

CCPA Contract Clauses for Service Providers

by Practical Law Data Privacy & Cybersecurity

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Standard Clauses for use in a services agreement that involves using, storing, or otherwise processing personal information from California residents on behalf of businesses (customers) subject to the California Consumer Privacy Act of 2018 (CCPA). CCPA-covered businesses can incorporate these clauses as a section of or a supplement to services agreements. These Standard Clauses contain integrated notes with important explanations and drafting tips.

Note: On November 3, 2020, California voters approved the [California Privacy Rights Act of 2020](#) (Proposition 24) (CPRA), which will amend and expand the CCPA on January 1, 2023. The CCPA remains in effect until the CPRA's operative date. For more on the CPRA, see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\)](#) and [CPRA Regulation Tracker](#).

DRAFTING NOTE: READ THIS BEFORE USING DOCUMENT

These Standard Clauses provide contract clauses designed to help qualify a business for the service provider exceptions contained in the California Consumer Privacy Act of 2018 (CCPA) (Cal. Civ. Code §§ 1798.100 to 1798.199.95; Cal. Code Regs. tit. 11, §§ 7000 to 7102).

The CCPA grants consumers, defined as California residents, specific rights regarding their personal information, such as the rights to opt-out of personal information sales and know about their personal information. It also imposes obligations on covered business that collect, use, store, and sell a California resident's personal information, including providing required notices, responding to verified consumer requests, and securing personal information. For a broader discussion of the CCPA, including which businesses must comply with it, see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\) and California Privacy Toolkit \(CCPA and CPRA\)](#).

The CCPA provides important exceptions and benefits for businesses that meet its service provider definition, including exempting personal information transfers to service providers from its sales definition and restrictions (Cal. Civ. Code § 1798.140(t)(2)(C); see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\): Service Providers and Third Parties](#)). Written contracts with specific use limitation and data protection provisions represent one key requirement for qualifying as a service provider and take advantage of this exception (see [Drafting Note, Qualifying as a Service Provider](#)).

Amended several times since its initial passage, the CCPA went into effect January 1, 2020 and regulatory enforcement began on July 1, 2020. On November 3, 2020, California voters approved a ballot initiative that will amend and expand the CCPA, the California Privacy Rights Act of 2020 (CPRA). Most of the CPRA's substantive CCPA amendments do not take effect

until January 1, 2023, so businesses should continue to follow the CCPA and CCPA Regulations while they prepare for the CPRA's new requirements. For more on the CPRA, the CCPA, their history, and ongoing efforts to amend them, see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\)](#) and [Box, History of the CCPA and CPRA](#).

Regulations developed by the California Attorney General (California AG) implementing the CCPA became effective on August 14, 2020 (Cal. Code Regs. tit. 11, §§ 7000 to 7102; see also [California AG Final Statement of Reasons for CCPA Regulations](#) (CCPA FSOR) and [California AG Initial Statement of Reasons for CCPA Regulations](#) (CCPA ISOR)). The process of preparing implementing regulations for the CPRA is ongoing. For more on the regulations' progress, including possible revisions to the current CCPA Regulations, see [CPRA Regulation Tracker](#).

Given its expansiveness and broad reach, the CCPA may significantly impact entities both inside and outside California that collect and process California residents' personal information.

CCPA Personal Information Sales and Disclosures for a Business Purpose

Personal information sales create more onerous business and compliance obligations under the CCPA than personal information disclosures for business purposes, such as to qualifying service providers (see [Drafting Note, Qualifying for the CCPA's Service Provider Sales Exception](#)). The CCPA broadly defines personal information sales to include any communication or transfer of a consumer's personal information by a CCPA-covered business to another business or third party for monetary or other valuable consideration (Cal. Civ. Code § 1798.140(t)(1)). The statute specifically includes the phrase "other valuable consideration," which indicates that many different types of non-cash transactions may qualify as sales if the business receives any type of benefit in return for providing access to the personal information. For more on how the CCPA defines a sale, see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\): Personal Information Sales](#).

A CCPA-compliant written contract is required before a vendor that obtains personal information from a CCPA covered business for any type of valuable consideration can qualify for its service provider or restricted third-party exceptions (see [Drafting Note, Qualifying as a Service Provider](#)). Without that written contract, those transfers likely constitute a third-party sale under the CCPA, which subjects the covered business and vendor to additional obligations (see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\): Distinguishing Between Sales and Business Purposes Disclosures](#)).

CCPA Service Provider Contract Requirements

Qualifying as a Service Provider

To qualify as a service provider, the personal information recipient must be a for-profit entity that obtains the personal information from a covered business:

- Only to process it for the covered business.
- For a business purpose (see [Drafting Note, Definition: Contracted Business Purposes](#)).
- Under a written contract that:
 - limits the service provider's personal information retention, use, or disclosure to actions required to perform the contractually-specified services or that the CCPA otherwise permits a service provider to take; and
 - prohibits retaining, using, or disclosing the personal information for any other purpose, including a commercial purpose, except for providing the services specified in the contract.

