

Outsourcing Agreement for the Processing of Personal Information

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Introduction

As public body or a person carrying on an enterprise, you are responsible for the protection of personal information that you hold or in your custody. When, as a mandator or client, you transfer personal information to a mandatary or provider of services such as Avancie Inc. ("Avancie"), you must ensure that the provider of services offers them protection equivalent to that which you are required to offer under the laws protecting privacy to which you are subject.

The following stipulations constitute an outsourcing agreement for the processing of personal information. They are in addition to any mandate or contract of enterprise or for services formed or to be formed between Avancie and a client of Avancie (whether a public body or a person carrying on an enterprise) and are intended to allow such client of Avancie to meet the conditions under which, in accordance with applicable laws protecting privacy, it may communicate personal information it holds to Avancie when such communication is necessary for the performance of such contract.

1. Roles and relationships

- 1.1 **Avancie's Client:** As client of Avancie, you acknowledge that you are the person who controls the personal information that you transfer to Avancie to be processed or that Avancie collects, holds, uses, or communicates as mandatary or provider of services, as the case may be, for you.
- 1.2 **Avancie:** You acknowledge that when Avancie acts as a mandatary or provider of services in the processing of personal information, such personal information is not under Avancie's control, but rather under yours as the public body or the person carrying on an enterprise who, alone or jointly with others, decides to collect it and determines the purposes of its collection, use or communication and the means of its processing.
- 1.3 **Mutual Compliance:** The parties will comply with their respective obligations under applicable privacy laws. Any documented instructions to Avancie regarding the processing of personal information under your control shall be lawful.
- 1.4 **Mandate:** When you instruct Avancie to collect, hold, use or communicate personal information for you involving a third person, this instruction constitutes a special professional mandate tacitly accepted by Avancie by which Avancie may represent you in the performance of a juridical act with a third person within the limits of this instruction, including being assisted by another person and delegating powers to him or her for this purpose unless usage prohibits it. This power of attorney allows Avancie to carry out all acts which are incidental to such power, and which are necessary for the performance of the mandate and extends to anything that may be inferred therefrom. Avancie remains liable to you for the acts performed by any person who assisted it, if applicable.

- 1.5 **Public body:** In cases where Avancie's mandator or client is a public body subject to the *Act respecting access to documents held by public bodies and the protection of personal information* (RLRQ c A-2.1), the present clause makes it possible to meet the requirements of paragraph 6° of section 41.2 of this Act. The provisions that apply to information communicated to Avancie in such cases are found in the following sections of this Act: 23, 24, 28, 28.1 or 29 and 41.2. If other sections of this Act also apply in some of these cases, the public body subject to the Act may indicate them to Avancie by sending a notice to that effect.
- 1.6 **Precedence:** The clauses in this agreement prevail over any other clause on the same object of any contract binding the parties, except where such other clause takes effect subsequent to this agreement and expressly states that it is the common intention of the parties that such other clause prevail over the clause on the same subject in this agreement in the event of any inconsistency.

2. Measures

- 2.1 **Confidentiality Protection:** Avancie takes the measures listed in this clause to ensure the confidentiality of the personal information it processes for you as necessary and taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing as well as the risks. Avancie regularly monitors and assesses the effectiveness of these measures and implements updates or improvements as necessary as a means of ongoing protection of the confidentiality of the personal information Avancie processes for you.

(a) Organizational Security Measures:

- (i) **ISO/IEC 27001 Certification or Equivalent:** Avancie maintains its ISO/IEC 27001 certification, issued by a recognized independent certification body, for all the operations and services it provides to you. In the event that Avancie no longer holds ISO/IEC 27001 certification following a renewal audit, Avancie will maintain an information security management system ("**ISMS**") equivalent to that required by ISO/IEC 27001. In the event of non-conformity with ISO/CEI 27001 or an equivalent ISMS, Avancie undertakes to take the necessary corrective measures to remedy the nonconformity and ensure compliance with the requirements of ISO/CEI 27001 or an equivalent ISMS.
- (ii) **Staff Training and Awareness:** Avancie trains its personnel in the requirements of applicable privacy laws, as well as usage and good practice for protecting personal information, in order to minimize the risk of confidentiality incidents due to human error.
- (iii) **Authorized Persons:** Avancie ensures that persons authorized to process personal information have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

