DATA PROCESSING ADDENDUM

This Data Processing Addendum, including its Schedules and Annexes, ("**DPA**") forms part of the Master Subscription Agreement between Leanplum and Customer to which it is attached, to reflect the parties' agreement with regard to the Processing of Personal Data.

By signing the Agreement, Customer enters into this DPA on behalf of itself and, to the extent required under applicable Data Protection Laws, in the name and on behalf of its Authorized Affiliates, if and to the extent Leanplum processes Personal Data for which such Authorized Affiliates qualify as the Controller. For the purposes of this DPA only, and except where indicated otherwise, the term "Customer" shall include Customer and Authorized Affiliates. All capitalized terms not defined herein shall have the meaning set forth in the Agreement.

In the course of providing the Services to Customer pursuant to the Agreement, Leanplum may Process Personal Data on behalf of Customer and the Parties agree to comply with the following provisions with respect to any Personal Data, each acting reasonably and in good faith.

DATA PROCESSING TERMS

1. DEFINITIONS

"**Authorized Affiliate**" means any of Customer's Affiliate(s) which (a) is subject to the data protection laws and regulations of the European Union, the European Economic Area and/or their member states, Switzerland and/or the United Kingdom, and (b) is permitted to use the Services pursuant to the Agreement between Customer and Leanplum, but has not signed its own Order Form with Leanplum and is not a "Customer" as defined under the Agreement.

"CCPA" means the California Consumer Privacy Act, Cal. Civ. Code § 1798.100 *et seq.*, and its implementing regulations.

"Controller" means the entity which determines the purposes and means of the Processing of Personal Data.

"**Customer**" means the entity that executed the Agreement together with its Affiliates (for so long as they remain Affiliates) which have signed Order Forms.

"Customer Data" means what is defined in the Agreement as "Customer Data", provided that such data is electronic data and information submitted by or for Customer to the Services. This DPA does not apply to Content or Non-Leanplum Applications as defined in the Agreement.

"Data Protection Laws" means all applicable laws, regulations, and other legal or self-regulatory requirements in any jurisdiction relating to privacy, data protection, data security, breach notification, or the Processing of Personal Data, including without limitation, to the extent applicable, the California Consumer Privacy Act, Cal. Civ. Code § 1798.100 et seq. ("CCPA"), the General Data Protection Regulation, Regulation (EU) 2016/679 ("GDPR"), and the United Kingdom Data Protection Act of 2018, as such laws may be amended from time to time. For the avoidance of doubt, if Leanplum's Processing activities involving Personal Data are not within the scope of a given Data Protection Law, such law is not applicable for purposes of this Addendum.

"Data Subject" means the identified or identifiable person to whom Personal Data relates.

"Personal Data" means any information relating to (i) an identified or identifiable natural person and, (ii) an identified or identifiable legal entity (where such information is protected similarly as personal data or personally identifiable information under applicable Data Protection Laws), where for each (i) or (ii), such data is Customer Data.

"Processing" means any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

"Processor" means the entity which Processes Personal Data on behalf of the Controller, including as applicable any "service provider" as that term is defined by the CCPA.

"Security Measures" means the security measures applicable to the specific Services purchased by Customer, as updated from time to time, including at minimum the measures set forth in Annex II.

"Leanplum Group" means Leanplum and its Affiliates engaged in the Processing of Personal Data.

"Standard Contractual Clauses" means European Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council, completed as set forth in Schedule A to this DPA. To the extent that Leanplum Processes Personal Data of Data Subjects located in or subject to the applicable Data Privacy Laws of the EEA and/or Switzerland, by signing this Addendum, Leanplum agrees to be bound by the Standard Contractual Clauses contained in Schedule A. With respect to Personal Data transfers for which Swiss law (and not the law in any European Economic Area jurisdiction) governs the international nature