(Cal. Civ. Code § 1798.140(v).)

The CCPA Regulations clarify that for-profit entities who otherwise meet all of the CCPA service provider requirements can qualify even if:

- The entity they provide services to does not fall within the CCPA's business definition, for example non-profit or government entities.
- The service provider collects personal information directly from consumers or about a consumer on the

covered business's behalf, instead of receiving that information directly from the business.

(Cal. Code Regs. tit. 11, § 7051(a), (b); [CCPA FSOR](#) at 30 to 32 and [CCPA ISOR](#) at 21.)

The CCPA Regulations also clarify that a single entity can operate as a CCPA service provider in some contexts, but as a CCPA covered business in others. Such entities must fully comply with the CCPA's business obligations when acting in a business capacity. (Cal. Code Regs. tit. 11, § 7051(f); [CCPA ISOR](#) at 23.)

Meeting the CCPA's service provider definition enables the entity to take advantage of:

- Sales definition exceptions (see Drafting Note, [Qualifying for the CCPA's Service Provider Sales Exception](#)).
- Liability limitations (see Drafting Note, [Liability Exclusions](#)).

Qualifying for the CCPA's Service Provider Sales Exception

Sharing personal information with a service provider does not trigger the CCPA's personal information sales protections and restrictions if:

- It is necessary to perform a business purpose, as defined by the CCPA (see Drafting Note, [Definition: Contracted Business Purposes](#)).
- The business disclosed that it uses or shares personal information with a service provider in required CCPA notices (see [Practice Note, Drafting CCPA and CPRA Notices and Privacy Policies: Opt-Out Right Notice and Privacy Policy](#)).
- The service provider does not further collect, sell, or use the personal information, except as necessary to perform the business purpose.
- The parties executed a written contract containing the required clauses.

(Cal. Civ. Code § 1798.140(t)(2)(C).)

The CCPA Regulations clarify that service providers must not retain, use, or disclose the personal information it obtains from a business customer except in five specific and limited circumstances:

- To process or maintain personal information for the business that either provided it or directed its collection, in compliance with the written services contract required by the CCPA.

- To retain and employ subcontractors who also meet the CCPA's service provider requirements.
- For internal use to build or improve the quality of its services, but only if the use:
 - does not include building or modifying household or consumer profiles used to provide services to another business; or
 - correcting or augmenting data from another source.
- To detect data security incidents or protect against fraudulent or illegal activity.
- For the purposes permitted in CCPA's legal claims preemption section, which include:
 - compliance with federal, state, or local laws;
 - compliance with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, or local authorities;
 - cooperation with law enforcement agencies concerning conduct or activity that the business, service provider, or third party reasonably and in good faith believes may violate federal, state, or local law; or
 - the exercise or defend legal claims.

(Cal. Civ. Code § 1798.145(a)(1) to (4).)

(Cal. Code Regs. tit. 11 § 7051(c); [CCPA FSOR](#) at 32 to 35.)

Liability Exclusions

The CCPA contains two separate liability carve outs with similar and, in some cases, identical, language, including one for:

- Service providers (Cal. Civ. Code § 1798.145(j)).
- Restricted third parties (Cal. Civ. Code § 1798.140(w)(2)(B)).

A business is not liable for service provider or restricted third-party misconduct or CCPA violations, if:

- The business complied with the CCPA's requirement to execute a qualifying written contract with the entity.
- At the time of disclosure, the business did not have actual knowledge, or reason to believe, that the entity intended to violate the CCPA.

(Cal. Civ. Code §§ 1798.140(w)(2) and 1798.145(j).)

Similarly, a service provider is not liable for the business's CCPA obligations when it provides services under the written contract (Cal. Civ. Code § 1798.145(j)).

For more on the CCPA's enforcement and penalty provisions, see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\): Enforcement](#).

Complying with CCPA Service Provider Obligations

The CCPA contains other obligations that directly or indirectly involve service providers, including:

- Requiring a covered business to direct its service providers to delete personal information contained in their records after receipt of a valid and verified consumer request (Cal. Civ. Code § 1798.105(c)).
- Responding to individuals exercising one of their CCPA rights or meeting other CCPA obligations (see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\): Business Obligations](#)).
- Meeting the CCPA's indirect data security obligations (see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\): Implement Reasonable Security Practices and Procedures](#)).
- Publishing accurate information about how the covered business collects and uses information, included around personal information disclosed for a business purpose (see [Practice Note, Drafting CCPA and CPRA Notices and Privacy Policies: Personal Information Disclosures for a Business Purpose](#)).

