

Data Protection Addendum

Last Updated: January 12, 2021

1. Definitions and interpretation

1.1 In this Addendum, unless the context otherwise requires:

"Affiliate(s)" means any entity that directly or indirectly controls, is controlled by, or is under common control or ownership with a Party, where "control," "controlled by" and "under common control with" means the possession of the power to direct, cause or significantly influence the direction of the entity, whether through the ownership of voting securities, by contract, or otherwise.

"DP Regulator" means any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Laws.

"EU Data Protection Legislation" and **"Applicable Law"** means Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC ("General Data Protection Regulation" or "GDPR"), including any laws or regulations ratifying, implementing, adopting, supplementing or replacing the GDPR, (iii) the applicable data protection laws of Switzerland and the United Kingdom, and (iv) any guidance or codes of practice issued by a governmental or regulatory body or authority in relation to compliance with the foregoing; in each case, to the extent in force, and as such are updated, amended or replaced from time to time.

1.2 In this Addendum, the terms **"Data Subject"**, **"Personal Data"**, **"process"**, **"processing"**, **"transfer"** (in the context of transfers of Personal Data) and **"technical and organizational measures"** shall have the meanings and otherwise be interpreted in accordance with the GDPR and other applicable EU Data Protection Legislation.

1.3 Capitalized terms not otherwise defined herein or in the GDPR and other applicable EU Data Protection Legislation shall have the meanings ascribed to them in the agreement to which this Addendum is made a part (the "Agreement"). The "Parties" shall refer to the parties to the Agreement and each shall be a "Party."

2. Compliance with EU Data Protection Legislation

2.1 The Parties shall comply with the provisions and obligations imposed on them by the EU Data Protection Legislation at all times when processing Personal Data in connection with this Agreement, which processing shall be in respect of the types of Personal Data, categories of Data Subjects, nature and purposes, and duration, set out in Schedule 1 to this Addendum.

2.2 The Parties shall each maintain records of all processing operations under their respective responsibility that contain at least the minimum information required by the EU Data Protection Legislation, and shall make such information available to any DP Regulator on request.

3. Processing and security

3.1 In performing its obligations under the Agreement, Watermark shall only process the types of Personal Data, and only in respect of the categories of Data Subjects, and only for the nature and purposes of processing and duration, as is set out in the Schedule 1 to this Addendum.

3.2 Organization shall:

(a) ensure that any instructions it issues to Watermark shall comply with the EU Data Protection Legislation; and

(b) have sole responsibility for the accuracy, quality and legality of Personal Data and the means by which Organization acquired such Personal Data shall establish the legal basis for processing under EU Data Protection Legislation, including providing all notices and obtaining all consents as may be required under EU Data Protection Legislation in order for Watermark to process the Personal Data as otherwise

contemplated by this Agreement.

- 3.3 To the extent that Watermark receives from, or processes any Personal Data on behalf of, Organization, Watermark shall:
- (a) process Personal Data:
 - (i) only in accordance with Organization's written instructions from time to time (including those set out in this Agreement) provided such instructions are lawful and, unless it is otherwise required by any Applicable Law (in which case, unless such law prohibits such notification on important grounds of public interest, Watermark shall notify Organization of the relevant legal requirement before processing the Personal Data); and
 - (ii) only for the duration of this Agreement;
 - (b) take commercially reasonable steps to ensure its personnel who are authorized to have access to such Personal Data, and ensure that any such personnel are committed to confidentiality, or are under an appropriate statutory obligation of confidentiality when processing such Personal Data;
 - (c) taking into account:
 - (i) the state of the art;
 - (ii) the nature, scope, context and purposes of the processing; and
 - (iii) the risk and severity of potential harm; implement appropriate technical and organizational measures and procedures to ensure a level of security for such Personal Data appropriate to the risk, including the risks of accidental, unlawful or unauthorized destruction, loss, alteration, disclosure, dissemination or access; and
 - (d) inform Organization without undue delay upon becoming aware of any such Personal Data (while within Watermark's or its subcontractors' or Affiliates' possession or control) being subject to a personal data breach (as defined in Article 4 of GDPR).
 - (e) not disclose any Personal Data to any Data Subject or to a third party other than at the written request of Organization or as expressly provided for in this Agreement.

