Data Protection Addendum

This Data Protection Addendum ("DPA") forms part of the Order Form including its appendices and/or the SaaS Agreement (as the case may be, and as executed between inFeedo/Company and its Customer (as stated in the Main Agreement), who has been defined in the relevant executed document) ("Master Agreement" or "Agreement') and is subject to the terms and conditions of the Master Agreement. Terms not defined herein shall have the meaning set forth in the Master Agreement. In the event of a conflict between the Master Agreement and this DPA, with respect to Data Protection, this DPA shall prevail.

This DPA to the Master Agreement including its appendices will, as from the amendment Effective Date (as defined below), be effective and replace any previously applicable data privacy provisions or any terms previously applicable to privacy, data processing and/or data security.

Except as modified below, the terms of the Master Agreement shall remain in full force and effect.

In consideration of the mutual obligations set out herein, the parties hereby agree that the terms and conditions set out below shall be added as an Addendum to the Master Agreement. Except where the context requires otherwise, references in this Addendum to the Master Agreement are to the Master Agreement as amended by, and including, this Addendum.

1. Introduction

This DPA reflects the parties' agreement with respect to the terms governing the processing and security of Customer Personal Data under the applicable Master Agreement.

2. Definitions

2.1. Capitalized terms used but not defined in this DPA have the meanings given elsewhere in the applicable Master Agreement. In this DPA, unless stated otherwise:

"Addendum Effective Date" means the date on which Customer clicked to accept or the parties otherwise agreed to this Data Protection Addendum in respect of the applicable Agreement

"Customer Data" means data submitted, stored, sent or received via for the provision of Services by Customer, its Affiliates.

"Customer Personal Data" means personal data contained within the Customer Data and as otherwise defined in GDPR.

"Data Incident" means a breach of Processor's security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Customer Data on systems managed by or otherwise controlled by Processor. "Data Incidents" will not include unsuccessful attempts or activities that do not compromise the security of Customer Data, including unsuccessful log-in attempts, pings, port scans, denial of service attacks, and other network attacks on firewalls or networked systems.

"DPA" means this Data Protection Agreement.

“EEA” means the European Economic Area.

"European Union Data Protection Legislation" means the EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR;

“Security Incident” means a breach of data security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Customer Data on systems managed by or otherwise controlled by the Company. “Security Incidents” will not include unsuccessful attempts or activities that do not compromise the security of Customer Data, including unsuccessful log-in attempts, pings, port scans, denial of service attacks, and other network attacks on firewalls or networked systems.

“GDPR” means 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.

“Information Security Obligations” means commercially reasonable and appropriate physical, technical and organisational security measures, including those set forth in the Agreement, along with its Schedules and Appendix 2 to the Standard Contractual Clauses of Appendix 2.

“Model Contract Clauses” means the standard data protection clauses set out in Annexure 2 for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection, as described in Article 46 of the GDPR.

“Non-European Data Protection Legislation” means data protection or privacy legislation other than the European Data Protection Legislation.

"Personal Data" means any information relating to an identified or identifiable natural person (or, to the extent that Data Privacy Laws apply to information about legal persons, an identified or identifiable legal person) or as otherwise defined in Data Privacy Laws.

“Process” means any operation, or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, access, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction. "Processes" and “Processing” shall be construed accordingly. Processing includes sub-Processing.

“Sub-processors” means third parties authorized under this DPA to have logical access to and process Customer Data in order to provide parts of the Services and related technical support.

“Term” means the period from the Addendum Effective Date until the end of Company’s provision of the Services under the applicable Master Agreement, including, if applicable, any period during which provision of the Services may be suspended and any post-termination period during which the Company may continue providing the Services for transitional purposes.

2.2. The terms “personal data”, “data subject”, “processing”, “controller”, “processor” and “supervisory authority” as used in this DPA have the meanings given in the GDPR, and the terms “data importer” and “data exporter” have the meanings given in the Model Contract Clauses, in each case irrespective of whether the European Data Protection Legislation or Non-European Data Protection Legislation applies.

3. Duration of DPA

This DPA will take effect on the Effective Date and, notwithstanding the expiry of the Term, remain in effect until, and automatically expire upon, deletion of all Customer Data by Company as described in this DPA or as otherwise agreed between the parties.

4. Scope of Data Protection Legislation.

4.1 Application of European Data Protection Laws. The parties acknowledge and agree that, in respect of the Services provided by the Company under the Master Agreement, the European Union Data Protection Legislation will apply to the processing of Customer Personal Data if:

(a) the processing is carried out in the context of the activities of an establishment of Customer in the territory of the EEA; and/or
(b) the Customer Personal Data is personal data relating to data subjects who are in the EEA and the processing relates to the offering to them of goods or services in the EEA or the monitoring of their behaviour in the EEA.

4.2 Application of Non- European Data Protection. The parties acknowledge that while Non-European Data Protection Legislation may also apply to the processing of Customer Personal Data the parties agree to comply with their respective obligations under the GDPR.

4.3 Application of this DPA. Except to the extent this DPA states otherwise or as required by law, the terms of this DPA will apply irrespective of whether the European Data Protection Legislation or Non-European Data Protection Legislation applies to the processing of Customer Personal Data.

5. Processing of Data.
5.1 Roles and Regulatory Compliance; Authorization.

5.1.1. The parties acknowledge and agree that with regard to the Processing of Personal Data in respect of the Services under the Master Agreement, the Customer is the Controller, Company is the Processor.

5.1.2. Controller and Processor Responsibilities. In the event the European Data Protection Legislation applies to the processing of Customer Personal Data, the parties acknowledge and agree that:

(a) the subject matter and details of the processing are described in **Annexure 1** to this DPA;

(b) each party will comply with the obligations applicable to it under the European Data Protection Legislation with respect to the processing of that Customer Personal Data.

5.1.3. Customer's Processing of Personal Data. Company shall in its use of the Services Process Personal Data in accordance with, and to the extent required by, the requirements of European Data Protection Legislation. For the avoidance of doubt, Customer's instructions for the Processing of Personal Data shall comply with the European Data Protection Legislation. Customer shall have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which Customer acquired Personal Data.

5.2 Scope of Processing

5.2.1 **Customer's Instructions**. By entering into this DPA, Customer instructs the Company to process Customer Personal Data only in accordance with the European Data Protection Legislation:

(a) to provide the Services;
(b) as further specified via Customer's use of the Services (including various functionality of the Services);
(c) as documented in the form of the applicable Master Agreement, including this DPA; and
(d) as further documented in any written instructions given by Customer and acknowledged by Company as constituting instructions for purposes of this DPA.

5.2.2. **Company's Compliance with Instructions**. Company will comply with the Customer's Instructions (including with regard to data transfers) as specified under Clause 5.2.1.

The Parties hereto understand and agree that the Software and the services provided herein do not fall in the category of "automated decisions". For purposes hereof "automated decision" shall mean a decision by the Controller which produces legal effects concerning a data subject or significantly affects a data subject and which is based solely on automated processing of personal data intended to evaluate certain personal aspects relating to him, such as his performance at work, creditworthiness, reliability, conduct, etc.

6. Data Deletion.
6.1. Deletion During Term
Company will enable Customer (by way of informing the Company) to delete Customer Data during the applicable Term in a manner consistent with the functionality of the Services. If Customer uses the Services to delete any Customer Data during the applicable Term and the Customer Data cannot be recovered by Customer, this will be deemed to constitute an instruction to Company to delete the relevant Customer Data from its systems in accordance with European Data Protection Legislation. Company will comply with this instruction as soon as reasonably practicable and within a maximum period of 180 days, unless Customer requires storage for a longer period and Customer informs Company of that requirement in writing within 30 days of Company's receipt of any instructions to delete Customer Data.