The CCPA Regulations clarify that when service providers receive a request to know or delete from a consumer, they must either:

- Act on the business's behalf in responding to the request.
- Inform the consumer that it cannot act on the request because it is a service provider.

(Cal. Code Regs. tit. 11, § 7051(e); see [Practice Note, Responding to CCPA and CPRA Consumer Rights Requests: Service Provider Responsibility for Consumer Requests](#).)

Of course, if the contract permits, the service provider can respond directly to consumer requests.

The CCPA Regulations also clarify that a single entity can operate as a CCPA service provider in some contexts, but as a CCPA covered business in others. Such entities must directly respond to verified consumer requests related to the personal information they hold when acting in a business capacity. (Cal. Code Regs. tit. 11, § 7051(f); [CCPA ISOR](#), at 23.)

Covered businesses should ensure their service providers address those considerations by including contractual provisions that:

- Represent or warrant that the service provider is aware of and will abide by the CCPA's terms and any related regulations.
- Require the service provider to help the business meet its own CCPA obligations, including:
 - fulfilling any confirmed deletion requests; and
 - assisting with confirmed access requests or data portability exports.
- Meet the overlapping but different restricted third-party contract requirements ([Drafting Note, Restricted Third Parties](#)).

Scope of Standard Clauses

These Standard Clauses focus on provisions that specifically relate to the CCPA's service provider requirements. However, the parties should also include additional detailed service provider commitments in their full agreement regarding:

- Data security requirements.
- Data breach reporting and costs.
- Data return and destruction.
- Service levels and performance expectations.
- Compliance audits.
- Failure to perform and material breach.
- Indemnification, liability limitations, and equitable relief.
- Notice and contact information.

The parties should address those issues as needed in the underlying services agreement. For more details

and examples of provisions in these areas that may provide a starting point for further negotiations, see [Standard Clauses, Data Security Contract Clauses for Service Provider Arrangements \(Pro-Customer\)](#) and [Data Security Contract Clauses for Service Provider Arrangements \(Pro-Provider\)](#) and [Standard Document, Personal Information Processing Agreement](#). For more on typical cyber insurance coverage and related issues, see [Practice Note, Cyber Insurance: Insuring for Data Breach Risk](#).

International Considerations

Laws and regulations governing personal information vary across different countries and are often stricter than US legal requirements. Compliance with foreign privacy and data protection requirements is outside the scope of these CCPA-related contract clauses. However, US-based businesses must consider how a different country's data protection laws may affect their operations when they:

- Engage service providers to process personal information originating from non-US residents.
- Select a service provider located outside the US.

While data protection laws vary widely across different jurisdictions, these laws primarily require organizations to:

- Process personal information fairly and lawfully.
- Limit personal information processing to approved legal grounds.
- Notify an individual about the organization's personal information collection and handling practices including, among other things, the categories of personal information collected and the purposes of use.
- Obtain an individual's consent in some circumstances, such as for direct marketing or when collecting or using sensitive personal information, subject to certain exceptions.
- Allow the individual to access personal information held about them (and in some countries, correct or erase that personal information and object to and restrict personal information processing).
- Implement appropriate data security measures.

- Place controls on transfers of personal information to other jurisdictions or take other steps to satisfy cross-border transfer restrictions.

For more on privacy and data protection laws in selected foreign jurisdictions, see the [Data Protection Global Guide](#). For more on the EU General Data Protection Regulation ((EU) 2016/679) (GDPR), see [Practice Note, Data Processor Obligations Under the GDPR: Processor Contractual Requirements](#) and [GDPR Resources for US Practitioners Toolkit](#).

Assumptions

These Standard Clauses assume that:

- The services contract involves personal information from California residents and California laws govern the underlying agreement.
- The services contract does not involve personal information from non-US residents or other contract clauses address data protection requirements applicable to that data (see [Drafting Note, International Considerations](#)).
- Sector specific laws, like the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or Gramm-Leach-Bliley Act (GLBA), do not apply to the contracted services.
- The contract incorporating these clauses sets out other usual contract provisions, including liability limitations and indemnification clauses.
- The service provider does not intend to combine the personal information supplied by the customer with any personal information collected from third parties or use personal information for the service provider's own purposes.

These Standard Clauses are designed for use by either party. The Clauses adopt a balanced approach to the relevant issues as an agreement that unduly favors either party only increases the time and cost of negotiations.

Other Considerations

Organizations can incorporate these Standard Clauses into a broader services agreement or set them out in a specific CCPA agreement or addendum.

Bracketed Items

Bracketed items in ALL CAPS should be completed with the facts of the organization's specific circumstances and the particular services provided.

Bracketed items in sentence case are either optional provisions or include alternative language choices to be selected, added, or deleted at the drafter's discretion.