- (iv) **Teleworking:** Avancie has implemented specific organizational security measures for its employees working remotely, including policies to ensure the protection of personal information when it is processed from home or other teleworking locations.
- (v) **Sub-Provider of Services:** Where Avancie engages a third person acting as a sub-provider of services to assist in the performance of a contract with you involving the performance of specific processing activities for you, the same or equivalent obligations regarding the protection of personal information as set forth in this agreement are imposed on such sub-provider of services, and such sub-provider of services may also engage a sub-provider of services, which constitutes a general authorization from you in this regard. In such a case, the performance of such processing remains under Avancie's supervision and responsibility. When Avancie processes personal information on your behalf, it will only use sub-providers of services that provide sufficient guarantees that appropriate technical, organizational, and physical measures have been implemented so that the processing meets the requirements of applicable privacy laws to provide protection equivalent to that which you, as the person responsible for the personal information, are required to provide.
- (vi) **Cyber Risk Insurance:** Avancie has taken out and maintains cyber risk insurance with a recognized and solvent insurance company, to cover the risk of damage caused by a breach of security safeguards or any other confidentiality incident. The nature of the risks covered includes civil liability, crisis management costs, defence and indemnification costs, and business interruption caused by a breach of security safeguards or any other confidentiality incident.

(b) Technical security measures:

- (i) **Access Control:** Avancie provides systems for managing rights and access data (identifiers and authenticators) to personal information, in order to restrict access to authorized persons only, and to trace and log actions performed on personal information. Access and authentication are based on complex, regularly renewed passwords or two-factor authentication devices.
- (ii) **System and Network Security:** Avancie maintains the security of computer systems and networks used to process personal information through firewalls, intrusion detection tools and regularly updated antivirus programs.
- (iii) **Teleworking:** Avancie has implemented specific technical security measures for its employees working remotely, including secure connection to its internal systems and networks, when personal information is processed from home or other teleworking locations.
- (iv) **Removable Storage Devices:** Avancie restricts the use of removable storage devices for computers under its control.

- (v) **Encryption:** Avancie uses recognized and proven encryption methods to protect personal information, both during transmission and storage.
- (vi) **Backup and Recovery:** Avancie implements solutions for the backup and recovery of personal information in the event of accidental loss or destruction, as a means of allowing the continuity of Avancie's services and limiting the risks associated with breaches of security measures and any other confidentiality incident.

(c) Physical Security Measures:

- (i) **Data Centres:** Avancie uses its own primary and disaster recovery servers to store client data, including personal information. These servers are installed in secure colocation data centres, which feature security measures including access controls, video surveillance and intrusion detection.

2.2 Use Limited to Contract: Avancie takes the measures listed in this clause to ensure that the personal information it processes for you is only used for carrying out the mandate or performing the contract with you:

- (a) **Documented Instructions:** Your use of an Avancie service provided on a software-as-a-service basis inherently involves a documented instruction from you to Avancie to process personal information held by you where such use involves such processing. Avancie will only process such personal information upon documented instruction, including with respect to transfers of such personal information to a third person or international organization, unless Avancie is required to do so under applicable privacy laws.
- (b) **Refraining from Access, Consultation or Use:** Avancie refrains from accessing, consulting or using files containing personal information that you hold, unless you have authorized it. Such authorization may be granted, for example, in connection with a request for technical support that you submit to Avancie.
- (c) **Request by a Concerned Individual:** With respect to the personal information it holds on your behalf, Avancie will refer to you any request for access or rectification (or otherwise relating to an individual right under applicable laws protecting privacy) received from an individual to whom such information relates.
- (d) **Contractual Framework:** This agreement provides that when Avancie acts as your provider of services, it is required by applicable law to act in your best interests. Similarly, when Avancie acts as your mandatary, applicable law requires it to act honestly and faithfully in your best interest and to avoid placing itself in a position where its personal interest is in conflict with yours. Applicable law also ensures that Avancie may not use for its own benefit any information it obtains in the execution of a mandate entrusted to it by you, unless you have consented to such use or unless the use results from the law or the mandate.

- (e) **Mandatory Communication:** Applicable privacy legislation generally provides that a person carrying on an enterprise may, in certain prescribed circumstances, communicate personal information it holds on an individual without the consent of the individual concerned. In general, Avancie will not disclose personal information in the absence of a documented instruction from you or, where circumstances warrant, without notifying you in due time, but may be required to do so, for example, when communication is required by a person or body having the power to compel communication of the information if he or it requires it in the exercise of his or its duties or functions, or by reason of the urgency of a situation that threatens the life, health or safety of the individual concerned.

