

Data Processing Agreement

Controller to Processor

This DPA applies to Personal Data that Brandwatch Processes as a Processor as part of Brandwatch's provision of the Services. This DPA forms part of Brandwatch and Customer's Agreement.

How to execute this DPA:

1. Brandwatch has pre-signed this DPA.
2. The Customer must provide the requested information and sign the DPA on page 6.
3. After the Customer has signed the DPA, please email the signed DPA to privacy@brandwatch.com.

1. Definitions

"Adequacy Decision" means a Decision from the European Commission (under Article 45 of the GDPR) that a country offers an adequate level of protection of personal data.

"Agreement" means the master subscription or services agreement entered into between the parties.

"Brandwatch" means Runtime Collective Limited, an English company with its registered office address at Sovereign House, Church Street, 1st Floor, Brighton, BN1 1UJ, United Kingdom and its subsidiaries with whom Customer has contracted for the provision of Services, if any (each subsidiary as identified on the signature page), and all subsidiaries which are a party to this DPA.

"C2P SCCs" means the Controller to Processor Standard Contractual Clauses (Commission Decision 2010/87/EU).

"CCPA" means the California Consumer Privacy Act, Cal. Civ. Code § 1798.100 et seq., and its implementing regulations.

"Customer" means the customer identified in the signature block at the bottom of this DPA.

"Data Protection Legislation" means all applicable laws relating to data protection including the GDPR, the EU Privacy and Electronic Communications Directive 2002/58/EC, and the CCPA, each as implemented in each jurisdiction, and any amending or replacement legislation from time to time.

"DPA" means this data processing agreement.

"GDPR" means the EU General Data Protection Regulation (2016/679).

"Personal Data" means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

“Process”, “Processes”, or “Processing” means any operation or set of operations which is performed on Personal Data, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

“Processor” means Brandwatch when it Processes Personal Data on the Customer’s behalf as part of the Services, including as any “service provider” as the CCPA defines that term.

“Services” means the services that Brandwatch provides to Customer as set out in the Agreement.

“Sub-processor” means a third party that Brandwatch engages to Process any Personal Data that Brandwatch Processes under this DPA, as a processor on Brandwatch’s behalf.

2. The Customer’s instructions

- 2.1. Brandwatch will process any Personal Data as a Processor only on the Customer’s documented instructions, unless otherwise required by applicable law; where applicable law requires otherwise, Brandwatch will inform the Customer of the legal requirement before Processing, unless that law prohibits this information on important grounds of public interest.
- 2.2. The parties agree that this DPA constitutes the Customer’s documented instructions for the Processing as part of the Services. Additional instructions outside the scope of this DPA will be subject to the prior written agreement of the parties, including in relation to any additional fees that the Customer is required to pay to Brandwatch for carrying out the additional instructions.
- 2.3. The Customer will ensure that its use of the Services and its instructions regarding the Processing of any Personal Data pursuant to this DPA will comply with all applicable laws, and that Brandwatch’s Processing in accordance with the Customer’s instructions will not cause Brandwatch to be in breach of any Data Protection Legislation.

3. Brandwatch’s obligations

- 3.1. As a Processor as part of the provision of the Services, Brandwatch will:
 - (a) ensure that its personnel that it authorises to Process Personal Data have committed themselves to appropriate obligations of confidentiality;
 - (b) implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks associated with the Processing;
 - (c) taking into account the nature of the Processing and the information available to Brandwatch, provide reasonable and appropriate assistance to the Customer (subject to payment of Brandwatch’s reasonable and demonstrable costs and expenses), where possible, in relation to:
 - (i) the Customer’s fulfilment of the Customer’s obligations to respond to requests relating to the exercise of individuals’ rights under the Data

Protection Legislation where Brandwatch Processes such individuals' Personal Data pursuant to this DPA; and

- (ii) the Customer's compliance with its obligations under the Data Protection Legislation relating to the security of Personal Data, notification of Personal Data breaches to the applicable supervisory authority and/or communication of Personal Data breaches to the individuals to whom such Personal Data relate, data protection impact assessments, and prior consultation with supervisory authorities, in each case in relation to Brandwatch as a Processor pursuant to this DPA;
 - (d) notify the Customer without undue delay and in any event within 36 hours after becoming aware of a personal data breach (as defined in the Data Protection Legislation);
 - (e) after the end of the provision of the Services relating to the processing under this DPA, delete relevant Personal Data, or, provided the Customer makes a request within 30 days of the end of the provision of the Services, return (insofar as this is possible) all relevant Personal Data to the Customer and Brandwatch will delete existing copies unless applicable law requires storage of any Personal Data; and
 - (f) make available to the Customer all information necessary to demonstrate compliance with the obligations in this DPA.
- 3.2. Nothing in this DPA is intended to prevent Brandwatch from complying with any legal obligation imposed by a supervisory authority, other regulator, or court.

4. Sub-processors

- 4.1. The Customer generally authorises Brandwatch to appoint the Sub-processors currently listed at <http://www.brandwatch.com/legal/sub-processors>. Brandwatch will inform the Customer of any intended changes concerning the addition to or replacement of any permitted Sub-processor with a new Sub-processor and give the Customer the opportunity to object to such changes. Any Sub-processor Brandwatch engages will be subject to materially equivalent terms regarding data protection as are imposed on Brandwatch pursuant to this DPA.
- 4.2. Where any Sub-processor fails to fulfil its obligations regarding data protection, Brandwatch will remain liable for the performance of the Sub-processor's obligations, subject to the exclusions and limitations of liability under the Agreement.

