



DATA PROCESSING ADDENDUM

This Data Processing Addendum (“**DPA**”), effective the date of the final signature, forms part of the Terms of Service found at https://www.aha.io/legal/terms_of_service (the “**Agreement**”). The DPA includes this document, Attachments 1-3, and Appendices 1-2, all attached hereto.

In the course of providing the Service to Customer pursuant to the Agreement, Aha! may Process Personal Data on behalf of Customer. The purpose of this DPA is to reflect the parties’ agreement with regard to the Processing of Personal Data in accordance with the requirements of applicable Data Protection Laws and Regulations.

Customer enters into this DPA on behalf of itself and, to the extent required under applicable Data Protection Laws, in the name and on behalf of its Affiliates. For the purposes of this DPA only, and except where indicated otherwise, the term “Customer” shall include Customer and Affiliates. Customer that is the contracting party to the Agreement shall remain responsible for coordinating all communication with Aha! under this DPA and be entitled to make and receive any communication in relation to this DPA on behalf of its Affiliates.

The terms of the Agreement are incorporated into this DPA. Any capitalized term not defined in this DPA will have the meaning ascribed to that term in the Agreement.

1. DEFINITIONS

“**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“**Data Controller**” means the entity which determines the purposes and means of the Processing of Personal Data.

“**Data Processor**” means an entity which engages in the Processing of Personal Data on behalf of the Data Controller.

“**Data Protection Laws and Regulations**” means all local, state, national and/or foreign law, treaties, and/or regulations, including laws and regulations of the European Union, the European Economic Area and their member states, applicable to either: (i) Aha! in its role as service provider Processing data under the Agreement or (ii) Customer and its Affiliates, as the case may be. For the avoidance of doubt, each party is only responsible for the local, state, national and/or foreign law, treaties, and/or regulations applicable to it.

“**Data Subject**” means the individual to whom Personal Data relates.

“**GDPR**” means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

“**Personal Data**” means any information relating to an identified or identifiable person that has been provided by or for Customer to the Service or collected and Processed by or for Customer through the Service.

“**Process(ing)**” means any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure, or destruction.

“**Standard Contractual Clauses**” means the agreement pursuant to the European Commission’s decision of 5 February 2010 on Standard Contractual Clauses for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection, executed by and between Customer and Aha! and attached hereto as Attachment 3.

“**Sub-processor**” means any Data Processor engaged by Aha!

2. PROCESSING OF PERSONAL DATA

2.1 Roles of the Parties. The parties acknowledge and agree that with regard to the Processing of Personal Data, Customer is the Data Controller, Aha! is a Data Processor and that Aha! will engage Sub-processors pursuant to the requirements set forth in Section 4 (Sub-Processors) below.

2.2 Customer's Processing of Personal Data. Customer shall, in its use of the Service, Process Personal Data in accordance with the requirements of Data Protection Laws and Regulations. For the avoidance of doubt, Customer's instructions for the Processing of Personal Data shall comply with Data Protection Laws and Regulations. Customer shall have sole responsibility for the accuracy, quality, and legality of Personal Data, and the means by which Customer acquired Personal Data. Customer shall ensure that the Customer is entitled to transfer the relevant Personal Data to Aha! so that Aha! and its Sub-processors may lawfully use, process, and transfer the Personal Data in accordance with this DPA and the Agreement on Customer's behalf. Aha! shall immediately inform Customer if, in its opinion, an instruction infringes Data Protection Laws and Regulations.

2.3 Aha!'s Processing of Personal Data. Aha! shall only Process Personal Data on behalf of and in accordance with Customer's instructions during the Subscription Term and in accordance with Section 7 (Return and Deletion of Personal Data). Aha! shall treat Personal Data as Confidential Information and ensure that persons Processing the Personal Data are subject to an obligation of confidentiality. Customer instructs Aha! to Process Personal Data for the following purposes: (i) Processing in accordance with the Agreement, which includes updating the Service and preventing or addressing service or technical issues; (ii) Processing initiated by Customer's Subscribers in their use of the Service; and (iii) Processing to comply with other reasonable instructions provided by Customer (e.g., via email or support tickets) where such instructions are consistent with the terms of the Agreement.

2.4 Details of the Processing. The subject-matter and duration of Processing of Personal Data by Aha! is as described in Section 2.3 (Aha!'s Processing of Personal Data). The nature and purpose of the Processing, the types of Personal Data, and categories of Data Subjects Processed under this DPA are further specified in Attachment 2 (Description of Processing Activities) to this DPA.