of the transfer, references to the GDPR in Clause 4 of the Standard Contractual Clauses are, to the extent legally required, amended to refer to the Swiss Federal Data Protection Act or its successor instead, and the concept of supervisory authority shall include the Swiss Federal Data Protection and Information Commissioner. With respect to Personal Data transfers from the United Kingdom, for which United Kingdom law and not the law of the EEA apply, the Standard Contractual Clauses issued pursuant to EU Commission Decision of 5 February 2010 on standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC of the European Parliament and of the Council (available as of the Effective Date at http://data.europa.eu/eli/dec/2010/87/2016-12-17) ("Old SCCs") will govern, unless and until the United Kingdom recognizes the Standard Contractual Clauses in Schedule A hereto, in which case Schedule A will apply to such transfers. Where the Old SCCs apply, for purposes of Appendix 1 of the Old SCCs: (1) the data exporter is Customer; (2) the data importer is Leanplum; (3) the applicable data subjects are any data subjects residing in the United Kingdom; and (4) the categories of Personal Data include any Personal Data transferred from Customer to Leanplum in the course of Leanplum's performance of services for Customer under the Agreement and this Addendum, and for purposes of Appendix 2, the Security Measures set forth at Annex II shall apply. In case of conflict between the SCCs or the Old SCCs, as applicable, and this DPA, the SCCs or Old SCCs, as applicable, will prevail.

"Sub-processor" means any Processor engaged by Leanplum or a member of the Leanplum Group.

"**Supervisory Authority**" means an independent public authority which is established by an EU Member State pursuant to the GDPR.

2. PROCESSING OF PERSONAL DATA

2.1 **Roles of the Parties.** The parties acknowledge and agree that with regard to the Processing of Personal Data, Customer is the Controller, Leanplum is the Processor and that Leanplum or members of the Leanplum Group will engage Sub-processors pursuant to the requirements set forth in Section 5 "Sub-processors" below.

2.2 **Customer's Processing of Personal Data.** Customer shall, in its use of the Services, Process Personal Data in accordance with the requirements of Data Protection Laws, including any applicable requirement to provide notice to Data Subjects of the use of Leanplum as Processor. For the avoidance of doubt, Customer's instructions for the Processing of Personal Data shall comply with Data Protection Laws . Customer shall have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which Customer acquired Personal Data. Customer specifically acknowledges that its use of the Services will not violate the rights of any Data Subject that has opted-out from sales or other disclosures of Personal Data, to the extent applicable under the CCPA.

2.3 **Leanplum's Processing of Personal Data.** Leanplum shall treat Personal Data as Confidential Information and shall Process Personal Data on behalf of and only in accordance with Customer's documented instructions for the following purposes: (i) Processing in accordance with the Agreement and applicable Order Form(s); (ii) Processing initiated by Users in their use of the Services; and (iii) Processing to comply with other documented reasonable instructions provided by Customer (e.g., via email) where such instructions are consistent with the terms of the Agreement.

2.4 **Details of the Processing.** The subject-matter of Processing of Personal Data by Leanplum is the performance of the Services pursuant to the Agreement. The duration of the Processing, the nature and purpose of the Processing, the types of Personal Data and categories of Data Subjects Processed under this DPA are further specified in Annex I(Details of the Processing) to this DPA.

3. RIGHTS OF DATA SUBJECTS

Data Subject Request. Leanplum shall, to the extent legally permitted, promptly notify Customer if Leanplum receives a request from a Data Subject to exercise the Data Subject's right of access, right to rectification, restriction of Processing, erasure ("right to be forgotten"), data portability, object to the Processing, or its right not to be subject to an automated individual decision making, each such request being a "Data Subject Request". Taking into account the nature of the Processing, Leanplum shall assist Customer by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of Customer's obligation to respond to a Data Subject Request under Data Protection Laws. In addition, to the extent Customer, in its use of the Services, does not have the ability to address a Data Subject Request, Leanplum shall upon Customer's request provide commercially reasonable efforts to assist Customer in responding to such Data Subject Request, to the extent Leanplum is legally permitted to do so and the response to such Data Subject Request is required under Data Protection Laws. To the extent legally permitted, Customer shall be responsible for any costs arising from Leanplum's provision of such assistance.