5. Audit and inspections

- 5.1. Brandwatch will support audits that the Customer conducts (either itself or via an external auditor), at Customer's cost and expense. Any audit conducted pursuant to this DPA is subject to the following conditions:
- (a) the Customer will provide reasonable advance notice of any audit;
 - (b) any audit may only be conducted during Brandwatch's normal business hours;

- (c) the Customer will conduct the audit so as to cause minimal disruption to Brandwatch's normal business operations;
- (d) any third-party auditor will enter into direct confidentiality obligations with Brandwatch which are reasonably acceptable to Brandwatch;
- (e) any audit will be limited only to Brandwatch's Processing activities as a Processor, and to such information that is reasonably necessary for Customer to assess Brandwatch's compliance with the terms of this DPA;
- (f) as part of any audit Customer (or its external auditor) will not have access to Brandwatch's Confidential Information; and
- (g) Customer will reimburse Brandwatch's reasonable and demonstrable costs and expenses associated with any audit.

6. Data exports

6.1. If Brandwatch transfers any Personal Data that it Processes as a Processor outside of the European Economic Area or any European Commission approved country, then either:

- (a) Brandwatch will ensure the recipient entity holds a valid Privacy Shield certification in accordance with Commission implementing Decision 2016/1250 covering the processing of EU Personal Data; or
- (b) the recipient Brandwatch entity outside the EEA and the Customer agree to enter into the C2P SCCs, the terms of which are expressly incorporated into this DPA.

6.2. Under the C2P SCCs, the data importer will be: (i) the applicable Brandwatch entity outside the EEA and (ii) in the event that the United Kingdom leaves the European Union and is not subject to an Adequacy Decision, each of the Brandwatch entities established in the UK. The Customer is the data exporter.

6.3. For Appendix 1 of the C2P SCCs:

- (a) the data exporter is the Customer;
- (b) the data importer is the applicable Brandwatch entity (determined in accordance with Clause 6.2 above), which Processes Personal Data upon the instructions of the data exporter in accordance with the terms of the Agreement, the DPA, and these C2P SCCs;
- (c) the categories of data subjects can include any data subjects (including the categories of data subjects set out in Schedule 1 to this DPA), as the data exporter controls the type and extent of the Personal Data that Brandwatch processes;
- (d) the categories of Personal Data can include any Personal Data (including the categories of Personal Data set out in Schedule 1 to this DPA), as the data exporter controls the type and extent of the Personal Data that Brandwatch Processes as a Processor;

- (e) the data exporter may submit special categories of Personal Data to Brandwatch, the extent of which the data exporter controls and determines in its sole discretion. Any special categories of Personal Data are set out in Schedule 1 to this DPA; and
- (f) the Personal Data transferred will be subject to the Agreement and are as set out in Schedule 1 to this DPA.

6.4. For Appendix 2 of the C2P SCCs, the following is the description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) of the C2P SCCs:

Data importer will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of personal data uploaded to the Services as more particularly set out in data importer's Trust Document available at <https://www.brandwatch.com/legal/information-security/>.

7. Miscellaneous

- 7.1. In the event of a conflict between parts of the Agreement, the order of priority is that the C2P SCCs prevail over this DPA, which prevails over the remainder of the Agreement.
- 7.2. Any terms not defined in this DPA have the meanings given to them elsewhere in the Agreement.
- 7.3. The governing law of the Agreement applies to this DPA, except that the C2P SCCs are governed by the law of the country in which the relevant data exporter is established, in accordance with the C2P SCCs.

Runtime Collective Limited

Signature: 

Name: Dylan Marvin

Title: Chief Legal Officer

Date: June 9, 2020 | 10:54 PDT

Crimson Hexagon, Inc.

Signature: 

Name: Dylan Marvin

Title: Chief Legal Officer

Date: June 9, 2020 | 10:54 PDT

Customer name:

Customer address:

Signature:

Name:

Title:

Date:

Schedule 1

Details of the processing

Subject matter: The subject matter of the Processing under this DPA is the Services that involve the Processing of Personal Data as a Processor, as defined in the Agreement.

Duration: The duration of the Processing under this DPA is for the duration of the Agreement.

Nature and Purpose of the processing: The provision of Brandwatch's Services, including Vizia (a data display and visualisation tool) and Personal Data that the Customer uploads to Brandwatch's content upload API.

Type of Personal Data: The type of Personal Data that Brandwatch Processes as a Processor depends on how the Customer uses the Services and which Personal Data the Customer selects to be Processed via the Services. Such Personal Data could include the following:

- First and last name
- Title
- Position
- Employer
- Professional life data, which may include data related to historical employment history, data related to skills, awards, or interests, or other data relating to professional life
- Personal life data, which may include data about interests, likes, dislikes, or other data relating to personal life
- Location data

Categories of data subjects: The Customer may request that Brandwatch processes various types of Personal Data, depending on the data sources or applications that the Customer uses. This may include:

- Prospects, customers, business partners, or vendors of the Customer;
- Employees or contact persons of the Customer; and
- Individual authors who publish data on social media platforms, blogs, internal or external messaging platforms, and other parts of the internet.