3. RIGHTS OF DATA SUBJECTS

3.1 Correction, Blocking, and Deletion. To the extent Customer, in its use of the Service, does not have the ability to correct, amend, block, or delete Personal Data, as required by Data Protection Laws and Regulations, Aha! shall comply with any commercially reasonable request by Customer to facilitate such actions to the extent Aha! is legally permitted to do so. To the extent legally permitted, Customer shall be responsible for any costs arising from Aha!'s provision of such assistance.

3.2 Data Subject Requests. Aha! shall, to the extent legally permitted, promptly notify Customer if Aha! receives any requests from a Data Subject to exercise the following Data Subject rights: access, rectification, restriction of Processing, erasure ("right to be forgotten"), data portability, objection to the Processing, or to not be subject to an automated individual decision making (each, a "**Data Subject Request**"). Taking into account the nature of the Processing, Aha! shall assist Customer by appropriate technical and organizational measures, insofar as is reasonably possible, for the fulfillment of Customer's obligation to respond to a Data Subject Request under applicable Data Protection Laws and Regulations. In addition, to the extent Customer, in its use of the Service, does not have the ability to address a Data Subject Request, Aha! shall, upon Customer's request, provide commercially reasonable efforts to assist Customer in responding to such Data Subject Request to the extent Aha! is legally permitted to do so and the response to such Data Subject Request is required under applicable Data Protection Laws. To the extent legally permitted, Customer shall be responsible for any costs arising from Aha!'s provision of such assistance, including any fees associated with the provision of additional functionality.

4. SUB-PROCESSORS

4.1 Appointment of Sub-processors. Customer acknowledges and agrees that (a) Aha!'s Affiliates may be retained as Sub-processors and (b) Aha! and Aha!'s Affiliates respectively may engage third-party Sub-processors in connection with the provision of the Service.

4.2 Identification of Current Sub-processors and Notification of New Sub-processors. A current list of Sub-processors (including their country of location) for the Service is published at <https://www.aha.io/legal/subprocessors>. Customers can select the 'Follow' button at that location to subscribe to notifications of new sub-processors for the Service. If Customer subscribes, Aha! shall provide notification of a new Sub-processor(s) before authorizing such new Sub-processor(s) to process Personal Data in connection with the provision of the applicable Service.

4.3 Objection Right for New Sub-processors. Customer may reasonably object to Aha!'s use of a new Sub-processor (e.g., making Personal Data available to the specific Sub-processor may violate applicable Data Protection Laws and Regulations) by notifying Aha! promptly in writing within ten (10) days after receipt of Aha!'s notice in accordance with the mechanism set out in Section 4.2. Such notice from Customer shall explain the reasonable grounds for the objection. Upon receipt of such notice, Aha! will use reasonable efforts to make available to Customer a change in the Service or recommend a commercially reasonable

change to Customer's configuration or use of the Service to avoid processing of Personal Data by the objected-to new Sub-processor without unreasonably burdening Customer. If Aha! is unable to make available such change within a reasonable period of time, which shall not exceed sixty (60) days, Customer may terminate the Account with respect only to that Service which cannot be provided by Aha! without the use of the objected-to new Sub-processor by providing written notice to Aha! Upon such termination, Aha! will refund Customer any prepaid fees covering the remainder of the Subscription Term following the effective date of termination with respect to such terminated Service, without imposing a penalty for such termination on Customer.

4.4 Liability. Aha! shall be liable for the acts and omissions of its Sub-processors to the same extent Aha! would be liable if performing the services of each Sub-processor directly under the terms of this DPA and the Agreement.

5. SECURITY

5.1 Controls for the Protection of Personal Data. Aha! shall maintain a comprehensive information security program that includes administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of Personal Data that are appropriate to (a) the size, scope, and type of Aha!'s business; (b) the amount of resources available to Aha!; (c) the type of information that Aha! will store; and (d) the need for security and confidentiality of such information. Aha! shall regularly monitor compliance with these safeguards. Aha! will not materially decrease the overall security of the Service during a Subscription Term.

5.2 Third-Party Certifications. A current list of the third-party certifications obtained by Aha! is published at <https://www.aha.io/legal/security>. Aha! shall maintain its ISO27001 certification during the Subscription Term. Upon Customer's request, and subject to the confidentiality obligations set forth in the Agreement, Aha! shall make available to Customer (or Customer's independent, third-party auditor) information regarding Aha! compliance with the obligations set forth in this DPA in the form of the summary audit report(s) for its current third-party certifications.