4. LEANPLUM PERSONNEL

4.1 **Confidentiality.** Leanplum shall ensure that its personnel engaged in the Processing of Personal Data are informed of the confidential nature of the Personal Data, have received appropriate training on their responsibilities and have executed written confidentiality agreements. Leanplum shall ensure that such confidentiality obligations survive the termination of the personnel

engagement.

4.2 **Reliability.** Leanplum shall take commercially reasonable steps to ensure the reliability of any Leanplum personnel engaged in the Processing of Personal Data.

4.3 **Limitation of Access.** Leanplum shall ensure that Leanplum's access to Personal Data is limited to those personnel performing Services in accordance with the Agreement.

4.4 **Data Protection Officer.** Members of the Leanplum Group have appointed a data protection officer. The appointed person may be reached at privacy@leanplum.com.

5. SUB-PROCESSORS

5.1 **Appointment of Sub-processors.** Customer acknowledges and agrees that (a) Leanplum's Affiliates may be retained as Sub-processors; and (b) Leanplum and Leanplum's Affiliates respectively may engage third-party Sub-processors in connection with the provision of the Services. Leanplum or an Leanplum Affiliate has entered into a written agreement with each Sub-processor containing data protection obligations not less protective than those in the Agreement with respect to the protection of Customer Data to the extent applicable to the nature of the Services provided by such Sub-processor.

5.2 **List of Current Sub-processors and Notification of New Sub-processors.** Leanplum shall make available to Customer the current list of Sub-processors for the Services. Such Sub-processor lists shall include the identities of those Sub-processors and their country of location. Leanplum shall provide notification of a new Sub-processor(s) before authorizing any new Sub-processor(s) to Process Personal Data in connection with the provision of the applicable Services.

5.3 **Objection Right for New Sub-processors.** Customer may object to Leanplum's use of a new Sub-processor by notifying Leanplum promptly in writing at privacy@leanplum.com within thirty (30) days after receipt of Leanplum's notice in accordance with the mechanism set out in Section 5.2. In the event Customer objects to a new Sub-processor, as permitted in the preceding sentence, Leanplum will use reasonable efforts to make available to Customer a change in the Services or recommend a commercially reasonable change to Customer's configuration or use of the Services to avoid Processing of Personal Data by the objected-to new Sub-processor without unreasonably burdening Customer. If Leanplum is unable to make available such change within a reasonable period of time, which shall not exceed thirty (30) days, Customer may terminate the applicable Order Form(s) with respect only to those Services which cannot be provided by Leanplum without the use of the objected-to new Sub-processor by providing written notice to Leanplum. Leanplum will refund Customer any prepaid fees covering the remainder of the term of such Order Form(s) following the effective date of termination with respect to such terminated Services, without imposing a penalty for such termination on Customer.

5.4 **Liability.** Leanplum shall be liable for the acts and omissions of its Sub-processors to the same extent Leanplum would be liable if performing the services of each Sub-processor directly under the terms of this DPA, except as otherwise set forth in the Agreement.

6. SECURITY

6.1 **Controls for the Protection of Customer Data.** Leanplum hereby certifies that it shall maintain appropriate technical and organizational measures for protection of the security (including protection against (i) unauthorized or unlawful Processing and against accidental or unlawful destruction, loss or alteration or damage, unauthorized disclosure of, or access to, Customer Data, and (ii) retaining, using, disclosing, or selling the Personal Data (a) for a commercial purpose other than providing the Services and as specified by Customer's documented instructions; and (b) outside of the direct business relationship between Customer and Leanplum), confidentiality and integrity of Customer Data, as set forth in the Security Measures. Leanplum regularly monitors compliance with these measures. Leanplum will not materially decrease the overall security of the Services during a subscription term.

6.2 **Third-Party Certifications and Audits.** Upon Customer's written request at reasonable intervals, and subject to the confidentiality obligations set forth in the Agreement, Leanplum shall make available to Customer that is not a competitor of Leanplum (or Customer's independent, third-party auditor that is not a competitor of Leanplum) a copy of Leanplum's then most recent third-party audits or certifications, as applicable (including ISO 27001).

