

# Data Protection and Privacy Policy

July 2017



## 1. PURPOSE AND SCOPE

This document sets out Fourth's Data Protection and Privacy Policy. It should be read in conjunction with Fourth's Subscription Agreement, of which this Data Protection and Privacy Policy, as amended from time to time, forms part. This Acceptable Use Policy applies to the Fourth Solution and Services, and the servers and network employed by Fourth in the provision of the Fourth Solution and Services (up to the boundary of the Fourth network).

## 2. DEFINITIONS

2.1 In this Data Protection and Privacy Policy terms used and not otherwise defined shall have the meaning given to them in the Subscription Agreement.

"**Authorised Processor**" has the meaning given to it at paragraph 6 below;

"**Applicable Privacy Law**" means the obligations under all applicable laws, rules and regulations regarding privacy and security which applies to that party including the Data Protection Act 1998 and/or the General Data Protection Regulation 2016/679 to the extent that it applies to that party;

"**Data Controller**" means a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any Personal Data is, or is to be, processed;

"**Personal Data**" means the personal data processed by or behalf of Fourth in the course of providing the Fourth Solution; and

"**Personal Data Breach**" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.

2.2 In this Policy references to a "**Customer**" shall, where appropriate, include a reference to the Customer acting as agent on behalf of each of its Group Companies which is a Data Controller.

2.3 The Fourth Solution is subject to continual development and, accordingly, this Policy is subject to change from time to time. Changes to the Policy shall be effective as soon as the updated Policy is posted to [www.fourth.com/agreements](http://www.fourth.com/agreements) however where Fourth considers that any changes are material and might materially impact the rights and freedoms of data subjects Fourth will provide reasonable advance notice to the Customer of any such changes.

## 3. POLICY

3.1 Each party warrants and undertakes that it shall comply with its obligations under Applicable Privacy Law from time to time.

## 4. CUSTOMER RESPONSIBILITIES AS CONTROLLER

4.1 The Customer, in respect of Personal Data of which it is a Data Controller, warrants that it has and shall comply with Applicable Privacy Law in respect to all Personal Data uploaded to the Fourth Solution.

4.2 The Customer warrants and undertakes that:

4.2.1 the Personal Data provided by or on behalf of the Customer under the Agreement has been obtained and processed lawfully;

4.2.2 the Fourth Solution, Documentation, Services and Products to be provided by Fourth under the Agreement will be entirely consistent with and appropriate to the specified and lawful purposes for

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which notification has been made in respect of the Personal Data; and

4.2.3 the Personal Data is accurate and the Customer shall keep the Personal Data fully up to date at all times during the continuance of the Agreement.

4.3 The Customer shall ensure that its personnel and end users shall at all times:

4.3.1 use each security feature provided by Fourth and by the Customer; and

4.3.2 comply with Fourth's Data & Security Policy and any other information security policy, recommendations or best practices issued by Fourth or the Customer from time to time.

## 5. FOURTH'S RESPONSIBILITIES AS PROCESSOR

5.1 The parties agree that, where the Customer is acting as a Data Controller, Fourth will be a Data Processor of any Personal Data it Processes for the Customer (which shall include all Personal Data uploaded by or behalf of the Customer into the Fourth Solution) and Fourth shall:

5.1.1 Maintain reasonably appropriate technical and organisational measures to ensure a level of security appropriate to the risk

5.1.2 ensure that Fourth personnel authorised to process the personal data are subject to confidentiality obligations and do not process such Personal Data otherwise than on the instructions of Fourth; and

5.1.3 assist the Customer, insofar as this is possible in accordance within the architecture of the Fourth Solution and at the Customer's cost, to satisfy the Customer's obligations under Applicable Privacy Law.

5.2 The Customer acknowledges that any networked solution carries with it inherent risk to the security of the Personal Data held within it. The Customer shall be solely responsible for evaluating the access controls, method of connecting to the Fourth Solution and the security features operated by Fourth which are described in the Documentation.

