical and organisational measures in place to ensure the security of Customer Data in particular against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure of, or access to Customer Data. Clevertouch has implemented and will maintain the technical and organisational measures, including (but not limited to) :

- a) the encryption of the Customer Data;
- b) the ability to ensure the ongoing confidentiality, integrity, availability of the Customer Data and resilience of processing systems and services;
- c) the ability to restore the availability and access to the Customer Data in a timely manner in the event of a physical or technical incident; and
- d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing of the Customer Data.

5.2 Any added or revised requirements for protective measures from the Customer, after the Parties have signed this Agreement, will be considered as new instructions pertaining to this agreement.

5.3 Customer is responsible for (including but not limited to) (a) implementing technical and organisational measures, as appropriate, (b) any activities that take place under the Customer account, or that take place on or via any of the Customer displays and other mediums, (c) keeping account passwords secure, (d) ensuring any software updates are downloaded timeously and (e) taking such steps as Customer considers adequate to maintain appropriate security, protection, and deletion of Customer Data, which includes use of encryption from unauthorised access and measures to control access rights to Customer Data.

## 6. Sub-processing.

6.1 Authorised Sub-processors. Customer provides general authorisation to Clevertouch's use of sub-processors to provide processing activities of Customer Data on behalf of Customer ("Sub-processors") in accordance with this Clause. Clevertouch is responsible for maintaining an up to date list of its subprocessors and will provide a copy of same to Customer, within 72 hours of written request. This list shall be applicable for all services covered by this DPA. To object to a Sub-processor, Customer can: (i) terminate the Agreement pursuant to

its terms; (ii) cease using the Service for which Clevertouch has engaged the Sub-processor.

6.2 Sub-processor Obligations. Where Clevertouch authorises a Sub-processor as described in Clause 6.1:

(i) Clevertouch will restrict the Sub-processor's access to Customer Data only to what is necessary to provide or maintain the Services, and Clevertouch will prohibit the Sub-processor from accessing Customer Data for any other purpose;

(ii) Clevertouch will enter into a written agreement with the Sub-processor and, to the extent that the Sub-processor performs the same data processing services provided by Clevertouch under this DPA, Clevertouch will impose on the Sub-processor the same contractual obligations that Clevertouch has under this DPA; and

(iii) Clevertouch will remain responsible for its compliance with the obligations of this DPA and for any acts or omissions of the Sub-processor that cause Clevertouch to breach any of Clevertouch's obligations under this DPA.

## 7. Clevertouch Assistance with Data Subject Requests.

7.1 Further to Clause 1.2 above and taking into account the nature of the processing, the customer controls shall be the measures by which Clevertouch will assist Customer in fulfilling Customer's obligations to respond to data subjects' requests under Applicable Data Protection Law.

7.2 If a data subject makes a request to Clevertouch, Clevertouch will promptly forward such request to Customer once Clevertouch has identified that the request is from a data subject for whom Customer is responsible. Customer authorises on its behalf, and on behalf of its controllers when Customer is acting as a processor, Clevertouch to respond to any data subject who makes a request to Clevertouch, to confirm that Clevertouch has forwarded the request to Customer. The parties agree that Customer's use of the customer controls and Clevertouch forwarding data subjects' requests to Customer in accordance with this Clause 7, represent the scope and extent of Clevertouch's required assistance.

## 8. Security Incident Notification.

8.1 Security Incident. Clevertouch will (a) notify Customer of a Security Incident without undue delay after becoming aware of the Security Incident, and (b) take appropriate measures to address the Security Incident, including measures to mitigate any adverse effects resulting from the Security Incident.

8.2 Clevertouch Assistance. To enable Customer to notify a Security Incident to supervisory authorities or data subjects (as applicable), Clevertouch will cooperate with and assist Customer by including in the notification under Clause 9.1(a) such information about the Security Incident as Clevertouch is able to disclose to Customer, taking into account the nature of the processing, the information available to Clevertouch, and any restrictions on disclosing the information, such as confidentiality. Taking into account the nature of the processing undertaken by Clevertouch, Customer agrees that it is best able to determine the likely consequences of a Security Incident and not Clevertouch.

