

Philip Morris

**AGREEMENT BY THE EU ASSEMBLY FOR THE WORKFORCE OF PHILIP
MORRIS TOBACCO COMPANIES IN THE EUROPEAN REGIONS OF PHILIP
MORRIS ON THE PROTECTION OF PERSONAL DATA PROCESSED BY ITSC
EUROPE S.a.r.l.**

PREAMBLE

On the basis of the agreement of 27 February 1996, on the creation of an EU Assembly for the workforce of Philip Morris tobacco companies in the European area, (hereunder referred to as “Agreement on an EU Assembly,”) the members of the EU Assembly takes the present agreement within the framework of the scope and regulations of the Agreement on an EU Assembly by virtue of the following considerations:

- (1) The objectives of the EU Assembly as defined in the Agreement on an EU Assembly notably consist of improving and promoting the mutual interests of PM and its employees, and of improving communication, cooperation and employee participation procedures.
- (2) Central processing of personal data by Philip Morris ITSC-Europe S.a.r.l., Avenue des Baumettes 17, CH-Renens (hereunder referred to as “ITSC Europe,”) should comply with the provisions of labour law and the protection of personal data which apply to all companies in the scope of the Agreement on an EU Assembly, and thus protect workers’ fundamental rights and freedoms.
- (3) The communication and cooperation rights provided for in the present agreement for the EU Assembly regarding the processing of personal data by ITSC Europe are used for ensuring and monitoring compliance with the provisions of labour law and the protection of personal data.
- (4) The parties agree to provide a copy of the agreement on data protection (see “annex”) to all Philip Morris tobacco companies in the European area, which shall be taken into consideration for all local provisions and solutions in accordance with the applicable law and communication, cooperation and employee participation procedures provided for in the Agreement on an EU Assembly. The copy of the agreement on data protection attached to the present agreement covers with a contract for companies in the scope of the Agreement on an EU Assembly *vis-à-vis* ITSC Europe for ensuring and monitoring compliance with the provisions of labour law and of data protection.

1. COMMUNICATION OF PERSONAL DATA TO ITSC EUROPE

- 1.1. The EU Assembly allows personal data concerning PM employees to be communicated to ITSC Europe to be processed by virtue of the contracts on the provision of IT services signed between ITSC Europe and the different companies as defined in the Agreement on an EU Assembly (hereunder referred to as “PM companies.”) Moreover, the EU Assembly provides that in case of an emergency or substantial technical problem, processing PM companies’ employee records shall be temporarily discharged to an open hot site in order to restore and maintain IT services.

- 1.2. One requirement prior to data transmission and processing is for PM companies to sign agreements on the protection of data with ITSC Europe following the specimen in the annex in order to ensure compliance with these agreements by all PM companies. ITSC Europe and open hot sites shall also sign these agreements.

2. COMMUNICATION AND COOPERATION RIGHTS

Having regard to the transmission and processing of personal data at ITSC Europe, the EU Assembly is given the following communication and cooperation rights, and the chairman of the EU Assembly is responsible for the practical implementation:

- 2.1. Regular sampling and monitoring of information prior to its provision by the management of the company to ITSC Europe, in the presence of the respective representatives for data protection.
- 2.2. All issues concerning the transmission of personal data to ITSC Europe are within the jurisdiction of the “ad hoc Liaison Committee” of the EU Assembly (hereunder referred to as “ad hoc committee.”)
- 2.3. The ad hoc committee of the EU Assembly shall be informed of the organisation and service offering of ITSC Europe regarding processing personal data. The ad hoc committee shall also be informed in advance of major changes to the organisation and service offering. In given situations, ITSC Europe’s data protection representative commits to inform the ad hoc committee on operations linked with the information and monitoring obligations of the agreement on data protection.
- 2.4. In case of suspected violation of the provisions of the agreement on data protection, the ad hoc committee of the EU Assembly shall immediately be informed.
- 2.5. Possible violations of the provisions of the agreement on data protection are managed by the EU Assembly. ITSC Europe may have the opportunity to relieve the situation.