6.2. Deletion on Term Expiry

Subject to Clause 6.3 (Deferred Deletion Instruction) below, on expiry of the applicable Term Customer instructs Company to delete all Customer Data (including existing copies) from Company's systems in accordance with European Data Protection Legislation. Company will comply with this instruction as soon as reasonably practicable and within a maximum period of 180 days, unless Customer requires storage for a longer period and Customer informs Company of that requirement in writing within 30 days of Company's receipt of any instructions to delete Customer Data. Without prejudice to Section 9.1 (Access; Rectification; Restricted Processing; Portability), Customer acknowledges and agrees that Customer will be responsible for exporting, before the applicable Term expires, any Customer Data it wishes to retain post deletion.

6.3. Deferred Deletion Instruction**.** To the extent any Customer Data covered by the deletion instruction described in Section 6.2 (Deletion on Term Expiry) is also processed, when the applicable Term under Section 6.2 expires, in relation to an Agreement with an extended term, such deletion instruction will only take effect with respect to such Customer Data when the extended term expires. For clarity, this DPA will continue to apply to such Customer Data until its deletion by the Company.

7. Data Security.
7.1. Company's Security Measures, Controls and Assistance.

7.1.1. Company's Security Measures. Company will implement and maintain adequate technical and organizational measures to protect Customer Data against accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access as required by the European Data Protection Legislation and described in **Appendix 2** (the "Security Measures"). As described in Appendix 2, the Security Measures include measures to protect and encrypt personal data; to help ensure ongoing confidentiality, integrity and

availability of Company's systems and services; to help restore timely access to personal data following an incident; and for regular testing of effectiveness. Company may update or modify the Security Measures from time to time.

7.1.2. Security Compliance by Company Personnel. Company will take appropriate steps to ensure compliance with the Security Measures by its employees, contractors and Sub-processors to the extent applicable to their scope of performance under the applicable Master Agreement. The Company also agrees to ensure that all persons authorized to process Customer Personal Data have committed themselves to confidentiality and have executed appropriate documentation to maintain confidentiality.

7.1.3. Additional Controls. In addition to the Security Measures, Company will make Additional Controls available to: (a) allow Customer to take steps to secure Customer Data; and (b) provide Customer with information about securing, accessing and using Customer Data. Further, Company will (taking into account the nature of the processing of Customer Personal Data and the information available to Company) assist Customer in ensuring compliance with any of Customer's obligations in respect to security of personal data and data breaches.

7.2. Data Security Incidents.

7.2.1. Incident Notification. If Company becomes aware of a Data Incident, Company will: (a) notify Customer of the Data Incident promptly and without undue delay; and (b) promptly take reasonable steps to minimize harm and secure Customer Data.

7.2.2. Details of Data Incident. Data Incident Notifications will describe, to the extent possible, details of the Data Incident, including steps taken to mitigate the potential risks and steps Company recommends Customer take to address the Data Incident.

7.2.3. Delivery of Notification. Notification(s) of any Data Incident(s) will be delivered to the Notification Email Address or, at the Company's discretion, by direct communication (for example, by a phone call). Customer is solely responsible for ensuring that the Notification Email Address is current and valid.

7.2.4. No Acknowledgment of Fault by Company. Company's notification of or response to a Data Incident under this Section 7.2 (Data Incidents) will not be construed as an acknowledgement by Company of any fault or liability with respect to the Data Incident.

7.3. Customer's Security Responsibilities and Assessment.

7.3.1. Customer's Security Responsibilities. Customer agrees that, without prejudice to the Company's obligations under Section 7.1 (Company's Security Measures and Controls) and Section 7.2 (Data Incidents):

(a) Customer is solely responsible for its use of the Services, including:

(i) making appropriate use of the Services and the Additional Controls to ensure a level of security appropriate to the risk in respect of the Customer Data;

(ii) securing the account authentication credentials, systems and devices Customer uses to access the Services; and

(iii) backing up its Customer Data; and

(b) Company has no obligation to protect Customer Data that Customer elects to store or transfer outside of Company's and its Sub-processors' systems.

7.3.2. Customer's Security Assessment.

(a) Customer is solely responsible for reviewing the Security Documentation and evaluating for itself whether the Services, the Security Measures, the Additional Controls and Company's commitments under this Section 7 (Data Security) will meet Customer's needs, including with respect to any security obligations of Customer under the European Data Protection Legislation.

(b) Customer acknowledges and agrees that (taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing of Customer Personal Data as well as the risks to individuals) the Security Measures implemented and maintained by Company as set out in Section 7.1.1 (Company's Security Measures) provide a level of security appropriate to the risk in respect of the Customer Data.

7.4. Security Certifications and Reports**.** Company will do the following to evaluate and help ensure the continued effectiveness of the Security Measures:

(a) update the SOC 2 Report at least once every 18 months.

7.5. Reviews and Audits of Compliance.

7.5.1. Reviews of Security Documentation. In addition to the information contained in the applicable Master Agreement including this DPA, Company will make available for review by Customer the following documents and information to demonstrate compliance by the Company with its obligations under this DPA:

(a) the then-current SOC 2 Report, following a request by Customer in accordance with Section 7.5.3(a).

7.5.2. Customer's Audit Rights.

(a) If the European Data Protection Legislation applies to the processing of Customer Personal Data, Company will allow Customer at the Customer's own expense or an independent auditor appointed by Customer at the Customer's own expense to conduct audits (including inspections) to verify Company's compliance with its obligations under this DPA, only limited to Customer's information. Company will contribute to such audits as described in Section 7.4 (Security Certifications and Reports) and this Section 7.5 (Reviews and Audits of Compliance).

(b) If Customer has entered into Model Contract Clauses as described in Section 10.2 (Transfers of Data Out of the EEA), Company will, without prejudice to any audit rights of a supervisory authority under such Model Contract Clauses, allow Customer or an independent auditor appointed by Customer to conduct audits as described in the Model Contract Clauses, at Customer's own expense, and only limited to Customer's Data.

(c) Customer may also conduct an audit to verify Company's compliance with its obligations under this DPA by reviewing the Security Documentation (which reflects the outcome of audits conducted by the Company's Third Party Auditor).

8. Impact Assessments and Consultations.

Customer agrees that Company will (taking into account the nature of the processing and the information available to Company) assist Customer in ensuring compliance with any obligations of Customer in respect of data protection impact assessments and prior consultation, including if applicable Customer's obligations pursuant to Articles 35 and 36 of the GDPR, by:

(a) providing the Additional Controls in accordance with Section 7.1.3 (Additional Controls) and the Security Documentation in accordance with Section 7.5.1 (Reviews of Security Documentation); and

(b) providing the information contained in the applicable Master Agreement including this DPA.

9. Data Subject Rights; Data Export.

9.1. Access; Rectification; Restricted Processing; Portability. During the applicable Term, the Company will, in a manner consistent with the functionality of the Services, enable Customer to access, rectify and restrict processing of Customer Data, including via the deletion functionality provided by Company as described in Section 6.1 (Deletion During Term), and to export Customer Data.

9.2. Data Subject Requests.

9.2.1. Customer's Responsibility for Requests. During the applicable Term, if Company receives any request from a data subject in relation to Customer Personal Data, Company will advise the data subject to submit his/her request to Customer, and the Customer will be responsible for responding to any such request including, where necessary, by using the functionality of the Services.

9.2.2. Company's Data Subject Request Assistance. Customer agrees that (taking into account the nature of the processing of Customer Personal Data) Company will assist Customer in fulfilling any obligation to respond to requests by data subjects, including if applicable Customer's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of the GDPR, by:

(a) providing the Additional Controls in accordance with Section 7.1.3 (Additional Controls); and

(b) complying with the commitments set out in Section 9.1 (Access; Rectification; Restricted Processing; Portability) and Section 9.2.1 (Customer's Responsibility for Requests).

