

## American Water Works, Inc. Data Processing Addendum

This Data Processing Addendum, including all schedules and exhibits attached hereto, (“**DPA**”) is entered into between American Water Works Service Company, Inc. (“**American Water**”) and [insert full legal name of counterparty] (“**Processor**”) in connection with Processor’s provision of services to American Water under any existing, written, and currently valid agreements (collectively, “**Agreement**”). This DPA is effective as of the date it is signed by both parties (“**Effective Date**”) and is hereby incorporated by reference into the Agreement. All capitalized terms not otherwise defined in this DPA will have the meaning given to them in the Agreement. In the event of any inconsistency or conflict between this DPA and the Agreement, this DPA will govern. This DPA will survive termination of the Agreement. American Water and Processor agree as follows:

### 1. Definitions.

- a. “**Applicable Data Protection Law**” means all applicable data protection laws, rules, regulations, orders, ordinances, regulatory guidance, and industry self-regulations.
- b. “**Controller**” means an entity that, alone or jointly with others, determines the purposes for and means of Processing. “Controller” has the same meaning as “Business,” as that term is defined under Applicable Data Protection Law.
- c. “**Data Subject**” means an identified or identifiable natural person.
- d. “**De-Identified Data**” means data that cannot reasonably be used to infer information about, or otherwise be linked to, a Data Subject or as that term is otherwise defined under Applicable Data Protection Law.
- e. “**Personal Data**” means information that Processor Processes on American Water’s behalf that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, to a Data Subject, or as that term or a similar term is defined under Applicable Data Protection Law.
- f. “**Process**” or “**Processing**” means any operation or set of operations performed on Personal Data, whether or not by automated means, including, but not limited to, accessing, collecting, recording, organizing, structuring, using, storing, transferring, retaining, disclosing, selling, sharing, deleting, and destroying Personal Data.
- g. “**Processor**” means a natural or legal person that Processes Personal Data on a Controller’s behalf. “Processor” has the same meaning as “Service Provider,” as that term is defined under Applicable Data Protection Law.
- h. “**Processor Systems**” means the facilities, systems, equipment, hardware, and software Processor and Processor’s subprocessors use to Process Personal Data.

- i. **“Security Breach”** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, AW Data Processed by Processor.

**2. Roles and Responsibilities.** Processor will Process Personal Data on American Water’s behalf, as described in more detail in **Schedule 1**. As between American Water and Processor, American Water will be the Controller and Processor will be the Processor. Processor is fully responsible for any authorized or unauthorized Processing of Personal Data. Processor agrees to:

- a. Process Personal Data solely in accordance with American Water’s documented instructions and for the specific business purposes and services specified in the Agreement and this DPA;
- b. except as expressly permitted by Applicable Data Protection Law, not retain, use, disclose, or otherwise Process Personal Data (i) for any purposes other than those specified in the Agreement and in **Schedule 1**; (ii) for any commercial purpose other than the specific business purposes specified in the Agreement and the DPA, including to provide services to a different business; and (iii) outside the direct business relationship between American Water and Processor, including to combine or update Personal Data with information received from or on behalf of another source or collected from Processor’s own interactions with a Data Subject;
- c. limit Personal Data collection, use, retention, and disclosure to activities reasonably necessary and proportionate to achieve the Processing set out in this DPA and the Agreement and not Process the Personal Data in a manner incompatible with those purposes;
- d. not “sell” or “share” Personal Data, as Applicable Data Protection Law defines those terms;
- e. provide the same level of privacy protection as is required by American Water and treat all Personal Data as the confidential information of American Water;
- f. ensure that persons who Process Personal Data on Processor’s behalf (such as employees) have undergone data protection training and are bound by obligations of confidentiality;
- g. at American Water’s request, update, correct, delete, supplement, transfer, and provide American Water with access to Personal Data in Processor’s possession or control;
- h. cooperate with and assist American Water in complying with Applicable Data Protection Law including, but not limited to, assisting with data protection impact assessments, audits, and consultations with regulatory bodies;
- i. upon Processor’s or a subprocessor’s receipt of a legally-binding request for access to Personal Data from a public authority and where permitted by applicable law

