Data Processing Agreement

Modern Trials Inc. · Trial Recruitment Toolbox™ · Version 1.1 · effective on acceptance

This Data Processing Agreement ("DPA") is entered into between Modern Trials Inc., a Delaware corporation ("Modern Trials"), and the organization identified at account registration ("Customer"). It takes effect when an authorized representative of Customer accepts it electronically, and it forms part of the agreement under which Modern Trials provides the Trial Recruitment Toolbox™ (the "Platform") and related services to Customer (the "Services"). It applies whenever the GDPR applies to Customer Personal Data.

1. Definitions

"GDPR" means Regulation (EU) 2016/679. "Customer Personal Data" means personal data that Modern Trials processes on behalf of Customer through the Services. "SCCs" means the standard contractual clauses for the transfer of personal data to third countries set out in the Annex to Commission Implementing Decision (EU) 2021/914. "Terms" means the Modern Trials Terms and Conditions accepted by Customer at registration, as updated from time to time. "Controller," "processor," "data subject," "personal data," "personal data breach," "processing" and "supervisory authority" have the meanings given in the GDPR. References to the GDPR, and to its articles, include the corresponding provisions of the United Kingdom General Data Protection Regulation and Data Protection Act 2018 (together, the "UK GDPR") and of the Swiss Federal Act on Data Protection ("FADP") where those laws apply, and references to EU or Member State law include UK and Swiss law where they apply.

2. Roles

2.1 Customer is the controller of Customer Personal Data, or a processor acting for another controller, and Modern Trials is Customer's processor or sub-processor.

2.2 Customer is responsible for the lawfulness of the processing it directs, including its legal basis, notices to data subjects, consents and ethics committee approvals, and for the acts and omissions of its authorized users.

2.3 Annex 1 describes the subject matter, nature, purpose and duration of the processing, the types of personal data and the categories of data subjects.

3. Obligations of Modern Trials

3.1 Instructions. Modern Trials will process Customer Personal Data only on Customer's documented instructions, including with regard to transfers to a third country, unless EU or Member State law requires otherwise, in which case Modern Trials will inform Customer before processing unless that law prohibits it. This DPA, the Terms and Customer's use of the Platform are Customer's instructions. Modern Trials will immediately inform Customer if, in its opinion, an instruction infringes the GDPR.

3.2 Confidentiality. Modern Trials will ensure that persons authorized to process Customer Personal Data have committed themselves to confidentiality or are under a statutory obligation of confidentiality.

3.3 Security. Modern Trials will implement the technical and organizational measures described in Annex 2, as required by Article 32 GDPR.

3.4 Sub-processors. Customer authorizes Modern Trials to engage the sub-processors listed in Annex 3. Modern Trials will notify Customer's administrator by email at least thirty (30) days before adding or replacing a sub-processor, and Customer may object on reasonable data protection grounds by terminating the Services before the change takes effect. Modern Trials will bind each sub-processor by written contract to data protection obligations at least as protective as those in this DPA and remains fully liable to Customer for each sub-processor's performance of those obligations.

3.5 Assistance. Taking into account the nature of the processing, Modern Trials will assist Customer, including through the Platform's export, editing and deletion functions, in responding to requests from data subjects to exercise their rights under Chapter III GDPR, and in meeting Customer's obligations under Articles 32 to 36 GDPR.

3.6 Personal data breaches. Modern Trials will notify Customer's administrator by email without undue delay after becoming aware of a personal data breach affecting Customer Personal Data and will provide, as it becomes available, the information Customer needs to meet its obligations under Articles 33 and 34 GDPR.

3.7 End of processing. On termination of the Services, Customer may export Customer Personal Data using the Platform's export functions, or by written request to Modern Trials, for thirty (30) days. Modern Trials will then delete Customer Personal Data unless EU or Member State law requires its storage. Copies held in encrypted backups are deleted when those backups expire on their thirty (30) day rotation.

3.8 Audits. Modern Trials will make available to Customer the information necessary to demonstrate compliance with Article 28 GDPR, including its published security overview, and will allow for and contribute to audits, including inspections, conducted by Customer or an auditor mandated by Customer. Audits require reasonable advance written notice and take place no more than once a year, unless a supervisory authority requires otherwise or a personal data breach has occurred.

4. Professional secrecy in Germany

Where Customer or its users are subject to professional secrecy under Section 203 of the German Criminal Code (Strafgesetzbuch, "StGB"), Modern Trials acknowledges that it acts as a person participating in their professional activity (mitwirkende Person) under Section 203(3) StGB and that unauthorized disclosure of a protected secret may be a criminal offense under Section 203(4) StGB. Modern Trials will keep such secrets confidential, will access them only to the extent necessary to provide the Services and will bind in writing to the same confidentiality its personnel and sub-processors who may access them.

5. Transfers to the United States

5.1 Modern Trials and its sub-processors process Customer Personal Data in the United States. To the extent that processing involves a transfer of personal data to a third country, the SCCs are incorporated into this DPA by reference, using Module Two (controller to processor) or, where Customer is a processor, Module Three (processor to processor), with Customer as data exporter and Modern Trials as data importer. For the SCCs: Clause 7 does not apply; Clause 9, Option 2 applies, with the notice period in Section 3.4; the optional wording in Clause 11 does not apply; under Clause 13, the competent supervisory authority is the one responsible for Customer; under Clause 17, Option 2 applies, with the law of Ireland as the fallback; and under Clause 18, the courts are those of the EU Member State in which Customer is established. Annexes I, II and III of the SCCs are completed by Annexes 1, 2 and 3 of this DPA.