7. CUSTOMER DATA INCIDENT MANAGEMENT AND NOTIFICATION

Leanplum maintains security incident management policies and procedures specified in the Security Measures and shall notify Customer without undue delay after becoming aware of the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer Data, including Personal Data, transmitted, stored or otherwise Processed by Leanplum or its Sub-processors of which Leanplum becomes aware (a "**Customer Data Incident**"). Leanplum shall make reasonable efforts to identify the cause of such Customer Data Incident and take those steps as Leanplum deems necessary and reasonable in order to

remediate the cause of such a Customer Data Incident to the extent the remediation is within Leanplum's reasonable control. The obligations herein shall not apply to incidents that are caused by Customer or Customer's Users.

8. RETURN AND DELETION OF CUSTOMER DATA

Leanplum shall return Customer Data to Customer and, to the extent allowed by applicable law, delete Customer Data in accordance with the procedures and timeframes specified in the Agreement.

9. AUTHORIZED AFFILIATES

9.1 **Contractual Relationship.** The parties acknowledge and agree that, by executing the Agreement, Customer enters into the DPA on behalf of itself and, as applicable, in the name and on behalf of its Authorized Affiliates, thereby establishing a separate DPA between Leanplum and each such Authorized Affiliate subject to the provisions of the Agreement and this Section 9 and Section 10. Each Authorized Affiliate agrees to be bound by the obligations under this DPA and, to the extent applicable, the Agreement. For the avoidance of doubt, an Authorized Affiliate is not and does not become a party to the Agreement, and is only a party to the DPA. All access to and use of the Services and Content by Authorized Affiliates must comply with the terms and conditions of the Agreement and any violation of the terms and conditions of the Agreement by an Authorized Affiliate shall be deemed a violation by Customer.

9.2 **Communication.** The Customer that is the contracting party to the Agreement shall remain responsible for coordinating all communication with Leanplum under this DPA and be entitled to make and receive any communication in relation to this DPA on behalf of its Authorized Affiliates.

9.3 **Rights of Authorized Affiliates.** Where an Authorized Affiliate becomes a party to the DPA with Leanplum, it shall to the extent required under applicable Data Protection Laws be entitled to exercise the rights and seek remedies under this DPA, subject to the following:

9.3.1 Except where applicable Data Protection Laws require the Authorized Affiliate to exercise a right or seek any remedy under this DPA against Leanplum directly by itself, the parties agree that (i) solely the Customer that is the contracting party to the Agreement shall exercise any such right or seek any such remedy on behalf of the Authorized Affiliate, and (ii) the Customer that is the contracting party to the Agreement shall exercise any such rights under this DPA not separately for each Authorized Affiliate individually but in a combined manner for itself and all of its Authorized Affiliates together (as set forth, for example, in Section 9.3.2, below).

9.3.2 The parties agree that the Customer that is the contracting party to the Agreement shall, when carrying out an on-site audit of the procedures relevant to the protection of Personal Data, take all reasonable measures to limit any impact on Leanplum and its Sub-Processors by combining, to the extent reasonably possible, several audit requests carried out on behalf of itself and all of its Authorized Affiliates in one single audit.

10. LIMITATION OF LIABILITY

Each party's and all of its Affiliates' liability, taken together in the aggregate, arising out of or related to this DPA, and all DPAs between Authorized Affiliates and Leanplum, whether in contract, tort or under any other theory of liability, is subject to the 'Limitation of Liability' section of the Agreement, and any reference in such section to the liability of a party means the aggregate liability of that party and all of its Affiliates under the Agreement and all DPAs together.

For the avoidance of doubt, Leanplum's and its Affiliates' total liability for all claims from Customer and all of its Authorized Affiliates arising out of or related to the Agreement and all DPAs shall apply in the aggregate for all claims under both the Agreement and all DPAs established under the Agreement, including by Customer and all Authorized Affiliates, and, in particular, shall not be understood to apply individually and severally to Customer and/or to any Authorized Affiliate that is a contractual party to any such DPA.

11. EUROPEAN SPECIFIC PROVISIONS

11.1 **GDPR.** Leanplum will Process Personal Data in accordance with the GDPR requirements directly applicable to Leanplum's provision of its Services.