2.3 **No Keeping After Expiry:** Avancie takes the measures listed in this clause not to keep the personal information that it processes for you after the termination of the mandate or the contract of enterprise or for services:

- (a) **Deletion or Return and Destruction of Copies:** Following the expiry of a period of six months after the termination of the mandate or the contract of enterprise or for services with you, Avancie will delete the personal information concerned or return to you, in a structured, commonly used and machine-readable technological format, the existing copies, except to the extent that applicable privacy laws or a law, regulation or order of a public authority require Avancie to keep such personal information.
- (b) **Self-service Mode:** Avancie makes available to you means by which you can perform on your own the deletion of several sets of concerned personal information or their return in a structured, commonly used and machine-readable technological format.
- (c) **Notice in Case of Impossibility:** Avancie will promptly notify you in case of impossibility to proceed to the deletion or return of the concerned personal information and to the destruction of the existing copies, specifying the causes for this impossibility and the alternative measures proposed to ensure the protection of the concerned personal information.
- (d) **Attestation:** Avancie may, at your request, attest that the above deletion or removal and destruction measures have been performed in accordance with its governance policies and practices regarding personal information within a reasonable time after the termination of the contract.
- (e) **Automation:** Upon termination of the mandate or contract of enterprise or for services with you, Avancie is not required to keep the personal information that is under your control and may delete or return it and destroy any copies automatically after a reasonable period of time specified in a notice to that effect, regardless of the existence of any record-keeping duty that a law, regulation or order of a public authority may impose on you, including the duty to keep for at least a certain period of time the personal information used to make a decision concerning the individual concerned, or the files of your clients that are no longer active as of their respective closing dates.

3. Notice, Assistance and Information

- 3.1 **Notice to Your Person in Charge in the Event of a Breach:** Avancie will promptly notify your person in charge of the protection of personal information in the event of a breach or attempted breach by any person of any of the obligations relating to the confidentiality of personal information under your control and processed by Avancie.
- 3.2 **Assistance in Complying with Obligations:** Given the nature of the processing and the information at its disposal, Avancie will assist you in complying with your obligations based on the laws protecting privacy to which you are subject, in return for remuneration or a price determined on the basis of the value of the work performed or services rendered, as the case may be, which you undertake to pay to Avancie where applicable. These obligations may include, but are not limited to:
- (a) security measures to ensure the protection of the personal information you hold and process through Avancie;
 - (b) the rights of a concerned individual with respect to the personal information you hold and process through Avancie;
 - (c) reports of breaches of security safeguards or confidentiality incidents presenting a real risk of serious injury to an individual, to be submitted to the public supervisory authorities empowered to receive them;
 - (d) the notifications (direct or indirect, as the case may be) that you must give to any individual whose personal information is concerned by such a breach of security safeguards or confidentiality incident;
 - (e) privacy impact assessments for any project to acquire, develop or overhaul an information system or electronic service delivery system involving the processing of personal information if Avancie is a participant to such a project and, more generally, analysis of the impact of proposed processing operations using new technologies on the protection of personal information when, in such a situation, they are likely to give rise to a high risk for the rights and freedoms of individuals;
 - (f) consultation with application to or permission from a public supervisory authority; or
 - (g) obtaining certification for the protection of personal information.

However, this assistance will be provided free of charge in the event that it has been made necessary by a confidentiality incident caused by Avancie's failure to honour a contractual undertaking towards you.

Necessary Information: Avancie provides you with all the information necessary to demonstrate compliance with your obligations under section 18.3 of the *Act respecting the protection of personal information in the private sector* (RLRQ c P-39.1) or Principle 4.1.3 of Schedule 1 of the *Personal Information Protection and Electronic Documents Act*, R.S.Q. 2000, c. P-5, or any other similar provision

under which an organization that transfers personal information to a provider of services must ensure that the provider of services offers protection equivalent to that which the organization is required to provide, in particular under a Canadian federal law enacted to replace Part 1 of this Canadian federal law or an applicable provincial law that is substantially similar to this Canadian federal law or to the law replacing Part 1 of this law.