

## SPANISH DATA PROTECTION AUTHORITY

### DECISION APPROVING BINDING CORPORATE RULES FOR PROCESSOR OF COLT GROUP

1. Having regard to Article 47(1) of the EU General Data Protection Regulation 2016/679 (GDPR), the Spanish Data Protection Authority shall approve Binding Corporate Rules (BCR) provided that they meet the requirements set out under this Article.

Whereas:

2. In accordance with the cooperation procedure as set out in the Working Document WP263.rev.01, the Processor BCR application of COLT Group were reviewed by the Spanish Data Protection Authority, as the competent Authority for the BCR (BCR Lead) and by two SAs acting as co-reviewers. The application was also reviewed by the concerned SAs to which the BCR were communicated as part of the cooperation procedure.
3. The review concluded that the Processor BCR of Colt Group comply with the requirements set out by Article 47(1) of the GDPR as well as the Working Document WP257.rev.01 and in particular that the aforementioned BCR:
  - i) Are legally binding and contain a clear duty for each participating member of the Group including their employees to respect the BCR (**Intra Group Agreement**)
  - ii) Expressly confer enforceable third party beneficiary rights to data subjects with regard to the processing of their personal data as part of the BCR: (**Section 9.1 of BCR for Processors and Intra Group Agreement**).
  - iii) Fulfil the requirements laid down in Article 47(2):
    - a) The structure and contact details of the group of undertakings and each of its members. (**Appendix 3 of BCR for Processors**).
    - b) The data transfers or set of transfers, including the categories of personal data, the type of processing and its purposes, the categories of data subjects affected, and the identification of the third country or countries. (**Section 1.2 and 2 of the BCR for Processors and WP 265**).

- c) The legally binding nature of the BCR, both internally and externally. (**Section 1 of the BCR for Processors and Intra-Group Agreement**).
- d) The application of the general data protection principles, in particular, purpose limitation, data minimisation, limited storage periods, data quality, data protection by design and by default, legal basis for processing, processing of special categories of personal data. (**Section 3 of the BCR for Processors**).
- e) The measures aimed at guaranteeing data security and the requirements regarding subsequent transfers to bodies not bound by the binding corporate rules. (**Section 4, 5, 6 and 7 of the BCR for Processors**).
- f) The rights of data subjects in regard to processing and the means to exercise those rights, including the right not to be subject to decisions based solely on automated processing, including profiling, the right to lodge a complaint with the competent supervisory authority and before the competent courts of the Member States in accordance with Article 79 of the GDPR, and to obtain redress and, where appropriate, compensation for a breach of the binding corporate rules (**Section 9 of the BCR for Processors**).
- g) The requirements in respect of onward transfers to bodies not bound by the binding corporate rules (**Section 6 of the BCR for Processors**)”.
- h) The acceptance by the controller or processor established on the territory of a Member State of liability for any breaches of the binding corporate rules by any member of the Group not established in the Union, as well as the exemption of the controller or the processor from that liability, in whole or in part, only if it proves that that member is not responsible for the event giving rise to the damage. (**Section 9.2 and 9.4 of the BCR for Processors**).
- i) The way in which information about binding corporate rules is provided to data subjects. (**Section 9.3 of the BCR for Processors**).
- j) The tasks of any data protection officer designated in accordance with Article 37 of the GDPR or any other person or entity in charge of the monitoring compliance with the binding corporate rules within the group of undertakings, as well as monitoring training, complaint-handling and the claim procedures (**Section 8.1 of the BCR for Processors**).
- k) The claim procedure. (**Section 8.4 of the BCR for Processors**).