6. PERSONAL DATA INCIDENT MANAGEMENT AND NOTIFICATION

Aha! maintains an incident response plan and procedures as part of its third-party certifications. Aha! shall notify Customer without undue delay (no more than 48 hours) of any breach relating to Personal Data (within the meaning of applicable Data Protection Laws and Regulations) of which Aha! becomes aware and which may require a notification to be made to a supervisory authority or Data Subject under applicable Data Protection Laws and Regulations. Such notification shall include a description of the nature of the breach (including, where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned), likely consequences of the breach, mitigating or remedial measures taken in response to the breach, and a contact point for more information related to the breach. Aha! shall provide commercially reasonable cooperation and assistance in identifying the cause of such breach and take commercially reasonable steps to remediate the cause to the extent the remediation is within Aha!'s control. Except as required by applicable Data Protection Laws and Regulations, the obligations herein shall not apply to incidents that are caused by Customer or Other Services.

7. RETURN AND DELETION OF PERSONAL DATA

Upon termination of the Service for which Aha! is Processing Personal Data, Aha! shall delete all Personal Data in Aha!'s possession and securely destroy such Personal Data unless applicable law prevents it from destroying all or part of Personal Data. Upon Customer's request prior to the aforementioned deletion and subject to the technical limitations of the Service, Aha! shall return all Personal Data in its possession.

8. EUROPEAN-SPECIFIC TERMS

8.1 GDPR. Aha! will Process Personal Data in accordance with the GDPR requirements directly applicable to Aha!'s provisioning of the Service.

8.2 Data Protection Impact Assessment. Upon Customer's request, Aha! shall provide Customer with reasonable cooperation and assistance needed to fulfill Customer's obligation under the GDPR to carry out a data protection impact assessment related to Customer's use of the Service, to the extent Customer does not otherwise have access to the relevant information, and to the extent such information is available to Aha! Aha! shall provide reasonable assistance to Customer in the cooperation or prior consultation with the supervisory authority, to the extent required under the GDPR.

8.3 Transfer Mechanisms. As of the effective date of this DPA, Aha! self-certifies to and complies with the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks, as administered by the US Department of Commerce. For transfers of Personal Data under this DPA from the European Union, the European Economic Area and/or their member states, the UK, and Switzerland, to countries which do not ensure an adequate level of data protection within the meaning of applicable Data Protection Laws and Regulations of the foregoing territories, to the extent such transfers are subject to such applicable Data Protection Laws and Regulations: (a) Aha!’s EU-U.S. and Swiss-U.S. Privacy Shield Framework self-certifications apply; and (b) The Standard Contractual Clauses set forth in Attachment 3 to this DPA apply, subject to Attachment 1.

9. LEGAL EFFECT

The terms of this DPA will end simultaneously and automatically with the termination of the Agreement, provided however any obligation imposed on Aha! under this DPA in relation to the Processing of Personal Data shall survive any termination or expiration of the Agreement. This DPA is part of and subject to the terms of the Agreement. Customer’s remedies (including those of its Affiliates) with respect to any breach by Aha! of the terms of this Agreement will be subject to any aggregate limitation of liability that applies to the Customer under the Agreement. With regard to the subject matter of this DPA, in the event of inconsistencies between the provisions of this DPA and the Agreement, the provisions of this DPA shall prevail with regard to the parties’ data protection obligations.

IN WITNESS WHEREOF, the parties’ authorized signatories have duly executed this DPA and referenced attachments and appendices:

Customer: _____
(Full Legal Entity Name)