8.3 Unsuccessful Security Incidents. Customer agrees that:

(i) an unsuccessful Security Incident will not be subject to this Clause 9. An unsuccessful Security Incident is one that results in no unauthorised access to Customer Data or to any of Clevertouch's equipment or facilities storing Customer Data, and could include, without limitation, pings and other broadcast attacks on firewalls or edge servers, port scans, unsuccessful log-on attempts, denial of service attacks, packet sniffing (or other unauthorised access to traffic data that does not result in access beyond headers) or similar incidents; and

(ii) Clevertouch's obligation to report or respond to a Security Incident under this Clause 9 is not and will not be construed as an acknowledgement by Clevertouch of any fault or liability of Clevertouch with respect to the Security Incident.

8.4 Communication. Notification(s) of Security Incidents, if any, will be delivered to one or more of Customer's administrators by any means Clevertouch selects, including via email. It is Customer's sole responsibility to ensure Customer's administrators maintain current and accurate contact information on the Clevertouch records for such notifications.

8.5 Notification Obligations. If Clevertouch notifies Customer of a Security Incident, or Customer otherwise becomes aware of any accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Customer Data, Customer will be responsible for (a) determining if there is any resulting notification or other obligation under Applicable Data Protection Law and (b) taking necessary action to comply with those obligations. This does not limit Clevertouch's obligations under this Clause 9.

## 9. Clevertouch Certifications and Audits.

9.1 Clevertouch shall keep records relating to its processing of the Customer Data and the security measures taken in compliance with the Applicable Data Protection Laws.

9.2 Clevertouch Audits. Clevertouch shall be able to report, at the request of the Customer, which technical and organisational measures are being used for the processing to meet the requirements according to the Applicable Data Protection Laws. Clevertouch shall review the security of the processing at least once a year by performing a checks to ensure that the processing complies with this Agreement. Upon request, a summary of the results of such checks may be shared with the Customer. As an alternative to this, Clevertouch is entitled to offer other means of checking the measures, such as checks carried out by independent third parties or proof of security certifications.

9.3 Privacy Impact Assessment and Prior Consultation. If required, Clevertouch may assist Customer in complying with Customer's obligations in respect of data protection impact assessments and prior consultation.

## 10. International Transfers of Personal Data.

10.1 Regions. Customer Data in electronic form is held in EU/EEA and UK accredited data centres and shall be handled and stored within the EU/EEA by a natural or legal person who is established in the EU/EEA, unless the parties to this Agreement agree otherwise. Where data will need to be transferred outside of the UK, Switzerland or EU/EEA (a "Third Country"), Clevertouch shall take such measures as are necessary to ensure the transfer is in compliance with Applicable Data Protection Laws and is done under a valid transfer mechanism.

10.2 Clevertouch is only entitled to transfer Personal Data to a Third Country for Processing (e.g. for service, support, maintenance, development, operations or other similar handling) if it complies with the Applicable Data Protection Laws, is done under a valid transfer mechanism and fulfils the requirements for the Processing set out in this Agreement and the Documented Instructions.

## 11. Termination of the DPA.

11.1 This DPA shall enter into force from the time the Agreement is signed by both Parties and shall continue in full force and effect for so long as Clevertouch is processing Customer Data on behalf of the Customer and thereafter, as per the Clauses below.

## 12. Deletion of Customer Data and Customer Accounts.

12.1 At any time up to the Termination Date, and for 90 days following the Termination Date, Customer and its end users may use the customer controls to delete their accounts and retrieve any Customer Data that they have uploaded into the Services. Clevertouch will delete any Customer accounts and Customer Data when Customer uses the customer controls to request such deletion. No later than the end of this

90-day period, Customer will close all Clevertouch accounts containing Customer Data, failing which Clevertouch shall do so without notice to the Customer, following which Customer Data may be lost.