CCPA Contract Clauses for Service Providers

1. Definitions. The following definitions and rules of interpretation apply in this Agreement:

DRAFTING NOTE: DEFINITIONS

This definition section only contains terms directly related to the CCPA service provider clauses. The drafter should ensure that the broader or master agreement defines terms not specific to the Standard Clauses, such as:

- Agreement.
- Customer.
- Service Provider.

Drafters should ensure that the definitions used in these Standards Clauses conform to the overall agreement's defined terms.

(a) CCPA means the California Consumer Privacy Act of 2018, as amended (Cal. Civ. Code §§ 1798.100 to 1798.199.95), the CCPA Regulations (Cal. Code Regs. tit. 11, §§ 7000 to 7102), and any related regulations or guidance provided by the California Attorney General. Terms defined in the CCPA, including personal information and business purposes, carry the same meaning in this Agreement.

DRAFTING NOTE: DEFINITION: CCPA

The CCPA and CCPA Regulations include extensive lists of defined terms (Cal. Civ. Code § 1798.140; Cal. Code Regs. tit. 11, § 7001). Tying the agreement's definitions to the CCPA's statutory language allows the parties to adapt to legislative changes without requiring a formal amendment. Defined terms in the CCPA and CCPA Regulations include:

- Affirmative authorization (Cal. Code Regs. tit. 11, § 7001(a)).
- Aggregate consumer information (Cal. Civ. Code § 1798.140(a)).
- Authorized agent (Cal. Code Regs. tit. 11, § 7001(c)).
- Biometric information (Cal. Civ. Code § 1798.140(b)).
- Business (Cal. Civ. Code § 1798.140(c)).
- Business purpose (Cal. Civ. Code § 1798.140(d); see Drafting Note, Definition: Contracted Business Purposes).
- Category of sources (Cal. Code Regs. tit. 11, § 7001(d)).
- Category of third parties (Cal. Code Regs. tit. 11, § 7001(e)).
- Collects, collected, or collection (Cal. Civ. Code § 1798.140(e)).

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- Commercial purposes (Cal. Civ. Code § 1798.140(f)).
- Consumer (Cal. Civ. Code § 1798.140(g)).
- Deidentified (Cal. Civ. Code § 1798.140(h)).
- Designated methods for submitting requests (Cal. Civ. Code § 1798.140(i)).
- Device (Cal. Civ. Code § 1798.140(j)).
- Employment benefits (Cal. Code Regs. tit. 11, § 7001(h)).
- Employment-related information (Cal. Code Regs. tit. 11, § 7001(i)).
- Financial incentive (Cal. Code Regs. tit. 11, § 7001(g)).
- Health insurance information (Cal. Civ. Code § 1798.140(k)).
- Homepage (Cal. Civ. Code § 1798.140(l)).
- Household (Cal. Code Regs. tit. 11, § 7001(k)).
- Infer or inference (Cal. Civ. Code § 1798.140(m)).
- Notice at collection (Cal. Code Regs. tit. 11, § 7001(l)).
- Notice of right to opt-out (Cal. Code Regs. tit. 11, § 7001(m)).
- Notice of financial incentive (Cal. Code Regs. tit. 11, § 7001(n)).
- Person (Cal. Civ. Code § 1798.140(n)).
- Personal information (Cal. Civ. Code § 1798.140(o); see Drafting Note, Personal Information Categories).
- Price or service difference (Cal. Code Regs. tit. 11, § 7001(o)).
- Privacy policy (Cal. Code Regs. tit. 11, § 7001(p)).
- Probabilistic identifier (Cal. Civ. Code § 1798.140(p)).
- Processing (Cal. Civ. Code § 1798.140(q)).
- Pseudonymize or pseudonymization (Cal. Civ. Code § 1798.140(r)).
- Research (Cal. Civ. Code § 1798.140(s)).
- Request to delete (Cal. Code Regs. tit. 11, § 7001(q)).
- Request to know (Cal. Code Regs. tit. 11, § 7001(r)).
- Request to opt-in (Cal. Code Regs. tit. 11, § 7001(s)).
- Sell, selling, sale, sold (Cal. Civ. Code § 1798.140(t)).
- Service or services (Cal. Civ. Code § 1798.140(u)).
- Service provider ((Cal. Civ. Code § 1798.140(v); see Drafting Note, Qualifying as a Service Provider).
- Signed (Cal. Code Regs. tit. 11, § 7001(u)).
- Third party (Cal. Civ. Code § 1798.140(w)).
- Third-party identity verification service (Cal. Code Regs. tit. 11, § 7001(v)).
- Unique identifier or unique personal identifier (Cal. Civ. Code § 1798.140(x)).
- Value of the consumer's data (Cal. Code Regs. tit. 11, § 7001(w)).
- Verifiable consumer request (Cal. Civ. Code § 1798.140(y)).
- Verify (Cal. Code Regs. tit. 11, § 7001(x)).