3. AUXILIARY PROVISIONS

The provisions of the Agreement on an EU Assembly also apply in the following circumstances:

- 3.1. By virtue of the provisions of the Agreement on an EU Assembly, the present agreement shall not encroach upon the current rights of PM management, PM employees or the trade unions at local, national and supranational level but complements them.
- 3.2. The right – written down in the Agreement on an EU Assembly – of the employee representatives to appeal to the external consultants of their choice also applies to the communication and cooperation rights of the present agreement.

4. TERM OF VALIDITY AND TERMINATION

- 4.1. The present agreement shall come into force immediately after it is signed for an indefinite term and will remain in force as long as one of the parties does not terminate it in writing with a three months notice.
- 4.2. In case ITSC Europe blatantly infringes the clauses of the present agreement on the protection of data, thus rendering permanently impossible of the transmission of data to ITSC Europe from the point of view of labour law and data protection, the members of

the EU Assembly have the right to terminate the present agreement without notice. In case of litigation regarding the termination procedure, the conciliation procedure provided for in the Agreement on an EU Assembly shall apply.

- 4.3. In case ITSC Europe sends the information back to PM companies, the ad hoc committee of the EU Assembly has the right to send committee members or representatives with the technical qualifications needed to monitor the procedure.

Geneva, [date]

[name]
CHAIRMAN OF THE EU ASSEMBLY
ASSEMBLY

[name]
VICE-PRESIDENT OF THE EU

ANNEX

**TO THE AGREEMENT ON THE PROTECTION OF PERSONAL DATA PROCESSED
BY ITSC EUROPE S.a.r.l.**

SPECIMEN

AGREEMENT ON THE PROTECTION OF DATA

AGREEMENT ON THE PROTECTION OF DATA

between

hereunder referred to as the “client” and Philip Morris ITSC Europe S.a.r.l., Avenue des Baumettes 17, CH-Renens, hereunder referred to as the “provider”

PREAMBLE

1. The client and provider are companies belonging to Philip Morris Group. The provider provides IT services to the subsidiaries of Philip Morris Group, the extent of which shall be determined by the parties in separate contracts. These services concern the following fields:

- data processing;
- data storing;
- system management and operation;
- data reporting;
- internet access and firewall;
- security management;
- service management;
- NT Back Office;
- protection against viruses.

2. The parties agree that the provider processes all personal data (hereunder referred to as “data”) provided in the framework of the IT services contracts, of which the present agreement on data protection is an integral part, only with the client’s consent (processing data required).

Except contrary agreement, the provider personally processes the data requested. In case of an emergency or major technical problem, the data can temporarily be processed by a computer hot site in Switzerland or the European Union designated by the client.

3. The provider guarantees that the subcontractors providing IT services in compliance with the client’s instructions (particularly maintenance firms and the computer hot site) commit themselves *vis-à-vis* the provider and directly to the client to comply with the obligations determined in the regulations applied to the subcontractors.

4. The regulations of the EU Assembly applied to the workforce involved in the provision of IT services bind the client. The client informs the provider of the applicable regulations and enjoins the provider to comply with them.

1. TECHNICAL AND ORGANISATIONAL PROVISIONS

The provider is required to take all necessary technical and organisational measures to protect data provided by the client within the framework of the contract for the provision of IT services on the above-mentioned. For that purpose, the provider shall rely on the European Directive on the protection of personal data adopted by the European Parliament and Council on 24 October, 1995, including applicable national law and the information provided by the client.

2. RIGHT OF SUPERVISION

The client and the provider signed contracts for the provision of IT services on The provider processes the data only in accordance with the information as provided by the client. The people employed by the provider to process the data shall not process or use said data for any other purpose than the purpose specified in the contract or the client's information.