- immediately notify American Water of the request for access and provide details about the requesting party, the types of Personal Data requested, and the purpose and methods of the disclosure (so as to provide American Water the opportunity to comply with its notice and consent obligations with respect to affected Data Subjects or oppose the disclosure and obtain a protective order or seek other relief);
- j. appoint a data protection officer, where required by Applicable Data Protection Law; and
  - k. with respect to any De-Identified Data that Processor Processes under the Agreement:
    - (i) take reasonable measures to ensure that such data cannot be associated with a Data Subject; (ii) Process such data only in a de-identified fashion and only for its internal business purposes; (iii) not attempt to re-identify such data; (iv) contractually obligate any recipients of such data to comply with this section; and (v) publicly commit to complying with this section, such as through a prominent disclosure in its privacy policy, on its website, or similar means.
- 3. Data Subject Requests.** American Water will inform Processor of any Data Subject request with which the parties must comply including, but not limited to, requests to access, update, correct, delete, or transfer Personal Data, restrict or stop certain Processing, or obtain additional details about how Personal Data is Processed. American Water will provide the information necessary for Processor to comply with such requests, and Processor will cooperate, and follow any instructions American Water issues, in responding to such requests in a timely and lawful manner. In the event Processor receives a request directly from a Data Subject relating to Personal Data, Processor will immediately notify American Water and, at American Water's direction, act on American Water's behalf in accordance with American Water's instructions for responding to such requests. Processor will provide confirmation and supporting documentation that verifies its compliance with this section, upon request.
- 4. Subprocessors.** Processor must obtain American Water's prior written consent to subcontract any Processing of Personal Data to a third party. Processor shall submit the request to subcontract to American Water at least thirty (30) days prior to engaging a subprocessor and provide American Water with the information necessary to enable it to approve or deny the request. The subprocessors already authorized by American Water are identified in **Schedule 1**. In the event Processor intends to make changes to the list of approved subprocessors, Processor will provide American Water with at least thirty (30) days' prior written notice. American Water has the right, in its sole discretion, to object to the use of a certain subprocessor. If American Water objects, and such objection is not resolved within twenty (20) days of Processor receiving the objection, American Water may terminate the Agreement without consequence. Processor will remain fully responsible for its obligations under the Agreement and will remain the primary point of contact regarding any Processing of Personal Data. Processor will be responsible for the acts and omissions of its subprocessors and will impose contractual obligations on its subprocessors that comply with Applicable Data Protection Law and are at least equivalent to the obligations imposed on Processor under the Agreement.

5. **Cross-Border Data Transfers.** The parties will not engage in cross-border transfers of Personal Data without taking steps to ensure such transfers comply with Applicable Data Protection Law
6. **Security Safeguards.** Processor will implement, maintain, and monitor a comprehensive written information security policy that contains appropriate administrative, technical, and organizational safeguards to ensure the confidentiality, integrity, and availability of Personal Data and prevent any unauthorized or unlawful Processing of such data. The safeguards will be appropriate to the nature of the Personal Data, meet or exceed prevailing industry standards, and comply with Applicable Data Protection Law and the requirements set forth in American Water's Information Security Exhibit.
7. **Audits; Monitoring Compliance.**
  - a. Processor will make available all information necessary to demonstrate its compliance with Applicable Data Protection Law, this DPA, and American Water's Information Security Exhibit.
  - b. American Water has the right to take reasonable and appropriate steps to ensure that Processor uses Personal Data in a manner that is consistent with American Water's obligations under Applicable Data Protection Law including, but not limited to, conducting manual reviews and automated scans of Processor Systems, regular assessments, audits, and other technical and operational testing at least once every 12 months. At any time and upon reasonable notice, American Water may conduct or may engage an independent third party to conduct an audit of Processor Systems and Processor's policies and procedures regarding the Processing of Personal Data. Processor will: (i) cooperate with any such audit; (ii) grant American Water and its representatives full and complete access, during normal business hours, to Processor Systems and to all books, records, procedures, and information that relate to the Processing of Personal Data; (iii) address any shortcomings identified in the audit by implementing industry best practices; and (iv) certify in writing to American Water that it has corrected all such shortcomings within an agreed upon timeframe. American Water will bear the costs of such an audit, unless the audit reveals material vulnerabilities, in which case Processor will cover the costs of the audit.
8. **Security Breach.**
  - a. In the event Processor has notice of a Security Breach, Processor will take any necessary action to stop the active breach or similar recurring breaches and immediately (and in any event within seventy two (72) hours): (i) notify American Water in writing of the Security Breach and any third-party legal process relating to the Security Breach; (ii) help American Water investigate, evaluate, remediate, provide notice, and take any other action American Water deems necessary regarding the Security Breach and any dispute, inquiry, investigation, or claim concerning the Security Breach; and (iii) provide American Water with assurance satisfactory to American Water that such Security Breach will not recur.

