

Memorandum of Assessment

of the Need to Designate a Data Protection Officer

Date:

INTRODUCTION:

(A) *MODERN-EXPO SAS* (the "**Company**") carried out a review of whether it is required to designate a data protection officer ("**DPO**") in accordance with Article 37 of the Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the "**GDPR**") or the applicable national law;

(B) taking into account the matters set out in Annex A and the Guidelines on Data Protection Officers 16/EN WP 243 rev.01 adopted by the Article 29 Data Protection Working Party and endorsed by the Data Protection Board (the "**DPO Guidelines**"), the Company concluded that its core activities do not consist of:

- (i) processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects on a large scale; or
- (ii) processing on a large scale of special categories of data pursuant to Article 9 GDPR or of personal data relating to criminal convictions and offences referred to in Article 10 GDPR.

(C) this memorandum is made as part of the Company's data protection programme, is intended to help demonstrate the Company's compliance, and to be made available to the relevant supervisory authority upon request.

THE COMPANY DECIDED THAT:

1. The Company is not required to designate a DPO.
2. Given that the Company has adequate arrangements in place to ensure its compliance with the data protection laws, the Company does not at this time appoint or designate a DPO on a voluntary basis.
3. This assessment should be reviewed regularly, and immediately if there is a relevant change in business activities of the Company (such as the provision of new services or undertaking new activities), in industry practice or regulatory guidance.

Signed by: Marc Janczukowicz

Title: President

Annex A

Matters Taken into Account

1.1. National laws

1.1 The national laws of France do not require the Company to appoint a DPO.

1.2. Article 37 GDPR

2.1 In accordance with Article 37(1) GDPR:

"The controller and the processor shall designate a data protection officer in any case where:

(a) the processing is carried out by a **public authority or body**, except for courts acting in their judicial capacity;

(b) the **core activities** of the controller or the processor consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects **on a large scale**; or

(c) the **core activities** of the controller or the processor consist of processing **on a large scale** of special categories of data pursuant to [Article 9](#) or personal data relating to criminal convictions and offences referred to in [Article 10](#)" (emphasis added).

1.3. The Company's status

3.1 The Company is not a public authority or body.

1.4. Core activities

4.1 In accordance with para. 2 of the Annex to the DPO Guidelines:

"'Core activities' can be considered as the key operations to achieve the controller's or processor's objectives. These also include all activities where the processing of data forms as inextricable part of the controller's or processor's activity. For example, processing health data, such as patient's health records, should be considered as one of any hospital's core activities and hospitals must therefore designate DPOs.

On the other hand, all organisations carry out certain supporting activities, for example, paying their employees or having standard IT support activities. These are examples of necessary support functions for the organisation's core activity or main business. Even though these activities are necessary or essential, they are usually considered ancillary functions rather than the core activity."

4.2 The core activities of the Company consist of the distribution of shelving and other equipment that is not designed to process personal data.

4.3 The processing by the Company of personal data is an ancillary activity of the Company and is not part of the core or primary activities of the Company.

1.5. Large scale

5.1 In accordance with para. 3 of the Annex to the DPO Guidelines:

"The WP29 recommends that the following factors, in particular, be considered when determining whether the processing is carried out on a large scale:

- the number of data subjects concerned - either as a specific number or as a proportion of the relevant population
- the volume of data and/or the range of different data items being processed
- the duration, or permanence, of the data processing activity
- the geographical extent of the processing activity".

- 5.2 The number of employees of the Company is in the range of [...].
- 5.3 The number of other data subjects whose personal data is processed by the Company is in the range of [...].
- 5.4 [The location of the data subjects is France. The company does not regularly and systematically process personal data relating to data subjects located outside of European Union.
- 5.5 The range of categories of data processed is data belonging to customers, suppliers and employees of the Company, within the scope of activities of the Company.
- 5.6 Accordingly, the Company does not process personal data on a large scale.

1.6. Analysis

- 6.1 The tests in Article 37(1)(b) and 37(1)(c) GDPR for the mandatory designation of a DPO by a private organisation cannot be satisfied unless the controller or processor both (i) processes personal data on a large scale and (ii) its core activities consist of such processing.
- 6.2 In the case of the Company, neither of these two criteria are satisfied.