AHA! LABS INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address: _____

Address: 20 Gloria Circle
Menlo Park, CA 94025, USA

Email: _____

Email: support@aha.io

Phone: _____

Phone: +1-650-331-3170

Attachment 1

ADDITIONAL TERMS TO THE STANDARD CONTRACTUAL CLAUSES

- 1. Application of Standard Contractual Clauses.** The Standard Contractual Clauses in Attachment 3 and the additional terms in this Attachment 1 will apply to: (a) the Customer that has executed the DPA; and (b) its Affiliates which are authorized to use the Service pursuant to the Agreement. For the purpose of the Standard Contractual Clauses and this Section 1, the aforementioned entities shall be deemed “**Data Exporter**”. The Standard Contractual Clauses only apply only to Personal Data that is transferred from the European Economic Area (EEA), including the UK and Switzerland, to outside the EEA, either directly or via onward transfer, to any country or recipient: (i) not recognized by the European Commission as providing an adequate level of protection for personal data (as described in the EU Data Protection Directive), and (ii) not covered by a suitable framework recognized by the relevant authorities or courts as providing an adequate level of protection for personal data, including but not limited to Binding Corporate Rules for Processors.
- 2. Processing Instructions.** The DPA and the Agreement are Data Exporter’s complete and final instructions to Data Importer for the Processing of Personal Data. Any additional or alternate instructions must be agreed upon separately. For the purposes of Clause 5(a) of the Standard Contractual Clauses, the following is deemed an instruction by Data Exporter to process Personal Data: (a) Processing in accordance with the Agreement; (b) Processing initiated by Subscribers in their use of the Service; and (c) Processing to comply with other reasonable instructions provided by Data Exporter (e.g., via email or support tickets) where such instructions are consistent with the terms of the Agreement.
- 3. Appointment of new Sub-processors and List of current Sub-processors.** Pursuant to Clause 5(h) of the Standard Contractual Clauses, Data Exporter acknowledges and expressly agrees that (a) Data Importer’s Affiliates may be retained as Sub-processors; and (b) Data Importer and Data Importer’s Affiliates respectively may engage third-party Sub-processors in connection with the provision of the Services. Data Importer shall make available to Data Exporter the current list of Sub-processors in accordance with Section 4.2 of the DPA.
- 4. Notification of New Sub-processors and Objection Right for new Sub-processors.** Pursuant to Clause 5(h) of the Standard Contractual Clauses, Data Exporter acknowledges and expressly agrees that Data Importer may engage new Sub-processors as described in Sections 4.2 and 4.3 of the DPA.
- 5. Copies of Sub-Processor Agreements.** The parties agree that the copies of the Sub-processor agreements that must be sent by Data Importer to Data Exporter pursuant to Clause 5(j) of the Standard Contractual Clauses may have all commercial information, or clauses unrelated to the Standard Contractual Clauses or their equivalent, removed by Data Importer beforehand, and that such copies will be provided by Data Importer only upon reasonable request by Data Exporter.
- 6. Audits.** The parties agree that the audits described in Clause 5(f), Clause 11, and Clause 12(2) of the Standard Contractual Clauses shall be carried out in accordance with the following specifications: Upon Data Exporter’s request, and subject to the confidentiality obligations set forth in the Agreement or otherwise agreed by the parties, Data Importer shall make available to Data Exporter (or Data Exporter’s independent, third-party auditor that is not a competitor of Data Importer) information regarding Data Importer’s compliance with the obligations set forth in the DPA. Data Exporter may contact Data Importer in accordance with the “Notice” provisions of the Agreement to request an audit of the procedures relevant to the protection of Personal Data, no more than once per calendar year during the term of the Agreement. Data Exporter shall reimburse Data Importer for any time expended for any such on-site audit at Data Importer’s then-current professional services rates, which shall be made available to Data Exporter upon request. Before the commencement of any such on-site audit, Data Exporter and Data Importer shall mutually agree upon the scope, timing, and duration of the audit in addition to the reimbursement rate for which Data Exporter shall be responsible. All reimbursement rates shall be reasonable, taking into account the resources expended by Data Importer. Data Exporter shall promptly notify Data Importer with information regarding any non-compliance discovered during the course of an audit.
- 7. Certification of Deletion.** The parties agree that the certification of deletion of Personal Data that is described in Clause 12(1) shall be provided by Data Importer to Data Exporter only upon Data Exporter’s request.
- 8. Conflict.** In the event of any conflict or inconsistency between the DPA and the Standard Contractual Clauses in Attachment 3, the Standard Contractual Clauses shall prevail.

Attachment 2

DESCRIPTION OF PROCESSING ACTIVITIES

Data subjects

Customer may submit personal data to the Service, the extent of which is determined and controlled by Customer and which may include, but is not limited to, personal data relating to the following categories of data subject:

Employees, agents, advisors, contractors and freelancers of Customer who are Subscribers or End-Users of the Service (who are natural persons).

Categories of data

The personal data transferred concern the following categories of data:

Subscriber or End-User names, contact information, and e-mail addresses, solely as required to access and use the Service.

Special categories of data (if appropriate)

The personal data transferred concern the following special categories of data:

None.

Processing operations

The personal data transferred will be processed in accordance with the Agreement and may be subject to the following processing activities:

- Processing necessary to provide, maintain, and update the Service provided to Customer;
- Providing customer and technical support to Customer; and
- Disclosures in accordance with the Agreement, as compelled by law.