10. Data Transfers.
10.1. Data Storage and Processing Facilities

Customer agrees that Company may, subject to Section 10.2 (Transfers of Data Out of the EEA), store and process Customer Data countries in which Company or any of its Sub-processors maintains facilities. For the purposes of this Addendum and the Master Agreement, the Customer understands and agrees that the Company maintains its servers in one of the AWS facilities as follows:

1. Virginia, United States of America.
2. Mumbai, India
3. Dublin, Ireland.

10.2. Transfers of Data Out of the EEA.

10.2.1. Company's Transfer Obligations. If the storage and/or processing of Customer Personal Data (as set out in Section 10.1 (Data Storage and Processing Facilities)) involves transfers of Customer Personal Data outside of the EEA and if the European Data Protection Legislation applies to the transfers of such data, Company will, if requested to do so by Customer, ensure that Company as the data importer of the transferred Personal Data enters into Model Contract Clauses with Customer as the data exporter of such data, and that the transfers are made in accordance with such Model Contract Clauses as set out as Annexure II herewith.

10.2.2 Customer's Transfer Obligations. In respect of transferred Personal Data, Customer agrees that if under the European Data Protection Legislation Company reasonably requires Customer to enter into Model Contract Clauses in respect of such transfers, Customer will do so.

10.3. Data Center Information

Information about the locations of Company data centers is available on request.

10.4. Disclosure of Confidential Information Containing Personal Data

If Customer has entered into Model Contract Clauses as described in Section 10.2 (Transfers of Data Out of the EEA), Company will, notwithstanding any term to the contrary in the applicable Master Agreement, ensure that any disclosure of Customer's Confidential Information containing personal data, and any notifications relating to any such disclosures will be made in accordance with such Model Contract Clauses.

11. Sub-processors.
11.1. Consent to Sub Processor Engagement

Customer specifically authorizes the engagement of Company's Affiliates as Sub-processors. In addition, Customer generally authorizes the engagement of any other third parties as Sub processors ("**Third Party Sub processors**"). If Customer has entered into Model Contract Clauses as described in Section 10.2 (Transfers of Data Out of the EEA), the above authorizations will constitute Customer's prior written consent to the subcontracting by Company of the processing of Customer Data if such consent is required under the Model Contract Clauses.

11.2. Information about Sub processors

Information about Sub processors, including their roles and locations, is available on request.

11.3. Requirements for Sub Processor Engagement

When engaging any Sub processor, Company will:

(a) ensure via a written contract that:

(i) the Sub processor only accesses and uses Customer Data to the extent required to perform the obligations subcontracted to it, and does so in accordance with the applicable Master Agreement (including this DPA) and any Model Contract Clauses entered into by Company as described in Section 10.2 (Transfers of Data Out of the EEA); and

(ii) if the GDPR applies to the processing of Customer Personal Data, the data protection obligations set out in Article 28(3) of the GDPR, as described in this Data Processing Amendment, are imposed on the Sub processor; and

(b) remain fully liable for all obligations subcontracted to, and all acts and omissions of the Sub processor.

11.4. Opportunity to Object to Sub Processor Changes.

(a) When any new Third Party Sub processor is engaged during the applicable Term, the Company will, at least 10 days before the new Third Party Sub processor processes any Customer Data, inform Customer of the engagement (including the name and location of the relevant sub processor and the activities it will perform) either by sending an email to the Notification Email Address.

(b) Customer may object to any new Third Party Sub processor by terminating the applicable Master Agreement immediately upon written notice to Company, on condition that Customer provides such notice within 30 days of being informed of the engagement of the sub processor as described in Section 11.4(a). This termination right is Customer's sole and exclusive remedy if Customer objects to any new Third Party Sub processor.

12. Tracking Technologies.

Company acknowledges that in connection with the performance of the Services, Company employs the use of cookies, unique identifiers, web beacons and similar tracking technologies ("Tracking Technologies"). Company shall maintain appropriate notice, consent, opt-in and opt-out mechanisms as are required by applicable Data Protection Laws to enable the Company to deploy Tracking Technologies lawfully and collect data from the devices of end users in accordance with and as described in the Company's Cookie Statement.

13. General Terms
13.1 Governing law and jurisdiction

Without prejudice to clause 7 (Mediation and Jurisdiction) and 9 (Governing Law) of the Standard Contractual Clauses:

13.1.1. the parties to this DPA hereby submit to the choice of jurisdiction stipulated in the Master Agreement with respect to any disputes or claims howsoever arising under this DPA, including disputes regarding its existence, validity or termination or the consequences of its nullity; and

13.1.2. this DPA and all non-contractual or other obligations arising out of or in connection with it are governed by the laws of the country or territory stipulated for this purpose in the Master Agreement.

13.2 Changes in Data Protection Laws.

Company may propose any other variations to this DPA which Company reasonably considers to be necessary to address the requirements of any change in the Data Protection Law.

IN WITNESS WHEREOF, this DPA is entered into and becomes a binding part of the Master Agreement with effect from the date first set out above.

ANNEXURE 1

DETAILS OF PROCESSING OF CUSTOMER PERSONAL DATA

This Annex 1 includes certain details of the Processing of Customer Personal Data as required by Article 28(3) GDPR.

Subject Matter
The subject matter and duration of the processing of Your Personal Data are set out in the Agreement

Duration of Processing
Company will Process Personal Data for the duration of the Master Agreement, unless otherwise agreed upon in writing

Nature and purpose of the processing
Company will process Personal Data for the purposes of providing the Services to Customer in accordance with the Master Agreement.

Type of personal data and categories of data subject to be processed;

- Data relating to individuals provided to Company via the Services, by (or at the direction of) the Customer or by the Customer's End Users.
- Data subjects include the individuals about whom data is provided to Company via the Services.

Categories of Data to whom the Company Personal Data relates
Customer may submit Personal Data to the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:

- First and Last name
- Contact information (Company, Job Title, email, phone, physical address)
- IP Address

The obligations and rights of Company and Company Affiliates
The obligations and rights of Company and Company's Affiliates are set out in the Master Agreement and this Addendum.

ANNEXURE II

STANDARD CONTRACTUAL CLAUSES

SECTION I

Clause 1

Purpose and scope

(a) The purpose of these standard contractual clauses is to ensure compliance with the requirements of 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 (General Data Protection Regulation)[1] for the transfer of personal data to a third country.

(b) The Parties:

(i) the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter "entity/ies") transferring the personal data, as listed in Annex I.A. (hereinafter each "data exporter"), and

(ii) the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A. (hereinafter each "data importer")

have agreed to these standard contractual clauses (hereinafter: "Clauses").

(c) These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.

(d) The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

Clause 2

Effect and invariability of the Clauses

(a) These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46 (2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.

---

[1] Where the data exporter is a processor subject to Regulation (EU) 2016/679 acting on behalf of a Union institution or body as controller, reliance on these Clauses when engaging another processor (sub-processing) not subject to Regulation (EU) 2016/679 also ensures compliance with Article 29(4) of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295 of 21.11.2018, p. 39), to the extent these Clauses and the data protection obligations as set out in the contract or other legal act between the controller and the processor pursuant to Article 29(3) of Regulation (EU) 2018/1725 are aligned. This will in particular be the case where the controller and processor rely on the standard contractual clauses included in Decision […].

(b) These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

Clause 3

Third-party beneficiaries

(a) Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:

(i) Clause 1, Clause 2, Clause 3, Clause 6, Clause 7;

(ii) Clause 8 - Module One: Clause 8.5 (e) and Clause 8.9(b); Module Two: Clause 8.1(b), 8.9(a), (c), (d) and (e); Module Three: Clause 8.1(a), (c) and (d) and Clause 8.9(a), (c), (d), (e), (f) and (g); Module Four: Clause 8.1 (b) and Clause 8.3(b);

(iii) Clause 9 - Module Two: Clause 9(a), (c), (d) and (e); Module Three: Clause 9(a), (c), (d) and (e);

(iv) Clause 12 - Module One: Clause 12(a) and (d); Modules Two and Three: Clause 12(a), (d) and (f);

(v) Clause 13;

(vi) Clause 15.1(c), (d) and (e);

(vii) Clause 16(e);

(viii) Clause 18 - Modules One, Two and Three: Clause 18(a) and (b); Module Four: Clause 18.