11.2 **Data Protection Impact Assessment.** Upon Customer's request, Leanplum shall provide Customer with reasonable cooperation and assistance needed to fulfil Customer's obligation under the GDPR to carry out a data protection impact assessment related to Customer's use of the Services, to the extent Customer does not otherwise have access to the relevant information, and to the extent such information is available to Leanplum. Leanplum shall provide reasonable assistance to Customer in the cooperation or prior

consultation with the Supervisory Authority in the performance of its tasks relating to Section 11.2 of this DPA, to the extent required under the GDPR.

11.3 Standard Contractual Clauses for data transfers. Leanplum applies the Standard Contractual Clauses set forth in Schedule A to this DPA to any transfers of Personal Data under this DPA from the European Union, the European Economic Area and/or their member states, Switzerland and the United Kingdom to countries which do not ensure an adequate level of data protection within the meaning of Data Protection Laws of the foregoing territories, to the extent such transfers are subject to such Data Protection Laws. The following additional terms apply with respect to the Standard Contractual Clauses:

11.3.1 Customers covered by the Standard Contractual Clauses. The Standard Contractual Clauses and the additional terms specified in this Section 3 apply to (i) Customer which is subject to the data protection laws and regulations of the European Union, the European Economic Area and/or their member states, Switzerland and/or the United Kingdom and, (ii) its Authorized Affiliates. For the purpose of the Standard Contractual Clauses and this Section 11, the aforementioned entities shall be deemed "data exporters".

11.3.2 Instructions. This DPA and the Agreement are Customer's complete and final documented instructions at the time of signature of the Agreement to Leanplum for the Processing of Personal Data. Any additional or alternate instructions must be agreed upon separately. For the purposes of Clause 8.1 of the Standard Contractual Clauses, the following is deemed an instruction by the Customer to process Personal Data: (a) Processing in accordance with the Agreement and applicable Order Form(s); (b) Processing initiated by Users in their use of the Services and (c) Processing to comply with other reasonable documented instructions provided by Customer (e.g., via email) where such instructions are consistent with the terms of the Agreement.

11.3.3 Appointment of new Sub-processors and List of current Sub-processors. Pursuant to Clause 9 of the Standard Contractual Clauses, Customer acknowledges and expressly agrees that (a) Leanplum's Affiliates may be retained as Sub-processors; and (b) Leanplum and Leanplum's Affiliates respectively may engage third-party Sub-processors in connection with the provision of the Services. Leanplum shall make available to Customer the current list of Sub-processors in accordance with Section 5.2 of this DPA

11.3.4 Notification of New Sub-processors and Objection Right for new Sub-processors. Pursuant to Clause 9(a) of the Standard Contractual Clauses, Customer acknowledges and expressly agrees that Leanplum may engage new Sub-processors as described in Sections 5.2 and 5.3 of this DPA.

11.3.5 Copies of Sub-processor Agreements. The parties agree that the copies of the Sub-processor agreements that must be provided by Leanplum to Customer pursuant to Clause 9(c) of the Standard Contractual Clauses may have all commercial information, or clauses unrelated to the Standard Contractual Clauses or their equivalent, removed by Leanplum beforehand; and, that such copies will be provided by Leanplum, in a manner to be determined in its discretion, only upon request by Customer.

11.3.6 Audits and Certifications. The parties agree that the audits described in Clause 8.9 and Clause 13(b) of the Standard Contractual Clauses shall be carried out in accordance with the following specifications: Upon Customer's request, and subject to the confidentiality obligations set forth in the Agreement, Leanplum shall make available to Customer that is not a competitor of Leanplum (or Customer's independent, third-party auditor that is not a competitor of Leanplum) information regarding the Leanplum Group's compliance with the obligations set forth in this DPA in the form of the third-party certifications and audits set forth in the Security Measures to the extent Leanplum makes them generally available to its customers. Customer may contact Leanplum in accordance with the "Notices" Section of the Agreement to request an on-site audit of the procedures relevant to the protection of Personal Data. Customer shall reimburse Leanplum for any time expended for any such on-site audit at the Leanplum Group's then-current professional services rates, which shall be made available to Customer upon request. Before the commencement of any such on-site audit, Customer and Leanplum shall mutually agree upon the scope, timing, and duration of the audit in addition to the reimbursement rate for which Customer shall be responsible. All reimbursement rates shall be reasonable, taking into account the resources expended by Leanplum. Customer shall promptly notify Leanplum with information regarding any non-compliance discovered during the course of an audit.