Attachment 3

By signing the signature page of the DPA, the parties will be deemed to have signed this Attachment 3.

Standard Contractual Clauses (processors)

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection

The entity identified as “Customer” in the signature block of the DPA

(the **data exporter**)

And

Name of the data importing organization: Aha! Labs Inc.

Address: 20 Gloria Circle, Menlo Park, CA 94025, USA

e-mail: support@aha.io Tel: +1-650-331-3170

(the **data importer**)

each a “party”; together “the parties”,

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

Clause 1

Definitions

For the purposes of the Clauses:

- (a) *'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority'* shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- (b) *'the data exporter'* means the controller who transfers the personal data;
- (c) *'the data importer'* means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;
- (d) *'the subprocessor'* means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;
- (e) *'the applicable data protection law'* means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;
- (f) *'technical and organizational security measures'* means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2

Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

Clause 3

Third-party beneficiary clause

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.
2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.
3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4

Obligations of the data exporter

The data exporter agrees and warrants:

- (a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;
- (b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;
- (c) that the data importer will provide sufficient guarantees in respect of the technical and organizational security measures specified in Appendix 2 to this contract;
- (d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;
- (e) that it will ensure compliance with the security measures;
- (f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;
- (g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;
- (h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;
- (i) that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and
- (j) that it will ensure compliance with Clause 4(a) to (i).

Clause 5

Obligations of the data importer

The data importer agrees and warrants:

- (a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- (b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- (c) that it has implemented the technical and organizational security measures specified in Appendix 2 before processing the personal data transferred;
- (d) that it will promptly notify the data exporter about:

- (i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,
 - (ii) any accidental or unauthorized access, and
 - (iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorized to do so;
- (e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;
 - (f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;
 - (g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;
 - (h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;
 - (i) that the processing services by the subprocessor will be carried out in accordance with Clause 11;
 - (j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

Clause 6

Liability

1. The parties agree that any data subject who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.
2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

Clause 7

Mediation and jurisdiction

1. The data importer agrees that if the data subject invokes against its third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:
 - (a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;
 - (b) to refer the dispute to the courts in the Member State in which the data exporter is established.
2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8

Cooperation with supervisory authorities

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.
2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.
3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

Clause 9

Governing Law

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

Clause 10

Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business-related issues where required as long as they do not contradict the Clause.

Clause 11

Subprocessing

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. Where the subprocessor fails to fulfill its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.
2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.
4. The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5 (j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

Clause 12

Obligation after the termination of personal data processing services

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.
2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

APPENDIX 1 TO THE STANDARD CONTRACTUAL CLAUSES

This Appendix forms part of the Clauses and must be completed and signed by the parties. By signing the signature page of the DPA, the parties will be deemed to have signed this Appendix 1.

The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix.

Data exporter

The data exporter is (please specify briefly your activities relevant to the transfer):

The data exporter is the legal entity that has executed the Standard Contractual Clauses as a data exporter, which has purchased Service from data importer pursuant to the Agreement.

Data importer

The data importer is (please specify briefly activities relevant to the transfer):

The data importer is the legal entity that has executed the Standard Contractual Clauses as a data importer, which processes personal data upon the instruction of the data exporter in accordance with the terms of the Agreement.

Data subjects

The personal data transferred concern the following categories of data subjects (please specify):

The data exporter may submit personal data to the data importer's Service to the extent determined and controlled by the data exporter, which shall be limited to personal data relating to the following categories of data subjects:

Employees, agents, advisors, contractors and freelancers of the data exporter who are Subscribers or End-Users of the Service (who are natural persons)

Categories of data

The personal data transferred concern the following categories of data (please specify):

The data exporter may submit personal data to the data importer's Services to the extent determined and controlled by the data exporter, which shall be limited to Subscriber or End-User names, contact information and e-mail addresses, solely as required to access and use the Service of the data importer.

Special categories of data (if appropriate)

The personal data transferred concern the following special categories of data (please specify):

None.

Processing operations

The personal data transferred will be subject to the following basic processing activities (please specify):

The objective of Processing of personal data by the data importer is the performance of the Service pursuant to the Agreement in place between the data exporter and the data importer.

APPENDIX 2 TO THE STANDARD CONTRACTUAL CLAUSES

This Appendix forms part of the Clauses and must be completed and signed by the parties. By signing the signature page of the DPA, the parties will be deemed to have signed this Appendix 2.

Description of the technical and organizational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

The technical and organizational security measures implemented by the data importer are as described in the DPA.