(b) Contracted Business Purposes means the services described in [the Agreement/Appendix A/[DESCRIPTION LOCATION]] [or any other purpose specifically identified in Appendix A] for which the service provider receives or accesses personal information.

DRAFTING NOTE: DEFINITION: CONTRACTED BUSINESS PURPOSES

Meeting the CCPA's service provider definition requires execution of a written contract that prohibits the service provider from retaining, using, or disclosing the personal information for any purpose other than

the services described in the contract or as otherwise permitted by the CCPA (Cal. Civ. Code § 1798.140(v)). The CCPA-covered business (customer) must also only disclose the personal information to the

service provider for a business purpose (Cal. Civ. Code § 1798.140(t)(2)(C)).

These clauses limit the service provider's personal information use to the business purposes specifically identified in the agreement. The definition provided here ties the business purposes definition to the services the customer obtained in the underlying services agreement, but it also allows the parties to identify the specific business purposes in an optional Appendix A for greater transparency and easy recordkeeping. Placing transaction-specific information into an appendix provides a clear and easy reference for the business people managing and operating the service provider relationship. This format also allows easy redaction of business terms if the parties must disclose the agreement.

A business subject to the CCPA should ensure:

- The contract specifically describes the services provided in detail.
- The services performed meet the CCPA's business purpose definition.

The CCPA strictly defines the term business purpose to mean uses that are reasonably necessary and proportionate to achieve either:

- The business's operational or notified purpose for collecting the personal information.
- Purposes compatible with the context in which the business collected the personal information.

(Cal. Civ. Code § 1798.140(d).)

The CCPA then identifies the following seven specific types of permitted business purposes:

- Performing services on behalf of a CCPA-covered business or its service provider, such as customer service, order fulfillment, payment processing, financing, advertising, marketing, or analytic services.
- Auditing the interaction with the consumer and concurrent transactions, including counting ad impressions and verifying quality of ad impressions.
- Detecting or preventing security incidents or other illegal activity and prosecuting the responsible parties.
- Debugging.

- Verifying or maintaining quality or safety or improving or upgrading a service or device owned, manufactured, or controlled by or for the business.
- Short-term, transient use if the personal information is not:
 - disclosed to another third party; or
 - used to build a profile or otherwise alter an individual consumer's experience outside the current interaction.
- Undertaking internal research for technological development and demonstration.

(Cal. Civ. Code § 1798.140(d)(1) to (7).)

While those listed activities clearly qualify as business purposes under the statute, it is unclear whether the list merely provides examples of business purposes or restricts the term to just those activities. This ambiguity is one of many generated by the CCPA's hasty adoption and inconsistent phrasing (see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\): Box, History of the CCPA and CPRA](#)). While the CCPA Regulations do not directly address this ambiguity, California AG guidance on them discuss the business purpose definition in the broader context and does not indicate an intention to limit the term to the seven listed items (see [CCPA ISOR](#) at 21 to 23).

These Standard Clauses follow a statutory interpretation that does not limit business purposes to the seven listed items because:

- The language introducing the list does not indicate those are the only permitted purposes.
- Allowing the term to include other qualifying operational or notified purposes gives meaning to both sentences in the CCPA's business purpose definition.

(Cal. Civ. Code § 1798.140(d).)

However, businesses taking a conservative approach may choose to limit the contracted business purposes to one or more of the seven listed items.

For more, see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\): Service Providers and Third Parties and Business Purposes](#).

(c) ["Authorized Persons" means the persons or categories of persons that the Customer authorizes to provide the Service Provider with personal information processing instructions[, as identified in Appendix A/which includes [AUTHORIZED PERSON DESCRIPTION]].]

DRAFTING NOTE: DEFINITION: AUTHORIZED PERSONS

While the CCPA only requires the covered business to identify the service provider's business purposes for obtaining and using personal information, businesses desiring more control may also want to give its service providers specific instructions on how to process that data. Businesses wanting or needing to ensure that only specific employees provide all personal information processing instructions to the service provider should establish a clear process for identifying those individuals

in the agreement (see Drafting Note, Customer Instructions).

This optional definition lets the customer identify the specific people or job roles authorized to give the service provider instructions in Appendix A. This allows ease of reference for those tasked with managing and operating the service provider relationship. Alternatively, the parties can directly describe the method for establishing which party may legitimately provide customer instructions in this definition.