## 6. AUTHORISED PROCESSORS

6.1 It is acknowledged and agreed that in order provide the Fourth Solution Forth must sub-contract certain of its obligations including in respect of the hosting and other aspects of the processing of Personal Data. The Customer expressly authorises Forth to appoint sub-processors (referred to as "**Authorised Processors**") provided that:

6.1.1 the Authorised Processors are contractually required comply with the obligations set out in this Data Protection and Privacy Policy as if they were obligations imposed on them directly;

6.1.2 Fourth shall be responsible for the acts and omission of its Authorised Processors in their capacity as such.

6.2 Fourth may add to or amend the list of Authorised Processors from time to time.

6.3 The Fourth Solution is hosted on equipment operated by third party data centre operators (the "**Key Hosting Sub-Processor**") whose details are summarised below and who are Authorised Processors for the purposes of this policy. Fourth may replace any Key Hosting Sub-Processor at any time

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<u>CUSTOMER LOCATIONS</u>	<u>HOSTING PROVIDERS</u>	<u>SERVER LOCATIONS</u>
EEA	Carrenza Equinix (Telecity) Microsoft Azure GoodData (Analytics only)	EEA EEA EEA USA
USA	Carrenza (via Equinix) Rackspace Equinix (Telecity) Microsoft Azure	USA USA, with DR servers in EEA EEA USA
APAC	Datapipe	Singapore/ Hong Kong

## 7. INSTRUCTIONS

- 7.1 Fourth shall only process Personal Data for and on behalf of the Customer on documented instructions from the Customer. The Customer hereby issues a general instruction to Fourth to process the Personal Data in the course of any processing that it may undertake in order to provide, maintain and develop the Fourth Solution, in accordance with the Documentation (from time to time) and as otherwise necessary or expedient to satisfy its contractual obligations under or in connection with the Subscription Agreement.
- 7.2 The Customer may also issue ad hoc instructions to Fourth from time to time. The Customer shall nominate one or more authorised representatives to issue such instructions. Fourth shall be entitled to rely on oral instructions where it considers it reasonable to do so but reserves the right to require instructions to be given in writing.

## 8. DELETION OF DATA ON TERMINATION

- 8.1 Upon termination of the Subscription Agreement or if the Customer ceases subscribe to any Fourth Solution then:
- 8.1.1 upon request from the Customer within 30 days of such termination or cessation, Fourth shall deliver to the Customer the then most recent back-up of any of the Customer's data stored on the Fourth Solution (or the relevant part of the Fourth Solution) provided that the Customer has paid all fees and charges outstanding at and resulting from termination or cessation (whether or not due at the date of termination or cessation);
  - 8.1.2 the Customer shall pay for Fourth's time and all reasonable expenses incurred by Fourth in providing a copy of such data;
  - 8.1.3 after such 30 day period Fourth shall have no obligation to maintain or provide Customer data (including Personal Data) and **unless instructed to the contrary will delete or destroy all copies of Customer data** (including Personal Data) in Fourth's possession or control; and
  - 8.1.4 the Customer, on its own behalf and on behalf of each of its Group Companies, irrevocably consents to and instructs Fourth to delete of all Personal Data and other Customer Data in accordance with this paragraph.

## 9. CUSTOMER RELATIONSHIP MANAGEMENT – FAIR PROCESSING NOTICE

- 9.1 Fourth maintains systems and processes personal data relating to personnel of its Customers (and prospective customers) for the purposes of developing and managing its corporate relationships and running its business (the "CRM Data"). Fourth processes CRM Data to further its legitimate business purposes and does not routinely disclose CRM Data to third parties but may do so to where it is necessary to do so or where disclosure is otherwise required or permitted by applicable law. CRM Data may be made available to Fourth offices around the world. The CRM Data processed by Fourth includes personal contact details and user account data. Fourth gives notice that it is the data controller of the CRM Data.

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## **10. LOCATION**

- 10.1 For Fourth's EEA based Customers, the Fourth Solutions (other than the Fourth Analytics platform) are hosted on servers located in the EEA.
- 10.2 For all Fourth Customers, the Fourth Analytics platform is hosted in the United States of America by a Key Hosting Sub-Processor who participates in the US Department of Commerce Privacy Shield Framework.
- 10.3 Personal Data which originates in the EEA is not otherwise routinely transferred outside the of the EEA but may occasionally be transferred outside the EEA where necessary or expedient to do so, in accordance with the requirements of Applicable Privacy Law. For Payroll Bureau Customers, Fourth's ticketing service may involve transfers of Personal Data outside the EEA, in accordance with the requirements of Applicable Privacy Law.

## **11. DATA PROTECTION OFFICER**

- 11.1 Any comments or questions relating to this policy can be addressed to Fourth's data protection officer at [security@fourth.com](mailto:security@fourth.com).

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