5.2 Acceptance of this DPA by Customer constitutes signature of the SCCs, including their Annexes, and of the UK Addendum by both parties. If this DPA conflicts with the SCCs or the UK Addendum, the SCCs or the UK Addendum control.

5.3 United Kingdom. For transfers subject to the UK GDPR, the SCCs apply as amended by the International Data Transfer Addendum to the EU Commission Standard Contractual Clauses issued by the UK Information Commissioner under section 119A of the Data Protection Act 2018 (the "UK Addendum"), which is incorporated into this DPA by reference. Tables 1 to 3 of the UK Addendum are completed by Section 5.1 and Annexes 1 to 3 of this DPA. Under Table 4, neither party may end the UK Addendum when the Approved Addendum changes.

5.4 Switzerland. For transfers subject to the FADP, the SCCs apply with these changes: references to the GDPR mean the FADP; the competent supervisory authority under Clause 13 is the Swiss Federal Data Protection and Information Commissioner; Clauses 17 and 18 refer to the law and courts of Switzerland; and the term "Member State" does not prevent data subjects in Switzerland from bringing claims where they habitually reside.

6. Relationship to other terms

6.1 This DPA governs the processing of Customer Personal Data. The Terms govern all other matters. If this DPA conflicts with the Terms, or with the Modern Trials Business Associate Agreement, regarding Customer Personal Data, this DPA controls.

6.2 The limitations and exclusions of liability in the Terms apply to claims under this DPA to the maximum extent permitted by law. Nothing in this DPA or the Terms limits either party's liability to data subjects under the SCCs or the GDPR.

6.3 This DPA is governed by the law that governs the Terms, except that the SCCs and the UK Addendum are governed by the law that Section 5 or the UK Addendum specifies.

7. Term, notices and acceptance

7.1 This DPA continues for as long as Modern Trials processes Customer Personal Data.

7.2 Notices to Modern Trials under this DPA are sent to info@moderntrials.com with "Privacy Request" in the subject line, and by mail to Modern Trials Inc., 226 Guilford Ave., Haddon Township, New Jersey 08108. Notices to Customer are sent to the email address of Customer's account administrator on record.

7.3 This DPA is accepted electronically by an individual who represents and warrants that he or she is authorized to accept it on behalf of Customer. Modern Trials executes this DPA upon that acceptance, and no additional signature is required. Modern Trials will keep a record of the acceptance as shown below.

Annex 1. Description of the processing

Data exporter: Customer, as named in the acceptance record; controller, or processor acting for another controller. Contact: Customer's account administrator.

Data importer: Modern Trials Inc., 226 Guilford Ave., Haddon Township, New Jersey 08108, USA; processor. Contact: info@moderntrials.com.

Data subjects: individuals whom Customer considers or recruits for clinical trials ("candidates") and Customer's authorized users.

Personal data: candidates' names and contact details; health and other trial eligibility information entered by Customer's users; records of calls, text messages and other communications made through the Platform; notes and recruitment status; and users' names, business contact details and log-in records.

Special categories: data concerning health, protected by the measures in Annex 2.

Nature and purpose: hosting, storing, organizing and displaying data; placing calls and sending text messages and other communications at users' direction; and exporting and deleting data, all solely to provide the Platform for Customer's clinical trial recruitment.

Frequency and duration: continuous for the term of the Services, followed by the export and deletion periods in Section 3.7.

Competent supervisory authority: the supervisory authority responsible for Customer under Clause 13 of the SCCs; for transfers subject to the UK GDPR, the UK Information Commissioner; and for transfers subject to the FADP, the Swiss Federal Data Protection and Information Commissioner.

Annex 2. Technical and organizational measures

- Multi-factor authentication is required for every user, including Modern Trials personnel and administrators.

- Customer Personal Data is encrypted in transit and at rest.
- Each customer's data is isolated from every other customer's data, and that isolation is tested.
- Daily encrypted backups are kept for thirty (30) days, and recovery from them is tested.
- Audit logs are retained for at least six (6) years.
- Security risk assessments are performed periodically under the HIPAA Security Rule.
- Vulnerability and security testing is performed at least annually and after every major production update.
- Hosting and communications providers are bound by business associate agreements under HIPAA.

Further detail is in the TRT Security, Privacy & HIPAA Overview, available from Modern Trials on request.

Annex 3. Sub-processors

Name	Location	Service
Amazon Web Services, Inc.	United States	Hosting, storage, backups and email delivery
RingCentral, Inc.	United States	Calls and text messages

Acceptance record

Customer legal name	[completed on acceptance]
Accepted by (name, business email)	[completed on acceptance]
Date and time of acceptance (UTC)	[completed on acceptance]
DPA version	1.1
Modern Trials Inc.	Executed upon Customer's acceptance. Christopher Ochner, Chief Executive Officer