



# THE DATA VAULT

## Fair and Accurate Credit Transactions Act (“FACT Act” or “FACTA”) Affidavit

This affidavit is designed to facilitate compliance with the rule of the Federal Trade Commission, “Disposal of Consumer Report Information and Records” (16 CFR Part 682), hereinafter referred to as the “FTC Disposal Rule.” The initial FTC Disposal Rule is attached as an appendix to this affidavit. Any future amendments to this rule’s duties and obligations are automatically incorporated in the definition of “FTC’s Disposal Rule.” The FTC Disposal Rule was promulgated pursuant to the FACT Act, and it sets for the standard for proper disposal as follows:

“Any person who maintains or otherwise possesses consumer information for a business purpose must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.” 16 CFR § 682.3(a)

“‘Consumer information’ means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report. Consumer information also means a compilation of such records. Consumer information does not include information that does not identify individuals, such as aggregate information or blind data.” 16 CFR § 682.1(b)

In signing this addendum, \_\_\_\_\_ (“THE CLIENT”) acknowledges that **The Data Vault** (“THE COMPANY”) has made THE CLIENT aware of its obligation to properly dispose of “consumer information.”

In order to facilitate compliance with the FACT Act, THE CLIENT hereby certifies that its records and information materials provided to THE COMPANY for offsite information management on \_\_\_\_\_ (“Stored Material”) comply with one of the following conditions indicated below: Date

\_\_\_\_\_ I hereby certify that **NO** Stored Material contains any “consumer information” as defined in 16 CFR § 682.1(b).

\_\_\_\_\_ I hereby certify that **all** Stored Material which contains “consumer information” as defined in 16 CFR § 682.1(b) has been identified clearly. THE CLIENT further directs THE COMPANY to facilitate proper disposal of all identified “consumer information” at its final disposition date, in accordance with the FTC Disposal Rule.

\_\_\_\_\_ I hereby certify that, because it is not known whether all Stored Material does or does not contain “consumer information” as defined by 16 CFR § 682.1(b), THE CLIENT directs THE COMPANY to facilitate proper disposal of all information owned by THE CLIENT for which THE COMPANY is custodian at its final disposition date, in accordance with the FTC Disposal Rule.

I, the undersigned, certify that I have read the information contained in this addendum and have informed THE COMPANY of the true condition of the records owned by THE CLIENT.

Representing THE CLIENT,

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

# Appendix

## 16 CFR Part 682—Disposal of Consumer Report Information and Records

### § 682.1 Definitions.

- (a) In general. Except as modified by this part or unless the context otherwise requires, the terms used in this part have the same meaning as set forth in the Fair Credit Reporting Act, 15 U.S.C. 1681 et seq.
- (b) "Consumer information" means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report. Consumer information also means a compilation of such records. Consumer information does not include information that does not identify individuals, such as aggregate information or blind data.
- (c) "Dispose," "disposing," or "disposal" means:
  - (1) The discarding or abandonment of consumer information, or
  - (2) The sale, donation, or transfer of any medium, including computer equipment, upon which consumer information is stored.

### § 682.2 Purpose and scope.

- (a) Purpose. This part ("rule") implements section 216 of the Fair and Accurate Credit Transactions Act of 2003, which is designed to reduce the risk of consumer fraud and related harms, including identity theft, created by improper disposal of consumer information.
- (b) Scope. This rule applies to any person over which the Federal Trade Commission has jurisdiction, that, for a business purpose, maintains or otherwise possesses consumer information.

### § 682.3 Proper disposal of consumer information.

- (a) Standard. Any person who maintains or otherwise possesses consumer information for a business purpose must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.
- (b) Examples. Reasonable measures to protect against unauthorized access to or use of consumer information in connection with its disposal include the following examples. These examples are illustrative only and are not exclusive or exhaustive methods for complying with the rule in this part.
  - (1) Implementing and monitoring compliance with policies and procedures that require the burning, pulverizing, or shredding of papers containing consumer information so that the information cannot practicably be read or reconstructed.
  - (2) Implementing and monitoring compliance with policies and procedures that require the destruction or erasure of electronic media containing consumer information so that the information cannot practicably be read or reconstructed.
  - (3) After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of material, specifically identified as consumer information, in a manner consistent with this rule. In this context, due diligence could include reviewing an independent audit of the disposal company's operations and/or its compliance with this rule, obtaining information about the disposal company from several references or other reliable sources, requiring that the disposal company be certified by a recognized trade association or similar third party, reviewing and evaluating the disposal company's information security policies or procedures, or taking other appropriate measures to determine the competency and integrity of the potential disposal company.
  - (4) For persons or entities who maintain or otherwise possess consumer information through their provision of services directly to a person subject to this part, implementing and monitoring compliance with policies and procedures that protect against unauthorized or unintentional disposal of consumer information, and disposing of such information in accordance with examples (b)(1) and (2) of this section.
  - (5) For persons subject to the Gramm-Leach-Bliley Act, 15 U.S.C. 6081 et seq., and the Federal Trade Commission's Standards for Safeguarding Customer Information, 16 CFR part 314 ("Safeguards Rule"), incorporating the proper disposal of consumer information as required by this rule into the information security program required by the Safeguards Rule.

### § 682.4 Relation to other laws.

Nothing in the rule in this part shall be construed:

- (a) To require a person to maintain or destroy any record pertaining to a consumer that is not imposed under other law; or
- (b) To alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

### § 682.5 Effective date.

The rule in this part is effective on June 1, 2005.