2. Service Provider's CCPA Obligations

- (a) Service Provider will only collect, use, retain, or disclose personal information for the Contracted Business Purposes for which Customer provides or permits personal information access [in accordance with the Customer's [written] instructions [from Authorized Persons]].
- (b) Service Provider will not collect, use, retain, disclose, sell, or otherwise make personal information available for Service Provider's own commercial purposes or in a way that does not comply with the CCPA. If a law requires the Service Provider to disclose personal information for a purpose unrelated to the Contracted Business Purpose, the Service Provider must first inform the Customer of the legal requirement and give the Customer an opportunity to object or challenge the requirement, unless the law prohibits such notice.
- (c) Service Provider will limit personal information collection, use, retention, and disclosure to activities reasonably necessary and proportionate to achieve the Contracted Business Purposes or another compatible operational purpose.
- (d) Service Provider must promptly comply with any Customer request or instruction [from Authorized Persons] requiring the Service Provider to provide, amend, transfer, or delete the personal information, or to stop, mitigate, or remedy any unauthorized processing.
- (e) If the Contracted Business Purposes require the collection of personal information from individuals on the Customer's behalf, Service Provider will always provide a CCPA-compliant notice at collection that the Customer specifically pre-approves in writing. Service Provider will not modify or alter the notice in any way without the Customer's prior written consent.
- (f) [If the CCPA permits, Service Provider may aggregate, deidentify, or anonymize personal information [by [ACCEPTABLE METHODS],] so it no longer meets the personal information definition, and may use such aggregated, deidentified, or anonymized data for [its own research and development purposes/[PERMITTED USE PURPOSES]].] Service Provider will not attempt to or actually re-identify any previously aggregated, deidentified, or anonymized data and will contractually prohibit downstream data recipients from attempting to or actually re-identifying such data.

DRAFTING NOTE: SERVICE PROVIDER OBLIGATIONS

To qualify for the CCPA's service provider exception, the agreement must specifically prohibit the service provider from retaining, using, or disclosing the personal information for any purpose other than the services described in the contract or as otherwise permitted by the CCPA (Cal. Civ. Code § 1798.140(v)). Meeting the CCPA's business purpose definition also requires limiting the personal information use to activities reasonably necessary and proportionate to achieve those or compatible purposes (see Drafting Note, Definition: Contracted Business Purposes).

Customer Instructions

Some businesses may also want to exercise more control over their service providers by requiring that provider only process personal information on their specific instruction (see Drafting Note, International Considerations). Businesses desiring this extra level of control should include the optional language in Section 2(a) and the optional Authorized Persons definition in Section 1(c).

Direct Personal Information Collection by the Provider

Businesses allowing their service providers to collect personal information directly from individuals on their behalf should also contractually obligate them to:

- Provide any required privacy notices (see [Practice Note, Drafting CCPA and CPRA Notices and Privacy Policies: Collection Notice and Standard Documents, Notice at Collection \(CCPA and CPRA\)](#),

[CCPA Notice at Collection for California Employees and Applicants](#), and [CCPA Notice at Collection for California Independent Contractors](#)).

- Obtain any required processing consents.
- Follow the business customer's required data collection process.

Section 2(e) requires the service provider to obtain the customer's prior written approval for any data collection forms or methods they use to ensure compliance with the CCPA's requirements.

Deidentification or Aggregation

The business purposes definition includes common operational activities, such as debugging, verifying or maintaining quality or safety, or improving or upgrading a service (see Cal. Civ. Code § 1798.140(d)(1) to (7); see Drafting Note, Definition: Contracted Business Purposes). However, service providers may also want to aggregate, deidentify, or anonymize the personal information they hold for their customers. This may allow the service provider to use it for other commercial purposes, such as trendspotting or benchmarking. Optional Section 2(f) enables the parties to permit this expanded use if it complies with the CCPA. However, it also prohibits the service provider from attempting to reidentify any aggregated, deidentified, or anonymized personal information.

True anonymization is difficult and the act of aggregating, deidentifying, or anonymizing personal information is itself a data use, so businesses may not want to provide this optional exception.

3. Assistance with Customer's CCPA Obligations

(a) Service Provider will reasonably cooperate and assist Customer with meeting the Customer's CCPA compliance obligations and responding to CCPA-related inquiries, including responding to verifiable consumer requests, taking into account the nature of the Service Provider's processing and the information available to the Service Provider.

(b) Service Provider must notify Customer immediately if it receives any complaint, notice, or communication that directly or indirectly relates either party's compliance with the CCPA. Specifically, the Service Provider must notify the Customer within [NUMBER] working days if it receives a verifiable consumer request under the CCPA.

DRAFTING NOTE: PROVIDER ASSISTANCE AND RESPONSE OBLIGATIONS

Because businesses often need information from their service providers to deal with complaints or consumer requests, the contract should obligate the service provider to assist. However, service providers should only act on the hiring business's instructions and should not have authority to act on their own initiative. Complaint or verified consumer request responses should only come from the business or use a process where the business approves or directs the response. The service provider must not disclose any personal information without the customer's approval.