- b. Any notification required under Section 8(a)(i) must satisfy the requirements under Applicable Data Protection Law and include, where feasible: (i) a description of the Security Breach, including the number and categories of individuals affected, categories and number of records concerned, types of Personal Data affected, likely consequences of the Security Breach, and date and time of such incident; (ii) a summary of the incident that caused the Security Breach and any ongoing risks that the Security Breach poses; (iii) a description of the measures proposed or taken by Processor to address the Security Breach; (iv) any other information required under Applicable Data Protection Law; and (v) any other information reasonably requested by American Water relating to the Security Breach.
- c. In the event of a Security Breach, American Water has the right to control the breach notification process including, but not limited to, control over notifying any individuals, regulators, and supervisory authorities, or third parties of the Security Breach, unless Applicable Data Protection Law dictates otherwise.
- d. Notwithstanding any limitations of liability applicable to Processor under the Agreement, in the event of a Security Breach, Processor will be liable for any costs and expenses incurred by American Water in connection with the Security Breach, including: (i) the cost of preparing and delivering notices to affected individuals; (ii) the cost of providing credit monitoring services or other credits or benefits extended to affected individuals; (iii) reasonable attorneys' fees associated with the litigation, investigation, evaluation, remediation, and response; (iv) liability to third parties and/or penalties from any regulatory authorities that American Water incurs in connection with the Security Breach; and (v) labor and subprocessor costs, including time spent and additional costs incurred in connection with call center support.

**9. Representations and Warranties.** Processor represents and warrants that:

- a. it is not aware of any prior Security Breaches impacting Processor Systems or, if a Security Breach has occurred, Processor has disclosed such breach to American Water in writing, remedied all related security vulnerabilities, and taken appropriate measures to prevent similar Security Breaches from recurring;
- b. it is not, and has not been, a party to any current, pending, threatened, or resolved enforcement action of any government agency, or any consent decree or settlement with any governmental agency, private person, or entity, regarding a Security Breach or other privacy or security-related concern, or if it has been a party to any such an action, consent decree, or settlement, Processor has disclosed this to American Water in writing and taken appropriate measures to comply with any requirements imposed in connection therewith;
- c. it is and will remain in compliance with all Applicable Data Protection Law and will not, by any act or omission, place American Water in breach of such laws; and
- d. it will inform American Water if it becomes aware or reasonably suspects that American Water's instructions regarding the Processing of Personal Data may violate any Applicable Data Protection Law.

- 10. Return or Destruction of Personal Data.** Upon American Water’s request, or immediately upon termination of the Agreement, Processor will cease all Processing of Personal Data and, at American Water’s direction, either (a) return such data to American Water or (b) destroy such data and certify such destruction to American Water in writing. Processor is permitted to retain Personal Data where it has a legal requirement to do so, provided that Processor notifies American Water of this in writing and provides details about the data retained and the expected retention period.
- 11. Records.** Processor will maintain accurate and up-to-date records of all Processing activities carried out on American Water’s behalf, in compliance with its requirements under Applicable Data Protection Law.
- 12. Third-Party Beneficiaries.** The parties agree that American Water’s subsidiaries and affiliates are intended third-party beneficiaries of this DPA.
- 13. Insurance.** Processor shall obtain and maintain, during and for three (3) years after termination of the Agreement, a Cyber Liability Insurance Policy with explicit Applicable Data Protection Law coverage grants that cover claims associated with the unauthorized or wrongful collection (including failure to provide notice), Processing, disclosure, sharing, retention, sale, profiling, misuse, or failure to provide access to or correct Personal Data as required by Applicable Data Protection Law, with limits of not less than \$10,000,000 per claim and \$20,000,000 in the aggregate. Such Cyber Liability Insurance Policy shall also cover claims for (a) unauthorized access to or use of computer systems (including personal handheld devices and laptops); (b) loss or disclosure of confidential or Personal Data; (c) loss of digital assets or data; (d) security incidents; (e) denial or loss of computer service; (f) cyber extortion; (g) unauthorized or wrongful collection of Personal Data; (h) invasion of privacy; (i) alleged violations of any Applicable Data Protection Law; (j) regulatory defense and penalties coverage with the insurability of penalties to be determined in accordance with the law that most favors coverage for such penalties; and (k) any other claims resulting from unauthorized use or disclosure of Personal Data and related information. The Cyber Liability Insurance Policy shall (w) be endorsed to name American Water as additional insured; (x) be primary and non-contributory with any insurance carried by the American Water; (y) include a waiver of subrogation in favor of American Water and its employees, officers, owners, and agents, except for those employees and/or agents provided by Processor under the Agreement; and (z) be written by insurance companies with ratings of “A:VII” or better in the latest edition of A.M. Best Key Rating Guide. Processor shall obtain and provide to American Water a certificate of insurance and copies of the applicable endorsement(s) evidencing all required coverages prior to commencing any work under the Agreement. Processor shall provide a copy of the complete policy for all required coverages within ten (10) days of American Water requesting the same. American Water’s ability to request a copy of the complete policy for any of the required coverages and Processor’s obligation to produce the same shall survive the termination of the Agreement. Processor shall provide at least thirty (30) days’ prior written notice to American Water if any coverage required hereunder is to be materially changed, reduced, or canceled.