11.3.7 Certification of Deletion. The parties agree that the certification of deletion of Personal Data that is described in Clause 16(d) of the Standard Contractual Clauses shall be provided by Leanplum to Customer only upon Customer's request.

11.3.8 Conflict. In the event of any conflict or inconsistency between the body of this DPA and any of its Schedules (not including the Standard Contractual Clauses) and the Standard Contractual Clauses in Schedule A, the Standard Contractual Clauses shall prevail.

11.4 Additional Safeguards for the Transfer and Processing of Personal Data from the EEA, Switzerland, and the United Kingdom. To the extent that Leanplum Processes Personal Data of Data Subjects located in or subject to the applicable Data

Protection Laws of the European Economic Area, Switzerland, or the United Kingdom, Leanplum agrees to the following safeguards to protect such data to an equivalent level as applicable Data Protection Laws

11.4.1 Leanplum shall encrypt all transfers of the Personal Data between Leanplum and Customer to prevent the acquisition of such data by third parties.

11.4.2 Leanplum represents and warrants that: (1) as of the date of this contract, it has not received any directive under Section 702 of the U.S. Foreign Intelligence Surveillance Act, codified at 50 U.S.C. § 1881a ("FISA Section 702"); and (2) no court has found Leanplum to be the type of entity eligible to receive process issued under FISA Section 702: (i) an "electronic communication service provider" within the meaning of 50 U.S.C § 1881(b)(4) or (ii) a member of any of the categories of entities described within that definition; and (3) it is not the type of provider that is eligible to be subject to Upstream collection ("bulk" collection) pursuant to FISA Section 702.

11.4.3 Leanplum will challenge any request under FISA Section 702 for bulk or upstream surveillance.

11.4.4 Leanplum will use all reasonably available legal mechanisms to challenge any demands for data access through national security process it receives, if any, as well as any non-disclosure provisions attached thereto.

11.4.5 Leanplum will challenge any action pursuant to U.S. Executive Order 12333.

11.4.6 At regular intervals as may be required by law, Leanplum shall create a transparency report that will be made available to Customer upon request, indicating the types of binding legal demands for the personal data it has received, including national security orders and directives, which shall encompass any process issued under FISA Section 702.

11.4.7 Leanplum will promptly notify Customer if Leanplum can no longer comply with the Standard Contractual Clauses or the clauses in this Section. Leanplum shall not be required to provide Customer with specific information about why it can no longer comply, if providing such information is prohibited by applicable law. Such notice shall entitle Customer to terminate the Agreement (or, at Customer's option, affected statements of work, order forms, and like documents thereunder) and receive a prompt pro-rata refund of any prepaid amounts thereunder. This is without prejudice to Customer's other rights and remedies with respect to a breach of the Agreement.

12. PARTIES TO THIS DPA

Where the Standard Contractual Clauses are applicable, Leanplum, Inc. is the signatory to the Standard Contractual Clauses. Where the Leanplum entity that is a party to this DPA is not Leanplum, Inc., that Leanplum entity is carrying out the obligations of the data importer on behalf of Leanplum, Inc.

List of Schedules

Schedule A: Standard Contractual Clauses

Annex I: Details of the Processing

Annex II: Technical And Organisational Measures Including Technical And Organisational Measures To Ensure the Security Of The Data

The parties' authorized signatories have duly executed this DPA:

CUSTOMER		**LEANPLUM, INC.**	
Signature:		Signature:	DocuSigned by: Sheri Huston B6AA989CC7454FF...
Customer Legal Name:		Print Name:	Sheri Huston
Print Name:		Title:	Chief Financial Officer
Title:		Date:	10/19/2021
Date:			

SCHEDULE A

STANDARD CONTRACTUAL CLAUSES

Module Two: Transfer controller to processor

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 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.