The CCPA Regulations require a business to confirm receipt of those request within ten business days (Cal. Code Regs. tit. 11 § 7021(a)). The receipt must provide information on how the business will process the request, including:

- Generally describing the business's verification process.
- Providing an expected response timeframe, unless the business already granted or denied the request.

(Cal. Code Regs. tit. 11, § 7021(a)).

The contract should set a short timeframe for notifying the business about any consumer request

so it can meet this ten day confirmation receipt obligation.

A business must substantively respond to verifiable consumer requests within 45 calendar days of receipt, although the deadline is extendable by another 45 calendar days when necessary (Cal. Civ. Code §§ 1798.130(a)(2) and 1798.145(i)(1)). The CCPA Regulations clarify that when Service Providers receive a request to know or delete from a consumer, they must either:

- Act on the business's behalf in responding to the request.
- Inform the consumer that it cannot act on the request because it a service provider.

(Cal. Code Regs. tit. 11, § 7051(e)).

Of course, if the parties agree, the service provider can respond directly to consumer requests. The service provider and customer should establish set, written procedures that implement Section 3(a)'s cooperation requirements.

For more on responding to verified consumer requests, see [Practice Note, Responding to CCPA and CPRA Consumer Rights Requests](#).

4. Subcontracting

(a) Service Provider [may/may not] use subcontractor to provide the Contracted Business Services. [Any subcontractor used must qualify as a service provider under the CCPA and Service Provider cannot make any disclosures to the subcontractor that the CCPA would treat as a sale.]

(b) [For each subcontractor used, Service Provider will give Customer an up-to-date list disclosing:

- (i) The subcontractor's name, address, and contact information.
- (ii) The type of services provided by the subcontractor.
- (iii) The personal information categories disclosed to the subcontractor in the preceding 12 months.]

(c) [Service Provider remains fully liable to the Customer for the subcontractor's performance of its agreement obligations.]

(d) [Upon the Customer's written request, Service Provider will audit a subcontractor's compliance with its personal information obligations and provide the Customer with the audit results.]

DRAFTING NOTE: SUBCONTRACTORS

This provision gives hiring businesses the option to either prohibit the service provider from using subcontractors to further process or access personal information, or to allow appointments in limited circumstances. While service providers commonly use subcontractors to perform aspects of contracted services, the business hiring the provider retain less control over which persons can access the personal information they are responsible for when they permit subcontracting relationships, leading to greater risks.

While the CCPA does not directly discuss subcontractors, the CCPA Regulations specifically

permit service providers to retain and employ another service provider as a subcontractor if the subcontractor also meets the CCPA's service provider requirements (Cal. Code Regs. tit. 11, § 7051(c)(2)).

Businesses opting to permit subcontracting should include the optional text in Section 4(a) and the optional clauses in Section 4(b) to Section 4(d) to ensure the subcontractor complies with the CCPA's requirements and the business can meet its CCPA disclosure obligations.

5. CCPA Warranties [and Certification]

(a) Both parties will comply with all applicable requirements of the CCPA when collecting, using, retaining, or disclosing personal information.

(b) [Service Provider certifies that it understands this Agreement's and the CCPA's restrictions and prohibitions on selling personal information and retaining, using, or disclosing personal information outside of the parties' direct business relationship, and it will comply with them.]

(c) Service Provider warrants that it has no reason to believe any CCPA requirements or restrictions prevent it from providing any of the Contracted Business Purposes or otherwise performing under this Agreement. Service Provider must promptly notify the Customer of any changes to the CCPA's requirements that may adversely affect its performance under the Agreement.

DRAFTING NOTE: CCPA WARRANTIES AND CERTIFICATION

Restricted Third Parties

The CCPA provides disclosure and liability exceptions for two different types of entities, service providers and restricted third parties (Cal. Civ. Code §§ 1798.140(t), (v), and (w) and 1798.145(j); see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\): Service Providers and Third Parties](#)). While the CCPA does not explicitly exclude service providers from the third-party definition, the definition's exclusion language effectively does so by adopting very similar language to the service provider definition (Cal. Civ. Code §§ 1798.140(v), (w)).

The contractual requirements are also very similar, but they are not identical. Contracts with restricted third parties must include a certification that the recipient understands the CCPA's contractual restrictions and will comply with them (Cal. Civ. Code § 1798.140(w)).

Although not explicitly required by the CCPA for service provider contracts, covered businesses should consider including Section 5(b)'s optional contractual certification so the contract also meets the restricted third party's definitional requirements and provides the parties with an alternate basis for disclosing personal information under the CCPA.

CCPA Contract Clauses for Service Providers

APPENDIX A

PERSONAL INFORMATION PROCESSING PURPOSES AND DETAILS

Contracted Business Purposes: [SERVICES PROVIDED]

Service Provider Category: [CCPA NOTICE CATEGORY]

Personal Information Categories: This Agreement involves the following types of Personal Information, as defined and classified in CCPA Cal. Civ. Code § 1798.140(o).

