

US and Philippine data privacy laws

Data Privacy Clause

"1. General Principles.

* The Parties acknowledge and agree to comply with all applicable data privacy laws, including but not limited to, the California Consumer Privacy Act (CCPA), the California Privacy Rights Act (CPRA), the Virginia Consumer Data Protection Act (CDPA), other applicable US state privacy laws, the Philippine Data Privacy Act of 2012 (Republic Act No. 10173), its Implementing Rules and Regulations, and, where applicable, the General Data Protection Regulation (GDPR) of the European Union.

* "Personal Data" shall mean any information relating to an identified or identifiable natural person, as defined under applicable law.

* Each Party shall implement and maintain appropriate technical and organizational measures to protect Personal Data against unauthorized access, use, disclosure, alteration, or destruction.

2. US-Specific Provisions.

* Where applicable, each Party shall comply with the CCPA/CPRA, CDPA, and other relevant US state privacy laws, including providing consumers with the rights to access, delete, correct, and restrict the processing of their Personal Data, as well as the right to opt-out of the sale or sharing of their Personal Data.

* Each Party shall provide clear and conspicuous notice to consumers regarding the collection, use, and disclosure of their Personal Data.

* If a party is considered a "business" under the CCPA/CPRA, that party will refrain from selling or sharing personal information after receiving a valid opt-out request.

* If a party is considered a "controller" under other US state privacy laws, that party will respond to consumer rights requests within the timeframes specified by those laws.

3. Philippine-Specific Provisions.

* Each Party shall comply with the Philippine Data Privacy Act of 2012 (Republic Act No. 10173), including the principles of transparency, legitimate purpose, and proportionality.

* Each Party shall implement reasonable and appropriate organizational, physical, and technical measures for data protection.

* Each Party shall ensure that Personal Data is processed only for legitimate purposes and with the consent of the data subject, where required.

* Each Party shall notify the data subject and the National Privacy Commission (NPC) of any security breach that is likely to lead to a risk to the rights and freedoms of data subjects, within the time frame specified by the NPC.

* When a party acts as a personal information processor, that party will process personal information only upon the documented instructions of a personal information controller.

4. International Data Transfers.

* If Personal Data is transferred across borders, including between the US and the Philippines, each Party shall ensure that such transfers comply with applicable data privacy laws, including implementing appropriate safeguards such as standard contractual clauses, adequacy decisions, or other legally permissible mechanisms.

* Where GDPR applies, transfers of personal data to third countries shall be subject to appropriate safeguards as required by Article 46 of the GDPR.

5. Data Subject Rights.

* Each Party shall respect and facilitate the exercise of data subject rights, including the rights to access, rectification, erasure, and objection, as provided under applicable law.

* Each Party shall provide a mechanism for data subjects to exercise their rights.

6. Data Retention.

* Personal Data shall be retained only for as long as necessary for the purposes for which it was collected, or as required by applicable law.

7. Security Incidents.

* Each Party shall promptly notify the other Party of any security incident that may affect the confidentiality, integrity, or availability of Personal Data.

8. Cooperation.

* The Parties agree to cooperate with each other and with relevant regulatory authorities in responding to any data privacy inquiries or investigations.

9. Governing Law and Jurisdiction.

* This clause shall be governed by and construed in accordance with the laws of [Specify a governing law, or state that applicable local and national laws apply].

* Any disputes arising out of or in connection with this clause shall be subject to the exclusive jurisdiction of [Specify a jurisdiction].

10. Updates.

* The parties agree to review and update this clause as needed to reflect changes in applicable data privacy laws."

Important Considerations:

* **Specificity:** This is a general clause. You may need to tailor it to your specific business operations and the types of Personal Data you handle.

* **Legal Counsel:** It's crucial to consult with legal counsel in both the US and the Philippines to ensure compliance with all applicable laws. Data privacy laws are complex and constantly evolving.

* **Contractual Context:** This clause should be integrated into a larger contract or agreement that addresses other relevant terms and conditions.

* **GDPR Application:** If you are processing personal data of EU residents, even if your company is based in the US or the Philippines, the GDPR will apply. Therefore, make sure that you consider the GDPR implications.

* **NPC Regulations:** The Philippine NPC issues regular advisories and circulars. Stay updated on these pronouncements.

* **State Level US laws:** US state level privacy laws are rapidly evolving. Make sure to update the clause to include any new applicable laws.

By using this clause as a foundation and customizing it to your specific needs, you can help ensure that your data privacy practices comply with the requirements of both US and Philippine law.