(b) Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

Clause 4

Interpretation

(a) Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.

(b) These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.

(c) These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

Clause 5

Hierarchy

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

Clause 6

Description of the transfer(s)

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

Clause 7 - Optional

Docking clause

(a) An entity that is not a Party to these Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer, by completing the Appendix and signing Annex I.A.

(b) Once it has completed the Appendix and signed Annex I.A, the acceding entity shall become a Party to these Clauses and have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex I.A.

(c) The acceding entity shall have no rights or obligations arising under these Clauses from the period prior to becoming a Party.

SECTION II – OBLIGATIONS OF THE PARTIES

Clause 8

Data protection safeguards

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

MODULE ONE: Transfer controller to controller

8.1 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B. It may only process the personal data for another purpose:

(i) where it has obtained the data subject's prior consent;

(ii) where necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or

(iii) where necessary in order to protect the vital interests of the data subject or of another natural person.

8.2 Transparency

(a) In order to enable data subjects to effectively exercise their rights pursuant to Clause 10, the data importer shall inform them, either directly or through the data exporter:

(i) of its identity and contact details;

(ii) of the categories of personal data processed;

(iii) of the right to obtain a copy of these Clauses;

(iv) where it intends to onward transfer the personal data to any third party/ies, of the recipient or categories of recipients (as appropriate with a view to providing meaningful information), the purpose of such onward transfer and the ground therefore pursuant to Clause 8.7.

(b) Paragraph (a) shall not apply where the data subject already has the information, including when such information has already been provided by the data exporter, or providing the information proves impossible or would involve a disproportionate effort for the data importer. In

the latter case, the data importer shall, to the extent possible, make the information publicly available.

(c) On request, the Parties shall make a copy of these Clauses, including the Appendix as completed by them, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including personal data, the Parties may redact part of the text of the Appendix prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information.

(d) Paragraphs (a) to (c) are without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

8.3 Accuracy and data minimisation

(a) Each Party shall ensure that the personal data is accurate and, where necessary, kept up to date. The data importer shall take every reasonable step to ensure that personal data that is inaccurate, having regard to the purpose(s) of processing, is erased or rectified without delay.

(b) If one of the Parties becomes aware that the personal data it has transferred or received is inaccurate, or has become outdated, it shall inform the other Party without undue delay.

(c) The data importer shall ensure that the personal data is adequate, relevant and limited to what is necessary in relation to the purpose(s) of processing.

8.4 Storage limitation

The data importer shall retain the personal data for no longer than necessary for the purpose(s) for which it is processed. It shall put in place appropriate technical or organisational measures to ensure compliance with this obligation, including erasure or anonymisation[2] of the data and all back-ups at the end of the retention period.

8.5 Security of processing

(a) The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the personal data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (hereinafter "personal data breach"). In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subject. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner.

(b) The Parties have agreed on the technical and organisational measures set out in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.

(c) The data importer shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

---

[2] This requires rendering the data anonymous in such a way that the individual is no longer identifiable by anyone, in line with recital 26 of Regulation (EU) 2016/679, and that this process is irreversible.

(d) In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the personal data breach, including measures to mitigate its possible adverse effects.

(e) In case of a personal data breach that is likely to result in a risk to the rights and freedoms of natural persons, the data importer shall without undue delay notify both the data exporter and the competent supervisory authority pursuant to Clause 13. Such notification shall contain i) a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), ii) its likely consequences, iii) the measures taken or proposed to address the breach, and iv) the details of a contact point from whom more information can be obtained. To the extent it is not possible for the data importer to provide all the information at the same time, it may do so in phases without undue further delay.

(f) In case of a personal data breach that is likely to result in a high risk to the rights and freedoms of natural persons, the data importer shall also notify without undue delay the data subjects concerned of the personal data breach and its nature, if necessary in cooperation with the data exporter, together with the information referred to in paragraph (e), points ii) to iv), unless the data importer has implemented measures to significantly reduce the risk to the rights or freedoms of natural persons, or notification would involve disproportionate efforts. In the latter case, the data importer shall instead issue a public communication or take a similar measure to inform the public of the personal data breach.

(g) The data importer shall document all relevant facts relating to the personal data breach, including its effects and any remedial action taken, and keep a record thereof.

8.6 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions or offences (hereinafter "sensitive data"), the data importer shall apply specific restrictions and/or additional safeguards adapted to the specific nature of the data and the risks involved. This may include restricting the personnel permitted to access the personal data, additional security measures (such as pseudonymisation) and/or additional restrictions with respect to further disclosure.

8.7 Onward transfers

The data importer shall not disclose the personal data to a third party located outside the European Union[3] (in the same country as the data importer or in another third country, hereinafter "onward transfer") unless the third party is or agrees to be bound by these Clauses, under the appropriate Module. Otherwise, an onward transfer by the data importer may only take place if:

(i) it is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;

(ii) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 of Regulation (EU) 2016/679 with respect to the processing in question;

---

[3] The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purpose of these Clauses.

(iii) the third party enters into a binding instrument with the data importer ensuring the same level of data protection as under these Clauses, and the data importer provides a copy of these safeguards to the data exporter;

(iv) it is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings;

(v) it is necessary in order to protect the vital interests of the data subject or of another natural person; or

(vi) where none of the other conditions apply, the data importer has obtained the explicit consent of the data subject for an onward transfer in a specific situation, after having informed him/her of its purpose(s), the identity of the recipient and the possible risks of such transfer to him/her due to the lack of appropriate data protection safeguards. In this case, the data importer shall inform the data exporter and, at the request of the latter, shall transmit to it a copy of the information provided to the data subject.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

8.8 Processing under the authority of the data importer

The data importer shall ensure that any person acting under its authority, including a processor, processes the data only on its instructions.

8.9 Documentation and compliance

(a) Each Party shall be able to demonstrate compliance with its obligations under these Clauses. In particular, the data importer shall keep appropriate documentation of the processing activities carried out under its responsibility.

(b) The data importer shall make such documentation available to the competent supervisory authority on request.

MODULE TWO: Transfer controller to processor

8.1 Instructions

(a) The data importer shall process the personal data only on documented instructions from the data exporter. The data exporter may give such instructions throughout the duration of the contract.

(b) The data importer shall immediately inform the data exporter if it is unable to follow those instructions.

8.2 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B, unless on further instructions from the data exporter.

8.3 Transparency

On request, the data exporter shall make a copy of these Clauses, including the Appendix as completed by the Parties, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including the measures described in Annex II and personal data, the data exporter may redact part of the text of the Appendix to these Clauses prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand

the its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information. This Clause is without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

8.4 Accuracy

If the data importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the data exporter without undue delay. In this case, the data importer shall cooperate with the data exporter to erase or rectify the data.

8.5 Duration of processing and erasure or return of data

Processing by the data importer shall only take place for the duration specified in Annex I.B. After the end of the provision of the processing services, the data importer shall, at the choice of the data exporter, delete all personal data processed on behalf of the data exporter and certify to the data exporter that it has done so, or return to the data exporter all personal data processed on its behalf and delete existing copies. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit return or deletion of the personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 14, in particular the requirement for the data importer under Clause 14(e) to notify the data exporter throughout the duration of the contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 14(a).

8.6 Security of processing

(a) The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter “personal data breach”). In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter. In complying with its obligations under this paragraph, the data importer shall at least implement the technical and organisational measures specified in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.

(b) The data importer shall grant access to the personal data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

(c) In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. The data importer shall also notify the data exporter without undue delay after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), its likely consequences and the measures taken or proposed to address the breach including, where appropriate, measures to mitigate its

possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

(d) The data importer shall cooperate with and assist the data exporter to enable the data exporter to comply with its obligations under Regulation (EU) 2016/679, in particular to notify the competent supervisory authority and the affected data subjects, taking into account the nature of processing and the information available to the data importer.