**14. Indemnification.** Notwithstanding any limitations on indemnity obligations set forth in the Agreement, Processor will indemnify, defend, and hold harmless American Water and any current or future parent, subsidiaries, affiliates, agents, and suppliers, and their respective officers, directors, shareholders, and personnel, from and against any claims, suits, hearings, actions, damages, liabilities, fines, penalties, costs, losses, judgments, or expenses (including reasonable attorneys' fees) arising out of or relating to its failure to comply with this DPA.

**15. Noncompliance; Remedies.** Processor will regularly assess its compliance with this DPA and, if Processor can no longer meet its obligations under this DPA, it will promptly notify American Water. American Water may take reasonable and appropriate steps to stop and remediate any unauthorized Processing of Personal Data by Processor, up to and including terminating the Agreement. Processor will cooperate with American Water's reasonable requests regarding any unauthorized Processing of Personal Data. A breach of any provision of this DPA may result in irreparable harm to American Water, for which monetary damages may not provide a sufficient remedy, and therefore, American Water may seek both monetary damages and equitable relief. In the event Processor breaches any of its obligations under this DPA, American Water will have the right to terminate the Agreement or suspend Processor's continued Processing of any Personal Data, without penalty, immediately upon notice to Processor.

American Water  
1 Water St., Camden, NJ 08102

[insert name]  
[insert address]

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SCHEDULE 1**  
**SCOPE OF PROCESSING**

**1. Controller / Data Exporter:**

<b>Name:</b>	American Water
<b>Address:</b>	1 Water St., Camden, NJ 08102
<b>Activities relevant to the data Processed under the DPA:</b>	American Water is a provider of water and wastewater utility services that is contracting with Processor for [insert description of services for which Personal Data will be Processed].
<b>Point of Contact</b>	[insert]

**2. Processor / Data Importer:**

<b>Name:</b>	[_____]
<b>Address:</b>	[_____]
<b>Activities relevant to the data Processed under the DPA:</b>	Processor is a [insert country]-based provider of [briefly describe Processor's services to Controller (e.g., payment processing services, web hosting services, analytics services)].
<b>Point of Contact</b>	[insert name, title, and email address for the data protection officer or other person responsible for data protection at the company]

**3. Subject Matter of Processing:** The Processing is in relation to Processor's provision of services under the Agreement.

**4. Duration of Processing:** The Processing will begin after the Effective Date and will end upon expiration or termination of the Agreement.

**5. Nature and Purpose of Processing:** The nature and purposes of Processing include [insert *specific* description of business purposes and services].

**6. Types of Personal Data:** [\_\_\_\_\_]

**7. Restrictions and Safeguards for Special Categories of Data:** If Processor will Process Special Categories of Data, as indicated above, please identify any restrictions or safeguards applicable to Special Categories of Data that take into consideration the nature of the data and the risks involved. Please check all that apply and supplement with additional restrictions or safeguards as necessary.

- Strict purpose limitation
- Access restrictions (including access only for staff having followed specialized training)
- Keeping a record of access to the data
- Restrictions for onward transfers
- Other (please specify)

**8. Categories of Data Subjects:** [\_\_\_\_\_]



**9. Description of Technical and Organizational Measures:** The technical and organizational measures implemented by the Processor (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the Processing, are described in American Water’s Information Security Exhibit.

For transfers to (sub)processors, the specific technical and organization measures to be taken by the (sub)processor to be able to provide assistance to the controller and, for transfers from a processor to a subprocessor, to the data exporter, are described in the DPA.

The specific technical and organizational measures Processor will take to assist American Water in fulfilling its obligations to respond to Data Subjects’ requests to exercise their rights under Applicable Data Protection Law are described in the DPA.

**10. Approved Subprocessors and Data Transfers**

Subprocessor Name & Registered Address	Services Performed by Subprocessor	Countries where Subprocessor will Process and Store Personal Data	Cross-Border Data Transfer Mechanism