Category	Examples	Processed under this Agreement
A. Identifiers.	A real name, alias, postal address, unique personal identifier, online identifier, Internet Protocol address, email address, account name, Social Security number, driver's license number, passport number, or other similar identifiers.	[YES/NO]
B. Personal information categories listed in the California Customer Records statute (Cal. Civ. Code § 1798.80(e)).	A name, signature, Social Security number, physical characteristics or description, address, telephone number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, debit card number, or any other financial information, medical information, or health insurance information. Some personal information included in this category may overlap with other categories.	[YES/NO]
C. Protected classification characteristics under California or federal law.	Age (40 years or older), race, color, ancestry, national origin, citizenship, religion or creed, marital status, medical condition, physical or mental disability, sex (including gender, gender identity, gender expression, pregnancy or childbirth and related medical conditions), sexual orientation, veteran or military status, genetic information (including familial genetic information).	[YES/NO]
D. Commercial information.	Records of personal property, products or services purchased, obtained, or considered, or other purchasing or consuming histories or tendencies.	[YES/NO]
E. Biometric information.	Genetic, physiological, behavioral, and biological characteristics, or activity patterns used to extract a template or other identifier or identifying information, such as fingerprints, faceprints, and voiceprints, iris or retina scans, keystroke, gait, or other physical patterns, and sleep, health, or exercise data.	[YES/NO]
F. Internet or other similar network activity.	Browsing history, search history, information on a consumer's interaction with a website, application, or advertisement.	[YES/NO]
G. Geolocation data.	Physical location or movements.	[YES/NO]

CCPA Contract Clauses for Service Providers

Category	Examples	Processed under this Agreement
H. Sensory data.	Audio, electronic, visual, thermal, olfactory, or similar information.	[YES/NO]
I. Professional or employment-related information.	Current or past job history or performance evaluations.	[YES/NO]
J. Non-public education information (per the Family Educational Rights and Privacy Act (20 U.S.C. Section 1232g, 34 C.F.R. Part 99)).	Education records directly related to a student maintained by an educational institution or party acting on its behalf, such as grades, transcripts, class lists, student schedules, student identification codes, student financial information, or student disciplinary records.	[YES/NO]
K. Inferences drawn from other personal information.	Profile reflecting a person's preferences, characteristics, psychological trends, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes.	[YES/NO]

DRAFTING NOTE: PERSONAL INFORMATION CATEGORIES

The CCPA contains an expansive personal information definition, with 11 enumerated categories (Cal. Civ. Code § 1798.140(o)). It expects a covered business to describe the types of personal information it discloses for a business purpose, including to service providers, by referencing the 11 categories listed in the CCPA's personal information definition that most closely describe it (Cal. Civ. Code §§ 1798.110(c)(1), 1798.130(c); see [Practice Notes, Drafting CCPA and CPRA Notices and Privacy Policies: Personal Information Disclosures for a Business Purpose](#) and [Responding to CCPA and CPRA Consumer Rights Requests: Individualized Privacy Notice](#)). To help meet those requirements, the Appendix places the 11 categories in a chart, so the

business can clearly and affirmatively track whether the service provider agreement involves each type of personal information in a clear, easy-to-understand format.

The covered business and service provider should carefully review and categorize the personal information collected, shared, and processed to complete the chart.

For more on the CCPA's personal information definition, see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\): Personal Information](#).

[Types of Consumers: [CONSUMER TYPE]]

DRAFTING NOTE: TYPES OF CONSUMERS

While not required, the business may want to identify or describe what types of individuals the service provider contract involves in this Appendix summary. Examples of different consumer types may include:

- Employees.
- Loyalty club members.
- Retail customers.

CCPA Contract Clauses for Service Providers

- Business-to-business customers.
- Website visitors.

This information becomes particularly helpful for managing and administering CCPA-related service provider relationships, as the CCPA temporarily excludes personal information from specific consumers types, including employees, job applicants, and certain business-to-business communications,

from many of its requirements (see [Practice Note, Understanding the California Consumer Privacy Act \(CCPA\) and the California Privacy Rights Act \(CPRA\): Temporary Exemptions and California Privacy Laws \(CCPA and CPRA\): Impact on Employers.](#)

Businesses using contact management systems may add this information to the contract record as meta-tags or other codes to improve search capabilities.

[Approved Subcontractors: [APPROVED SUBCONTRACTORS]]

DRAFTING NOTE: APPROVED SUBCONTRACTORS

While not required, the business may want to specifically identify any approved subcontractors in this Appendix summary. Identifying approved

subcontractors can improve transparency and traceability for personal information data flows.

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