8.7 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences (hereinafter "sensitive data"), the data importer shall apply the specific restrictions and/or additional safeguards described in Annex I.B.

8.8 Onward transfers

The data importer shall only disclose the personal data to a third party on documented instructions from the data exporter. In addition, the data may only be disclosed to a third party located outside the European Union[4] (in the same country as the data importer or in another third country, hereinafter "onward transfer") if the third party is or agrees to be bound by these Clauses, under the appropriate Module, or if:

(i) the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;

(ii) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 Regulation of (EU) 2016/679 with respect to the processing in question;

(iii) the onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or

(iv) the onward transfer is necessary in order to protect the vital interests of the data subject or of another natural person.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

8.9 Documentation and compliance

(a) The data importer shall promptly and adequately deal with enquiries from the data exporter that relate to the processing under these Clauses.

(b) The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer shall keep appropriate documentation on the processing activities carried out on behalf of the data exporter.

(c) The data importer shall make available to the data exporter all information necessary to demonstrate compliance with the obligations set out in these Clauses and at the data exporter's request, allow for and contribute to audits of the processing activities covered by these Clauses,

[4] The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purpose of these Clauses.

at reasonable intervals or if there are indications of non-compliance. In deciding on a review or audit, the data exporter may take into account relevant certifications held by the data importer.

(d) The data exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the data importer and shall, where appropriate, be carried out with reasonable notice.

(e) The Parties shall make the information referred to in paragraphs (b) and (c), including the results of any audits, available to the competent supervisory authority on request.

MODULE THREE: Transfer processor to processor

8.1 Instructions

(a) The data exporter has informed the data importer that it acts as processor under the instructions of its controller(s), which the data exporter shall make available to the data importer prior to processing.

(b) The data importer shall process the personal data only on documented instructions from the controller, as communicated to the data importer by the data exporter, and any additional documented instructions from the data exporter. Such additional instructions shall not conflict with the instructions from the controller. The controller or data exporter may give further documented instructions regarding the data processing throughout the duration of the contract.

(c) The data importer shall immediately inform the data exporter if it is unable to follow those instructions. Where the data importer is unable to follow the instructions from the controller, the data exporter shall immediately notify the controller.

(d) The data exporter warrants that it has imposed the same data protection obligations on the data importer as set out in the contract or other legal act under Union or Member State law between the controller and the data exporter[5].

8.2 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B., unless on further instructions from the controller, as communicated to the data importer by the data exporter, or from the data exporter.

8.3 Transparency

On request, the data exporter shall make a copy of these Clauses, including the Appendix as completed by the Parties, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including personal data, the data exporter may redact part of the text of the Appendix prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information.

8.4 Accuracy

If the data importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the data exporter without undue delay. In this case, the data importer shall cooperate with the data exporter to rectify or erase the data.

[5] See Article 28(4) of Regulation (EU) 2016/679 and, where the controller is an EU institution or body, Article 29(4) of Regulation (EU) 2018/1725.

8.5 Duration of processing and erasure or return of data

Processing by the data importer shall only take place for the duration specified in Annex I.B. After the end of the provision of the processing services, the data importer shall, at the choice of the data exporter, delete all personal data processed on behalf of the controller and certify to the data exporter that it has done so, or return to the data exporter all personal data processed on its behalf and delete existing copies. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit return or deletion of the personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 14, in particular the requirement for the data importer under Clause 14(e) to notify the data exporter throughout the duration of the contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 14(a).

8.6 Security of processing

(a) The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter "personal data breach"). In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subject. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter or the controller. In complying with its obligations under this paragraph, the data importer shall at least implement the technical and organisational measures specified in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.

(b) The data importer shall grant access to the data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

(c) In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. The data importer shall also notify, without undue delay, the data exporter and, where appropriate and feasible, the controller after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), its likely consequences and the measures taken or proposed to address the data breach, including measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

(d) The data importer shall cooperate with and assist the data exporter to enable the data exporter to comply with its obligations under Regulation (EU) 2016/679, in particular to notify its controller so that the latter may in turn notify the competent supervisory authority and the affected data subjects, taking into account the nature of processing and the information available to the data importer.

8.7 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences (hereinafter "sensitive data"), the data importer shall apply the specific restrictions and/or additional safeguards set out in Annex I.B.

8.8 Onward transfers

The data importer shall only disclose the personal data to a third party on documented instructions from the controller, as communicated to the data importer by the data exporter. In addition, the data may only be disclosed to a third party located outside the European Union[6] (in the same country as the data importer or in another third country, hereinafter "onward transfer") if the third party is or agrees to be bound by these Clauses, under the appropriate Module, or if:

(i) the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;

(ii) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 of Regulation (EU) 2016/679;

(iii) the onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or

(iv) the onward transfer is necessary in order to protect the vital interests of the data subject or of another natural person.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

8.9 Documentation and compliance

(a) The data importer shall promptly and adequately deal with enquiries from the data exporter or the controller that relate to the processing under these Clauses.

(b) The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer shall keep appropriate documentation on the processing activities carried out on behalf of the controller.

(c) The data importer shall make all information necessary to demonstrate compliance with the obligations set out in these Clauses available to the data exporter, which shall provide it to the controller.

(d) The data importer shall allow for and contribute to audits by the data exporter of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non-compliance. The same shall apply where the data exporter requests an audit on instructions of the controller. In deciding on an audit, the data exporter may take into account relevant certifications held by the data importer.

(e) Where the audit is carried out on the instructions of the controller, the data exporter shall make the results available to the controller.

---

[6] The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purposes of these Clauses.

(f) The data exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the data importer and shall, where appropriate, be carried out with reasonable notice.

(g) The Parties shall make the information referred to in paragraphs (b) and (c), including the results of any audits, available to the competent supervisory authority on request.

MODULE FOUR: Transfer processor to controller

8.1 Instructions

(a) The data exporter shall process the personal data only on documented instructions from the data importer acting as its controller.

(b) The data exporter shall immediately inform the data importer if it is unable to follow those instructions, including if such instructions infringe Regulation (EU) 2016/679 or other Union or Member State data protection law.

(c) The data importer shall refrain from any action that would prevent the data exporter from fulfilling its obligations under Regulation (EU) 2016/679, including in the context of sub-processing or as regards cooperation with competent supervisory authorities.

(d) After the end of the provision of the processing services, the data exporter shall, at the choice of the data importer, delete all personal data processed on behalf of the data importer and certify to the data importer that it has done so, or return to the data importer all personal data processed on its behalf and delete existing copies.

8.2 Security of processing

(a) The Parties shall implement appropriate technical and organisational measures to ensure the security of the data, including during transmission, and protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (hereinafter "personal data breach"). In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the nature of the personal data[7], the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects, and in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner.

(b) The data exporter shall assist the data importer in ensuring appropriate security of the data in accordance with paragraph (a). In case of a personal data breach concerning the personal data processed by the data exporter under these Clauses, the data exporter shall notify the data importer without undue delay after becoming aware of it and assist the data importer in addressing the breach.

(c) The data exporter shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

8.3 Documentation and compliance

(a) The Parties shall be able to demonstrate compliance with these Clauses.

---

[7] This includes whether the transfer and further processing involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions or offences.

(b) The data exporter shall make available to the data importer all information necessary to demonstrate compliance with its obligations under these Clauses and allow for and contribute to audits.

Clause 9

Use of sub-processors

MODULE TWO: Transfer controller to processor

(a) OPTION 1: SPECIFIC PRIOR AUTHORISATION The data importer shall not sub-contract any of its processing activities performed on behalf of the data exporter under these Clauses to a sub-processor without the data exporter's prior specific written authorisation. The data importer shall submit the request for specific authorisation at least [*Specify time period*] prior to the engagement of the sub-processor, together with the information necessary to enable the data exporter to decide on the authorisation. The list of sub-processors already authorised by the data exporter can be found in Annex III. The Parties shall keep Annex III up to date.