- l) The mechanisms established within the group of undertakings to verify compliance with the binding corporate rules. Such mechanisms shall include data protection audits and systems for ensuring corrective actions to protect the rights of data subjects. The results of such verification must be reported to the Data Protection Officer, as well as to the Group Management, and shall be available upon request from the competent data protection authority. **(Section 8.3 of the BCR for Processors)**.
  - m) The mechanisms for reporting and recording changes to the rules and reporting those changes to the supervisory authority. **(Section 13 of the BCR for Processors)**.
  - n) The cooperation mechanism with the supervisory authority to ensure compliance by any member of the group of undertakings, in particular by making available to the supervisory authority the results of verifications. **(Section 10 of the BCR for Processors)**.
  - o) The mechanisms for reporting to the competent supervisory authority any legal requirements to which a member of the group of undertakings, or group of enterprises engaged in a joint economic activity is subject in a third country which are likely to have a substantial adverse effect on the guarantees provided by the binding corporate rules. **(Section 11.2 of the BCR for Processors)**.
  - p) The appropriate training in data protection for personnel who have permanent or regular access to personal data. **(Section 8.2 of the BCR for Processors)**.
4. The EDPB provided its opinion 31/2021 in accordance with Article 64(1)(f). The Spanish Data Protection Authority took utmost account of this opinion.

**DECIDES AS FOLLOWING:**

- 5. The Processor BCR of COLT GROUP provide appropriate safeguards for the transfer of personal data in accordance with Article 46(1), (2b) and Article 47 (1), (2) GDPR and hereby approves the processors BCR of COLT Group.
- 6. However, before making use of the BCR it is the responsibility of the data exporter in a Member State, if needed with the help of the data importer, to assess whether the level of protection required by EU law is respected in the third country of destination, including onward transfer situations. This assessment has to be conducted in order to determine if the guarantees provided by BCR can be complied with in practice, in light of the circumstances of the possible impingement created by the third country legislation with the fundamental rights and the circumstances surrounding the transfer. If this is not the case, the data

exporter in a Member State, if needed with the help of the data importer, should assess whether it can provide supplementary measures to ensure an essentially equivalent level of protection as provided in the EU.

7. Where the data exporter in a Member State is not able to take supplementary measures necessary to ensure an essentially equivalent level of protection as provided in the EU, personal data cannot be lawfully transferred to a third country under this BCR. Therefore, the data exporter is required to suspend or end the transfer of personal data.
8. The approved BCR will not require any specific authorization from the concerned supervisory authorities.
9. In accordance with Article 58.2.j GDPR, each concerned Supervisory Authority maintains the power to order the suspension of data flows to a recipient in a third country or to an international organization whenever the appropriate safeguards envisaged by Processor BCR of COLT Group are not respected.

## ANNEX TO THE DECISION

The Processor BCR of COLT GROUP that are hereby approved cover the following:

- a. Scope: These Binding Corporate Rules ("**Rules**") apply to all COLT entities acting as data processor for a client external to the Group who are bound by these BCR.
- b. EEA countries from which transfers are to be made: Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Romania, Spain, and Sweden.
- c. Third countries to which transfers are to be made: United Kingdom, Switzerland, Australia, China, Hong Kong, Japan, Korea, India, Serbia, Singapore, and United States.
- d. Purposes of the transfer, categories of data subjects concerned by the transfer, categories of personal data transferred: (specified in the Introduction of the BCR);

### 1.1 Colt processes the following European Personal Data:

Categories of Data Subjects	Categories of European Personal Data
Personal Data processed on behalf of a Customer – Customer's Customers, employees or business contacts	Details of the Personal Data to be processed will be specified in the services agreement with the Customer but could include:  Name, surname, date of birth, address, email, telephone number, ID card number, such other professional Personal Data as

	<p>may be required for the Relevant Group Member to conduct business with the Customer or supplier as well as information regarding participation in events organised by Colt. Call's records for the purpose of verifying the quality of the service.</p>
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1.2 European Personal Data are transferred to Relevant Group Companies outside a European Country for the purpose set out below:

<p><b>Where that Colt Entity manages employees, Customers or suppliers</b></p>	<p>The processing would include review of European Personal Data in order to:</p> <ul style="list-style-type: none"> <li>• manage relations with Customers and suppliers</li> <li>• improve products and services and develop new products and services</li> <li>• detect or prevent fraud</li> <li>• conduct internal audit, compliance and risk management activities</li> <li>• establish, exercise or defend legal claims</li> </ul>
<p><b>Where that Colt Entity provides services to other Colt Entities as a Sub-Processor</b></p>	<p>The processing would include hosting of European Personal Data; in the course of providing IT services and security services; assisting in HR and business administration for any of the purposes above</p>