### 13. Entire Agreement Conflict.

13.1 If there is a conflict between the End User Licence Agreements and or Service terms and Conditions, the terms of this DPA will take precedent. Nothing in this document varies or modifies the Eu / UK Standard Contractual Clauses.

### 14. Choice of Law and Disputes

14.1 This DPA shall be subject to the laws of England and Wales.

14.2 Any dispute arising from this DPA shall be resolved by the courts of England and Wales. The Parties agree to submit themselves to the jurisdiction of such courts.

### 15. Definitions.

Unless otherwise defined in the DPA, all capitalised terms used in this DPA will have the meanings given to them below:

“Applicable Data Protection Law” means all applicable laws and regulations relating to data protection, privacy and information security including (without limitation) EU Data Protection Law and UK Data Protection Law, as introduced, amended and superseded from time to time.

“Clevertouch Network” means the servers, networking equipment, and host software systems (for example, virtual firewalls) that are within Clevertouch’s control and are used to provide the Services.

“controller” has the meaning given to it in the UK Data Protection Law.

“Customer Data” means the End User Personal Data and any other data or information that is uploaded to the Services by the End Users under the assigned Customer accounts.

“EEA” means the European Economic Area.

“End User” means the individual employees of the Customer.

“EU Data Protection Law” means (i) all EU regulations or other legislation application to the processing of personal data such as Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (repealing Directive 95/46/EC) (“EU GDPR”); (ii) the national laws of each EEA member states implementing any EU Directive applicable to the processing of personal data such as Directive 2002/58/EC (the “e-Privacy Directive”) and (iii) any other national laws of each



EEA member state applicable (in whole or in part) to the processing of personal data, as amended or superseded from time to time.

“Personal Data” means personal data, personal information, personally identifiable information or other equivalent term (each as defined in the UK Data Protection Law).

“processing” has the meaning given to it in the UK Data Protection Law and “process”, “processes” and “processed” will be interpreted accordingly.

“processor” has the meaning given to it in the UK Data Protection Law. “Security Incident” means a breach of Clevertouch’s security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Customer Data.

“Customer Controls” means the controls, including security features and functionalities, that the Services provide.

“Third Country” means a country outside the UK or EEA not recognized by the UK or European Commission as providing an adequate level of protection for personal data (as described in the UK Data Protection Law).

“UK Data Protection Law” means the EU GDPR as it forms part of UK law by virtue of section 3 of the European Union (Withdrawal) Act 2018 (the “UK GDPR”); the Data Protection Act 2018 (the “DPA 2018”); and the Privacy and Electronic Communications (EC Directive) Regulations 2003 as they continue to have effect by virtue of section 2 of the European Union (Withdrawal) Act 2018 (“PECR”); and any other laws in force in the UK from time to time applicable (in whole or in part) to the processing of personal data, as amended or superseded from time to time.

Appendix A Information about the processing

### **1.3.1 Subject matter.**

The subject matter of the data processing under this DPA is Customer Data.

### **1.3.2 Duration.**

As between Clevertouch and Customer, the duration of the data processing under this DPA is determined by Customer.

### **1.3.3 Purpose.**

The purpose of the data processing under this DPA is the provision of the Services initiated by Customer from time to time.

### 1.3.4 Nature of the processing.

A variety of web services for digital signage management including but not limited to service, support, maintenance, development, operations or other similar Services as described in the Agreement and initiated by Customer from time to time.

### 1.3.5 Type of Customer Data.

Customer Data uploaded to the Services under Customer's Clevertouch accounts including full name, business email address and phone numbers and device ID.

It is also acknowledged that that this may in a rare instance include children's personal data uploaded by the end user, but Clevertouch does not knowingly process any special category and/or children's data.

1.3.6 Categories of data subjects. The data subjects could include Customer's employees and End Users.

Name of Controller [Insert company name]

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Name and position of Signatory [insert title] [Insert name] [Insert position]

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Signature of Controller

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Date:

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Name of Controller Sahara Presentation Systems Ltd

Name and position of Signatory Shaun Marklew  
EVP and Managing Director EMEA

Signature of Controller 

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Date: 03/09/2024

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