OPTION 2: GENERAL WRITTEN AUTHORISATION The data importer has the data exporter's general authorisation for the engagement of sub-processor(s) from an agreed list. The data importer shall specifically inform the data exporter in writing of any intended changes to that list through the addition or replacement of sub-processors at least [*Specify time period*] in advance, thereby giving the data exporter sufficient time to be able to object to such changes prior to the engagement of the sub-processor(s). The data importer shall provide the data exporter with the information necessary to enable the data exporter to exercise its right to object.

(b) Where the data importer engages a sub-processor to carry out specific processing activities (on behalf of the data exporter), it shall do so by way of a written contract that provides for, in substance, the same data protection obligations as those binding the data importer under these Clauses, including in terms of third-party beneficiary rights for data subjects.[8] The Parties agree that, by complying with this Clause, the data importer fulfils its obligations under Clause 8.8. The data importer shall ensure that the sub-processor complies with the obligations to which the data importer is subject pursuant to these Clauses.

(c) The data importer shall provide, at the data exporter's request, a copy of such a sub-processor agreement and any subsequent amendments to the data exporter. To the extent necessary to protect business secrets or other confidential information, including personal data, the data importer may redact the text of the agreement prior to sharing a copy.

(d) The data importer shall remain fully responsible to the data exporter for the performance of the sub-processor's obligations under its contract with the data importer. The data importer shall notify the data exporter of any failure by the sub-processor to fulfil its obligations under that contract.

(e) The data importer shall agree a third-party beneficiary clause with the sub-processor whereby - in the event the data importer has factually disappeared, ceased to exist in law or has become insolvent - the data exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

MODULE THREE: Transfer processor to processor

(a) OPTION 1: SPECIFIC PRIOR AUTHORISATION The data importer shall not sub-contract any of its processing activities performed on behalf of the data exporter under these Clauses to a sub-processor without the prior specific written authorisation of the controller. The data importer

[8] This requirement may be satisfied by the sub-processor acceding to these Clauses under the appropriate Module, in accordance with Clause 7.

shall submit the request for specific authorisation at least [*Specify time period*] prior to the engagement of the sub-processor, together with the information necessary to enable the controller to decide on the authorisation. It shall inform the data exporter of such engagement. The list of sub-processors already authorised by the controller can be found in Annex III. The Parties shall keep Annex III up to date.

OPTION 2: GENERAL WRITTEN AUTHORISATION The data importer has the controller's general authorisation for the engagement of sub-processor(s) from an agreed list. The data importer shall specifically inform the controller in writing of any intended changes to that list through the addition or replacement of sub-processors at least [*Specify time period*] in advance, thereby giving the controller sufficient time to be able to object to such changes prior to the engagement of the sub-processor(s). The data importer shall provide the controller with the information necessary to enable the controller to exercise its right to object. The data importer shall inform the data exporter of the engagement of the sub-processor(s).

(b) Where the data importer engages a sub-processor to carry out specific processing activities (on behalf of the controller), it shall do so by way of a written contract that provides for, in substance, the same data protection obligations as those binding the data importer under these Clauses, including in terms of third-party beneficiary rights for data subjects.[9] The Parties agree that, by complying with this Clause, the data importer fulfils its obligations under Clause 8.8. The data importer shall ensure that the sub-processor complies with the obligations to which the data importer is subject pursuant to these Clauses.

(c) The data importer shall provide, at the data exporter's or controller's request, a copy of such a sub-processor agreement and any subsequent amendments. To the extent necessary to protect business secrets or other confidential information, including personal data, the data importer may redact the text of the agreement prior to sharing a copy.

(d) The data importer shall remain fully responsible to the data exporter for the performance of the sub-processor's obligations under its contract with the data importer. The data importer shall notify the data exporter of any failure by the sub-processor to fulfil its obligations under that contract.

(e) The data importer shall agree a third-party beneficiary clause with the sub-processor whereby - in the event the data importer has factually disappeared, ceased to exist in law or has become insolvent - the data exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

Clause 10

Data subject rights

MODULE ONE: Transfer controller to controller

(a) The data importer, where relevant with the assistance of the data exporter, shall deal with any enquiries and requests it receives from a data subject relating to the processing of his/her personal data and the exercise of his/her rights under these Clauses without undue delay and at the latest within one month of the receipt of the enquiry or request.[10] The data importer shall take appropriate measures to facilitate such enquiries, requests and the exercise of data subject rights. Any information provided to the data subject shall be in an intelligible and easily accessible form, using clear and plain language.

[9] This requirement may be satisfied by the sub-processor acceding to these Clauses under the appropriate Module, in accordance with Clause 7.

[10] That period may be extended by a maximum of two more months, to the extent necessary taking into account the complexity and number of requests. The data importer shall duly and promptly inform the data subject of any such extension.

(b) In particular, upon request by the data subject the data importer shall, free of charge :

(i) provide confirmation to the data subject as to whether personal data concerning him/her is being processed and, where this is the case, a copy of the data relating to him/her and the information in Annex I; if personal data has been or will be onward transferred, provide information on recipients or categories of recipients (as appropriate with a view to providing meaningful information) to which the personal data has been or will be onward transferred, the purpose of such onward transfers and their ground pursuant to Clause 8.7; and provide information on the right to lodge a complaint with a supervisory authority in accordance with Clause 12(c)(i);

(ii) rectify inaccurate or incomplete data concerning the data subject;

(iii) erase personal data concerning the data subject if such data is being or has been processed in violation of any of these Clauses ensuring third-party beneficiary rights, or if the data subject withdraws the consent on which the processing is based.

(c) Where the data importer processes the personal data for direct marketing purposes, it shall cease processing for such purposes if the data subject objects to it.

(d) The data importer shall not make a decision based solely on the automated processing of the personal data transferred (hereinafter "automated decision"), which would produce legal effects concerning the data subject or similarly significantly affect him / her, unless with the explicit consent of the data subject or if authorised to do so under the laws of the country of destination, provided that such laws lays down suitable measures to safeguard the data subject's rights and legitimate interests. In this case, the data importer shall, where necessary in cooperation with the data exporter:

(i) inform the data subject about the envisaged automated decision, the envisaged consequences and the logic involved; and

(ii) implement suitable safeguards, at least by enabling the data subject to contest the decision, express his/her point of view and obtain review by a human being.

(e) Where requests from a data subject are excessive, in particular because of their repetitive character, the data importer may either charge a reasonable fee taking into account the administrative costs of granting the request or refuse to act on the request.

(f) The data importer may refuse a data subject's request if such refusal is allowed under the laws of the country of destination and is necessary and proportionate in a democratic society to protect one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679.

(g) If the data importer intends to refuse a data subject's request, it shall inform the data subject of the reasons for the refusal and the possibility of lodging a complaint with the competent supervisory authority and/or seeking judicial redress.

MODULE TWO: Transfer controller to processor

(a) The data importer shall promptly notify the data exporter of any request it has received from a data subject. It shall not respond to that request itself unless it has been authorised to do so by the data exporter.

(b) The data importer shall assist the data exporter in fulfilling its obligations to respond to data subjects' requests for the exercise of their rights under Regulation (EU) 2016/679. In this regard, the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.

(c) In fulfilling its obligations under paragraphs (a) and (b), the data importer shall comply with the instructions from the data exporter.

MODULE THREE: Transfer processor to processor

(a) The data importer shall promptly notify the data exporter and, where appropriate, the controller of any request it has received from a data subject, without responding to that request unless it has been authorised to do so by the controller.

(b) The data importer shall assist, where appropriate in cooperation with the data exporter, the controller in fulfilling its obligations to respond to data subjects' requests for the exercise of their rights under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable. In this regard, the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.

(c) In fulfilling its obligations under paragraphs (a) and (b), the data importer shall comply with the instructions from the controller, as communicated by the data exporter.