3. CONFIDENTIALITY

3.1. The provider, in particular, is strictly forbidden to make data available or provide it, under any possible form, to third parties. The term "third parties" also include other companies of Philip Morris Group.

3.2. The provider ensures that only the client may access or process the data. The client has exclusive right of access.

3.3. Consequently, the client is exclusively liable for monitoring:

- data users;
- data access;
- data transmission;
- data entry;
- rights and obligations relating to data.

3.4. Only the client may provide information on stored data to the people concerned.

3.5. The provider ensures that, at the request of the client, data provided by the client is immediately sent to the client and permanently erased from the provider's files.

4. TRAINING IN DATA PROTECTION

The provider also ensures that, at least every two years, employees in charge of performing the contract will receive training in national and European laws on data protection, as well as training in the corresponding jurisprudence, in the presence of the people in charge of data protection for the provider.

5. EMPLOYEES' OBLIGATIONS

The provider ensures that employees in charge of processing data are always committed to complying with the obligations provided for in data protection regulations, as well as with the technical and organisational provisions stipulated in the present agreement. In this respect, only the attached form (Confidentiality agreement) applies.

6. MONITORING AND INFORMATION

6.1. The client and the provider jointly designate, in writing, the person in charge of monitoring the compliance with the present agreement.

6.2. The provider appoints a data protection representative (hereunder referred to as “the provider’s data protection representative,”) sufficiently reliable and qualified to fulfil his mission. Having regard to his obligations as defined in the present agreement, the data protection representative shall directly report to the provider’s management. By virtue of the present agreement, he is not bound to any information from the provider regarding data protection and the appropriate implementation of his tasks should not cause him harm.

The provider’s data protection representative shall help the provider to comply with the obligations contained in the present agreement. This particularly applies to training the provider’s employees in data protection, in accordance with article 4. of the present article.

The data protection representative shall attend appropriate training in general data protection once a year, to ensure that he has the necessary knowledge to perform his mission.

The provider’s data protection representative commits himself to work in close collaboration with the client’s data protection representative and to follow the latter’s instructions regarding data protection, insofar as they affect data processing. The client’s data protection representative shall inform his colleague of applicable law on data protection and matching amendments. The provider’s data protection representative shall provide all available information on data protection to the ad hoc committee of the client’s EU Assembly.

The provider explicitly stipulates the rights and obligations of the present article 6.2. in the labour contract of the provider’s data protection representative.

6.3. The ad hoc committee of the EU Assembly is authorised to regularly, although no more than twice a year, ensure, with the provider’s data protection representative, that data is adequately processed by the provider and that the provider complies with the present agreement when doing business, by carrying out inspections on site.

6.4. In the event of justifiable suspicions on the violation of the provisions of the agreement on data protection, the provider shall inform the client at once.

7. TERMINATION

7.1. Should the provider blatantly break the clauses of the present agreement on the protection of data, the client is authorised to terminate the agreement without notice. Should the case arise, all data stored and processed shall immediately be sent back to the client.

7.2. In that case, employees responsible for data transmission shall monitor the data transfer. The ad hoc committee of the EU Assembly is authorised to send committee members for the aforementioned monitoring procedure.

8. APPLICABLE LAW

The present agreement and its application are subject to Swiss law, Vaud Canton. In the event of litigation, only tribunals in Lausanne are competent.

Lausanne, [date]

[name]
Philip Morris ITSC Europe S.a.r.l.

[name]
Client

Annex: Commitment Document

CONFIDENTIALITY AGREEMENT

Name: [name]

is bound to confidentiality as follows:

in the absence of authorisation, s/he shall neither process nor transmit protected personal data, nor give access to such data, nor use data for any other purpose than what is provided for in the contract. This confidentiality obligation remains applicable after the end of the assignment.

location	date	signature of the worker
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original:	personnel department	
1 st copy:	employee	
2 nd copy:	client's data protection representative	
3 rd copy:	ITSC Europe's data protection representative	

Annex: instructions