(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 8.1(b), 8.9(a), (c), (d) and (e);

(iii) Clause 9(a), (c), (d) and (e);

[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 2021/915.

(iv) Clause 12(a), (d) and (f);

(v) Clause 13;

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

(vii) Clause 16(e);

(viii) Clause 18(a) and (b).

(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.

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[2] (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, 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.

Clause 9

Use of sub-processors

(a) 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 30 days 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.[3] 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.

[2] 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.

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

(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

(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.

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.

(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.

(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

(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

(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

(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[4];

[4] 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

(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.

(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).

(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. 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 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

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.

(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.).

(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

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.

(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.

(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 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) 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. 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

[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: 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*).]

Clause 18

Choice of forum and jurisdiction

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

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

(c) 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.

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

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 – DETAILS OF THE PROCESSING

A. LIST OF PARTIES

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]*

Name: _____

Address: _____

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

Activities relevant to the data transferred under these Clauses: Performance of the Services pursuant to the Agreement and as further described in the Documentation.

Signature and date: _____

Role (controller/processor): Controller

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

Name: **Leanplum, Inc.**

Address: Leanplum, Inc., PO Box 411485, San Francisco, CA 94141-9991, USA

Contact person's name, position and contact details: Sheri Huston, Chief Financial Officer

Activities relevant to the data transferred under these Clauses: Leanplum is a provider of enterprise cloud computing solutions which processes personal data upon the instruction of the data exporter in accordance with the terms of the Agreement.

Signature and date: DocuSigned by: Sheri Huston B6AA989CC7454FF... 10/19/2021

Role (controller/processor): Processor

B. DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred

Data exporter may submit Personal Data to the Services, the extent of which is determined and controlled by the data exporter in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of data subjects:

- Employees, agents, advisors, freelancers of Customer (who are natural persons)
- Customer's Users authorized by Customer to use the Services

Categories of personal data transferred

Data exporter may submit Personal Data to the Services, the extent of which is determined and controlled by the data exporter in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:

- Customer's registration data (e.g., name, phone number, email address, account password);
- Personal Data of users collected directly by Leanplum through an SDK such as:
    - User information : date of birth, gender, geographic, preferences/research criterions etc.
    - User activity information : how many likes, how many match, frequency of activity on the platform, subscription status.
- Information regarding end-users' activities on Customer's software applications (such as frequency of activity, subscription status, etc.)

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

- Leanplum will Process Personal Data as necessary to perform the Services pursuant to the Agreement, and as further instructed by Customer in its use of the Services.

Purpose(s) of the data transfer and further processing

- The objective of Processing of Personal Data by data importer is the performance of Services pursuant to the Agreement.

The duration of the processing

- Subject to Section 8 of the DPA, Leanplum will Process Personal Data for the duration of the Agreement, unless otherwise agreed upon in writing.

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 will be retained for the length of the Agreement, or in accordance with applicable Data Privacy Laws.

For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing

- Sub-processors shall Process Personal Data for purposes of assisting Leanplum in providing the Services to Customer under the Agreement and shall continue to process Personal Data for the length of the applicable agreement governing provision of the Services or as otherwise required under applicable Data Privacy Laws.

C. COMPETENT SUPERVISORY AUTHORITY

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

Same as Clause 13 above.