MODULE FOUR: Transfer processor to controller

The Parties shall assist each other in responding to enquiries and requests made by data subjects under the local law applicable to the data importer or, for data processing by the data exporter in the EU, under Regulation (EU) 2016/679.

Clause 11

Redress

(a) The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.

[OPTION: The data importer agrees that data subjects may also lodge a complaint with an independent dispute resolution body[11] at no cost to the data subject. It shall inform the data subjects, in the manner set out in paragraph (a), of such redress mechanism and that they are not required to use it, or follow a particular sequence in seeking redress.]

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

(b) In case of a dispute between a data subject and one of the Parties as regards compliance with these Clauses, that Party shall use its best efforts to resolve the issue amicably in a timely fashion. The Parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them.

(c) Where the data subject invokes a third-party beneficiary right pursuant to Clause 3, the data importer shall accept the decision of the data subject to:

(i) lodge a complaint with the supervisory authority in the Member State of his/her habitual residence or place of work, or the competent supervisory authority pursuant to Clause 13;

(ii) refer the dispute to the competent courts within the meaning of Clause 18.

[11] The data importer may offer independent dispute resolution through an arbitration body only if it is established in a country that has ratified the New York Convention on Enforcement of Arbitration Awards.

(d) The Parties accept that the data subject may be represented by a not-for-profit body, organisation or association under the conditions set out in Article 80(1) of Regulation (EU) 2016/679.

(e) The data importer shall abide by a decision that is binding under the applicable EU or Member State law.

(f) The data importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.

Clause 12

Liability

MODULE ONE: Transfer controller to controller

MODULE FOUR: Transfer processor to controller

(a) Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.

(b) Each Party shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages that the Party causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter under Regulation (EU) 2016/679.

(c) Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.

(d) The Parties agree that if one Party is held liable under paragraph (c), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its / their responsibility for the damage.

(e) The data importer may not invoke the conduct of a processor or sub-processor to avoid its own liability.

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

(a) Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.

(b) The data importer shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data importer or its sub-processor causes the data subject by breaching the third-party beneficiary rights under these Clauses.

(c) Notwithstanding paragraph (b), the data exporter shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data exporter or the data importer (or its sub-processor) causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter and, where the data exporter is a processor acting on behalf of a controller, to the liability of the controller under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable.

(d) The Parties agree that if the data exporter is held liable under paragraph (c) for damages caused by the data importer (or its sub-processor), it shall be entitled to claim back from the data importer that part of the compensation corresponding to the data importer's responsibility for the damage.

(e) Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.

(f) The Parties agree that if one Party is held liable under paragraph (e), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its / their responsibility for the damage.

(g) The data importer may not invoke the conduct of a sub-processor to avoid its own liability.

Clause 13

Supervision

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

(a) [Where the data exporter is established in an EU Member State:] The supervisory authority with responsibility for ensuring compliance by the data exporter with Regulation (EU) 2016/679 as regards the data transfer, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) and has appointed a representative pursuant to Article 27(1) of Regulation (EU) 2016/679:] The supervisory authority of the Member State in which the representative within the meaning of Article 27(1) of Regulation (EU) 2016/679 is established, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) without however having to appoint a representative pursuant to Article 27(2) of Regulation (EU) 2016/679:] The supervisory authority of one of the Member States in which the data subjects whose personal data is transferred under these Clauses in relation to the offering of goods or services to them, or whose behaviour is monitored, are located, as indicated in Annex I.C, shall act as competent supervisory authority.

(b) The data importer agrees to submit itself to the jurisdiction of and cooperate with the competent supervisory authority in any procedures aimed at ensuring compliance with these Clauses. In particular, the data importer agrees to respond to enquiries, submit to audits and comply with the measures adopted by the supervisory authority, including remedial and compensatory measures. It shall provide the supervisory authority with written confirmation that the necessary actions have been taken.

SECTION III – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES

Clause 14

Local laws and practices affecting compliance with the Clauses

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

MODULE FOUR: Transfer processor to controller *(where the EU processor combines the personal data received from the third country-controller with personal data collected by the processor in the EU)*

(a) The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.

(b) The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:

(i) the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;

(ii) the laws and practices of the third country of destination– including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards[12];

(iii) any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.

---

[12] As regards the impact of such laws and practices on compliance with these Clauses, different elements may be considered as part of an overall assessment. Such elements may include relevant and documented practical experience with prior instances of requests for disclosure from public authorities, or the absence of such requests, covering a sufficiently representative time-frame. This refers in particular to internal records or other documentation, drawn up on a continuous basis in accordance with due diligence and certified at senior management level, provided that this information can be lawfully shared with third parties. Where this practical experience is relied upon to conclude that the data importer will not be prevented from complying with these Clauses, it needs to be supported by other relevant, objective elements, and it is for the Parties to consider carefully whether these elements together carry sufficient weight, in terms of their reliability and representativeness, to support this conclusion. In particular, the Parties have to take into account whether their practical experience is corroborated and not contradicted by publicly available or otherwise accessible, reliable information on the existence or absence of requests within the same sector and/or the application of the law in practice, such as case law and reports by independent oversight bodies.

(c) The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.

(d) The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.

(e) The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a). [For Module Three: The data exporter shall forward the notification to the controller.]

(f) Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation [for Module Three: , if appropriate in consultation with the controller]. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by [for Module Three: the controller or] the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and (e) shall apply.

Clause 15

Obligations of the data importer in case of access by public authorities

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

MODULE FOUR: Transfer processor to controller *(where the EU processor combines the personal data received from the third country-controller with personal data collected by the processor in the EU)*

15.1 Notification

(a) The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:

(i) receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or

(ii) becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.

[For Module Three: The data exporter shall forward the notification to the controller.]

(b) If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.

(c) Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.). [For Module Three: The data exporter shall forward the information to the controller.]

(d) The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.

(e) Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

15.2 Review of legality and data minimisation

(a) The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).

(b) The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request. [For Module Three: The data exporter shall make the assessment available to the controller.]

(c) The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

SECTION IV – FINAL PROVISIONS

Clause 16

Non-compliance with the Clauses and termination

(a) The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.

(b) In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).

(c) The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:

(i) the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;

(ii) the data importer is in substantial or persistent breach of these Clauses; or

(iii) the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority [for Module Three: and the controller] of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

(d) [For Modules One, Two and Three: Personal data that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall at the choice of the data exporter immediately be returned to the data exporter or deleted in its entirety. The same shall apply to any copies of the data.] [For Module Four: Personal data collected by the data exporter in the EU that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall immediately be deleted in its entirety, including any copy thereof.] The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.

(e) Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

Clause 17

Governing law

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

[OPTION 1: These Clauses shall be governed by the law of one of the EU Member States, provided such law allows for third-party beneficiary rights. The Parties agree that this shall be the law of _____ (*specify Member State*).]

[OPTION 2 (for Modules Two and Three): These Clauses shall be governed by the law of the EU Member State in which the data exporter is established. Where such law does not allow for third-party beneficiary rights, they shall be governed by the law of another EU Member State that does allow for third-party beneficiary rights. The Parties agree that this shall be the law of _____ (*specify Member State*).]

MODULE FOUR: Transfer processor to controller

These Clauses shall be governed by the law of a country allowing for third-party beneficiary rights. The Parties agree that this shall be the law of _____ (*specify country*).

Clause 18

Choice of forum and jurisdiction

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

(a) Any dispute arising from these Clauses shall be resolved by the courts of an EU Member State.

(f) The Parties agree that those shall be the courts of _____ (*specify Member State*).

(g) A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of the Member State in which he/she has his/her habitual residence.

(h) The Parties agree to submit themselves to the jurisdiction of such courts.

MODULE FOUR: Transfer processor to controller

Any dispute arising from these Clauses shall be resolved by the courts of Delaware, USA.