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

Leanplum will, as a minimum, implement the following technical and organizational measures designed to secure the Personal Data Leanplum processes as part of its Services:

1. Physical access control

Technical and organizational measures to prevent unauthorized persons from gaining access to the data processing systems available in premises and facilities (including databases, application servers and related hardware), where Personal Data are processed, include:

- Establishing security areas, restriction of access paths
- Establishing access authorizations for employees and third parties
- Access control system (ID reader, magnetic card, chip card)
- Key management, card-keys procedures
- Door locking (electric door openers etc.)
- Security staff, janitors
- Surveillance facilities, video/CCTV monitor, alarm system
- Securing decentralized data processing equipment and personal computers

2. Virtual access control

Technical and organizational measures to prevent data processing systems from being used by unauthorized persons include:

- User identification and authentication procedures, including multi-factor authentication for accessing critical systems
- ID/password security procedures (special characters, minimum length, change of password)
- Automatic blocking (e.g. password or timeout)
- Monitoring of break-in-attempts and automatic lock-down of the user ID upon several erroneous passwords attempts
- Creation of one master record per user, user master data procedures, per data processing environment
- Encryption of archived data media. All stored data is encrypted by default, utilizing AES 256-bit encryption
- Transport Layer Security, commonly known as TLS or HTTPS, to protect customer data as it travels over the Internet during read and write operations. HTTPS is the default and required transport protocol for all communications. Any attempt to communicate over HTTP or an unencrypted channel will be redirected to a secure HTTPS service.

3. Data access control

Technical and organizational measures to ensure that persons entitled to use a data processing system gain access only to such Personal Data in accordance with their access rights, and that Personal Data cannot be read, copied, modified or deleted without authorization, include:

- Internal policies and procedures
- Control authorization schemes
- Differentiated access rights (profiles, roles, transactions and objects), granted on “least-privilege” principle
- Monitoring and logging of accesses
- Disciplinary action against employees who access personal data without authorization
- Reports of access
- Access procedure
- Change procedure
- Deletion procedure
- Encryption

4. Disclosure control

Technical and organizational measures to ensure that Personal Data cannot be read, copied, modified or deleted without authorization during electronic transmission, transport or storage on storage media (manual or electronic), and that it can be verified to which companies or other legal entities Personal Data are disclosed, include:

- Encryption/Tunneling
- Logging
- Transport security

5. Entry control

Technical and organizational measures to monitor whether data have been entered, changed or removed (deleted), and by whom, from data processing systems, include:

- Logging and reporting systems
- Audit trails and documentation

6. Control of instructions

Technical and organizational measures to ensure that Personal Data are processed solely in accordance with the instructions of Subscriber include:

- Unambiguous wording of the contract
- Formal commissioning (request form)
- Criteria for selecting the Processor

7. Availability control

Technical and organizational measures to ensure that Personal Data are protected against accidental destruction or loss (physical/logical) include:

- Backup procedures
- Mirroring of hard disks (e.g. RAID technology) or other applicable technology for local storage redundancy
- Uninterruptible power supply (UPS)- as provided by our Cloud provider (more information here: https://www.google.com/about/datacenters/data-security/)
- Remote storage
- Anti-malware/firewall systems
- Disaster recovery plan

8. Separation control

Technical and organizational measures to ensure that Personal Data collected for different purposes can be processed separately include:

- Separation of databases
- "Internal client" concept / limitation of use
- Segregation of functions (production/testing)
- Procedures for storage, amendment, deletion, transmission of data for different purposes

9. Business Continuity and Disaster Recovery

Leanplum utilizes a cloud hosting provider, the Google Cloud Platform, for all system infrastructure. Because of this, both Leanplum and its clients benefit from Google policies and practices as part of the data centers' DNA. The platform is built on custom-build servers exclusively for the data centers, never selling or distributing them outside of Google premises.
Google has robust disaster recovery measures in place. For example, in the event of a fire or any other disruption, data access shifts automatically and seamlessly to another data center so that the users can keep working, uninterrupted. There are emergency backup generators, which continue to power the data centers even in the event of a power failure.
Google is responsible for maintaining the physical security of all servers and more information in that topic can be found here: https://cloud.google.com/security/whitepaper#state-of-the-art_data_centers.

10. Customer Data Portability and Deletion

Upon request by Customer made within 60 days after the effective date of termination or expiration of the Agreement, Leanplum will make Customer Data available to Customer for export or download as provided in the Documentation. After such 60-day period, Leanplum will have no obligation to maintain or provide any Customer Data, and as provided in the Documentation will thereafter irreversibly delete or destroy all copies of Customer Data in its systems or otherwise in its possession or control, unless legally prohibited.