APPENDIX

EXPLANATORY NOTE:

It must be possible to clearly distinguish the information applicable to each transfer or category of transfers and, in this regard, to determine the respective role(s) of the Parties as data exporter(s) and/or data importer(s). This does not necessarily require completing and signing separate appendices for each transfer/category of transfers and/or contractual relationship, where this transparency can achieved through one appendix. However, where necessary to ensure sufficient clarity, separate appendices should be used.

ANNEX I

A. LIST OF PARTIES

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

MODULE FOUR: Transfer processor to controller

Data exporter(s): [*Identity and contact details of the data exporter(s) and, where applicable, of its/their data protection officer and/or representative in the European Union]*

1. Name: …

Address: …

Contact person's name, position and contact details: …

Activities relevant to the data transferred under these Clauses: …

Signature and date: …

Role (controller/processor): …

2. …

Data importer(s): [*Identity and contact details of the data importer(s), including any contact person with responsibility for data protection]*

1. Name: …

Address: …

Contact person's name, position and contact details: …

Activities relevant to the data transferred under these Clauses: …

Signature and date: …

Role (controller/processor): …

2. …

B. DESCRIPTION OF TRANSFER

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

MODULE FOUR: Transfer processor to controller

Categories of data subjects whose personal data is transferred

Employees of _____

Categories of personal data transferred

_____ employees' PIIs - Full name, Date of Joining (DoJ), Email address, Department, Location and other optional details opted by _____..

Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.

Not Applicable

The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).

Continuous

Nature of the processing

Predictive Analysis of employee engagement levels based on user (employee) responses. Amber (proprietary chat-bot as explained in the Service Agreement) will reach out to employees on specific milestones basis on their Date of Joining and basis on the feedback received, Amber will help in capturing real time employee pulse and its predictive analytics which will help in determining which employees are happy, unhappy or likely to leave

Purpose(s) of the data transfer and further processing

To determine employee experience and reduce attrition

The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period

Personal Data shall be retained for 180 days after expiration of the service agreement.

For transfers to (sub-) processors, also specify services performed and location of the processing

Stated in Annexure III.

C. COMPETENT SUPERVISORY AUTHORITY

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

Identify the competent supervisory authority/ies in accordance with Clause 13

……..

ANNEX II - TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

The technical and organisational security measures implemented by the data importer are as described below, and as further specified in any underlying Master Agreement:

Data Importer maintains a written security program for the security, integrity and protection of personal data it processes on behalf of its customers against unauthorised disclosure and loss. Data Importer's security program includes administrative, technical and organisational safeguards appropriate for data importer's size and resources and the types of information that it processes.

1. **Data Security**
   - Encryption at rest: AES 256
   - Encryption at motion: HTTPS
   - 2 Factor Authentication on database access
   - No default credentials used for access to systems and applications
   - AWS KMS for managing encryption keys
   - Filesystem encryption
   - Data deletion procedure for erasing customer data after expiration of contract

2. **Cloud and Infrastructure Security**
   - Multi factor authentication on cloud infrastructure access
   - VPN on cloud infrastructure access
   - Antivirus deployed on servers
   - Role Based Access Control (RBAC) using IAM for every feature
   - IP whitelisting for access to cloud infrastructure
   - Port management controls
   - Policy of least privilege

3. **Application Security**
   - AWS Web Application Firewall (WAF) on application and website
   - Failed authentication logging
   - Single sign on (SS0) using SAML 2.0
   - Session timeout in case of SSO
   - Endpoint authentication
   - Application logging

4. **Backup and Redundancy**
   - Incremental backups take place every 5 minutes and are retained for 7 days
   - Recovery Time Objective (RTO): 4 hours, Recovery Point Objective (RPO): 5 minutes
   - Backup of all critical assets
   - 3 Availability Zones (AZ) replicated serverless database
   - Annual BCP drills
   - 2 redundant servers for chat and 3 for dashboard

5. **Monitoring, Audit and Analysis**
   - Application and Infrastructure logging
   - Intrusion Detection System (IDS) deployed on the infrastructure
   - Retention of server logs
   - No confidential data stored in the logs
   - Access to logs restricted
   - Storage & backup of logs
   - Real time monitoring (App & Infrastructure)
   - Preemptive threat analytics
   - Quarterly access review and reconciliation

6. **Vendor Management and Risk Assessments**
   - Vendor risk assessment for existing and potential vendors
   - Organization wide annual risk assessment
   - Vendor evaluation and contractual obligations
   - Annual policy reviews

7. **Internal Processes**
   - Formal access provisioning and revocation for access to systems and internal applications
   - Quarterly access and asset reviews
   - Secure system engineering principles and secure Software Development Life Cycle (SDLC)
   - Segregation of duties and environments
   - Bi-annual internal audits
   - Mandatory GDPR, ISO and product trainings
   - Formal incident management process and reporting

8. **Compliance**
   - Compliant with:
     - ISO 27001:2013
     - SOC 2 Type 2
     - GDPR
     - CCPA
     - LGPD
   - 3rd party testing and reviews:
     - Quarterly app and server VAPT
     - Annual cloud config review
     - Annual source code review

ANNEX III – LIST OF SUB-PROCESSORS

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

S.No	Subprocessor	Product(s)	Data Centres	Services Performed	GDPR Link
1	Amazon Web Services, Inc	EC2	USA/India/Ireland	Application server - To run backend applications	https://aws.amazon.com/compliance/gdpr-center/
2		Elasticache	USA/India/Ireland	Redis cache - To cache customer data	https://aws.amazon.com/compliance/gdpr-center/
3		RDS	USA/India/Ireland	MYSQL database - To store all data	https://aws.amazon.com/compliance/gdpr-center/
4		S3	USA/India/Ireland	To host our front end applications and customer reports	https://aws.amazon.com/compliance/gdpr-center/
5		Simple Queue Service	USA/India/Ireland	Distributed message queuing service	https://aws.amazon.com/compliance/gdpr-center/
6	Atlas - MongoDB	Atlas	USA	Database to store data	https://www.mongodb.com/cloud/trust/compliance/gdpr
7	FrontApp	FrontApp	USA	Customer email communications	https://help.frontapp.com/t/m22vyb/front-is-compliant-with-gdpr
8	Google Cloud Platform	BigQuery	USA	ETL and data warehousing	https://cloud.google.com/security/gdpr/
9		Google analytics	USA	User analytics including page views and event tracking	https://cloud.google.com/security/gdpr/
10	Google Enterprise Apps	Gsuite	USA	Gmail & other Google applications	https://cloud.google.com/security/gdpr/
11	Mailgun Technologies, Inc	Mailgun	USA	Email Service Provider for mailers triggered from the product	https://www.mailgun.com/gdpr
12	Salesforce	Salesforce	India	CRM	https://www.salesforce.com/gdpr/overview/

13	Intercom	Intercom	USA	Customer communication platform	https://www.intercom.com/legal/privacy
14	Zendesk	Zendesk	USA	It is used to raise and manage customer user tickets	legalnotice@zendesk.com
15	Hevodata	Hevodata	USA	Data Pipelining platform	https://hevodata.com/privacy/
16	Notion	Notion	USA	Project planning	https://www.notion.so/help/gdpr-at-notion
17	Slack (if opted)	Slack	USA	User reachouts on Slack	https://slack.com/intl/en-in/trust/compliance/gdpr
18	ValueFirst (if opted)	ValueFirst	India	Reachout to users via SMS	https://www.vfirst.com/privacy-policy
19	Gupshup (if opted)	Gupshup	USA/India	WhatsApp integration	https://www.gupshup.io/developer/privacy
20	Microsoft (if opted)	MS Teams	USA	Reachout to users via MS Teams	https://privacy.microsoft.com/en-gb/privacystatement
21	Google (if opted)	Google Chat	USA	Reachout to users via Google Chat	https://policies.google.com/privacy?hl=en-US
22	Line (if opted)	Line messenger	Japan	Reachout to users via Line messenger	https://line.me/en/terms/policy/