4. Return or destruction of Personal Data

- 4.1 Subject to paragraph 4.2, Watermark shall take reasonable steps, at Organization's option, return or irretrievably delete all Personal Data in its control or possession when it no longer requires such Personal Data to exercise or perform its rights or obligations under this Agreement, and in any event upon Organization's instruction upon the expiry or termination of this Agreement. The Organization acknowledges and agrees that Watermark shall retain IP addresses of the devices which it has processed in connection with the Services for a period of up to 90 days after termination of the Agreement before they are deleted.
- 4.2 To the extent that Watermark is required by Applicable Law to retain all or part of the Personal Data ("**Retained Data**"), Watermark shall:
- (a) cease all processing of the Retained Data other than as required by the Applicable Law;
 - (b) keep confidential all such Retained Data in accordance with the confidentiality provisions set out in the Agreement; and
 - (c) continue to comply with the provisions of this Addendum in respect of such Retained Data.

5. Audit

- 5.1 Watermark shall permit Organization or its representatives to access any relevant premises, personnel or records of Watermark on reasonable notice to audit and otherwise verify compliance with this Addendum, subject to the following requirements:
- (i) Organization may perform such audits no more than once per year or

more frequently if required by EU Data Protection Legislation;

- (ii) Organization may use a third party to perform the audit on its behalf, provided such third party executes a confidentiality agreement acceptable to Watermark before the audit;
- (iii) audits must be conducted during regular business hours, subject to Watermark's policies, and may not unreasonably interfere with Watermark's business activities;
- (iv) Organization must provide Watermark with any audit reports generated in connection with any audit at no charge unless prohibited by Applicable Law. Organization may use the audit reports only for the purposes of meeting its audit requirements under EU Data Protection Legislation and/or confirming compliance with the requirements of this Addendum. The audit reports shall be confidential;
- (v) to request an audit, Organization must first submit a detailed audit plan to Watermark at least 6 (six) weeks in advance of the proposed audit date. The audit must describe the proposed scope, duration and start date of the audit. Watermark will review the audit plan and inform Organization of any concerns or questions (for example, any request for information that could compromise Watermark's confidentiality obligations or its security, privacy, employment or other relevant policies). Watermark will work cooperatively with Organization to agree a final audit plan;
- (vi) nothing in this paragraph 5 shall require Watermark to breach any duties of confidentiality owed to any of its clients, employees or third-party providers; and
- (vii) all audits are at Organization's sole cost and expense;

6. Co-operation and assistance

6.1 Watermark shall:

- (a) take such steps as are reasonably required to assist Organization in ensuring compliance with its obligations under Articles 32 to 36 (inclusive) of GDPR;
- (b) notify Organization as soon as reasonably practicable if it receives a request from a Data Subject to exercise its rights under the EU Data Protection Legislation in relation to that person's Personal Data; and
- (c) provide Organization with reasonable co-operation and assistance in relation to any request made by a Data Subject to exercise its rights under the EU Data Protection Legislation in relation to that person's Personal Data provided that Organization shall be responsible for Watermark's costs and expenses arising from such co-operation and assistance.

6.2 If either Party receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data by the other Party or to either Party's compliance with the EU Data Protection Legislation, it shall as soon as reasonably practicable notify the other Party and it shall provide the other Party with commercially reasonable co-operation and assistance in relation to any such complaint, notice or communication.

7. Sub-processors

- 7.1 Organization generally agrees that Watermark may engage third party providers including any advisers, contractors, or auditors to process Personal Data ("**Sub-Processors**").
- 7.2 A list of Sub-Processors engaged by Watermark is available upon request, which Watermark shall update from time to time.
- 7.3 If Watermark engages a new Sub-Processor ("**New Sub-Processor**"), Watermark shall inform Organization of the engagement by updating the list found at paragraph 7.2 above.
- 7.4 Organization may object to the engagement of such New Sub-Processor by notifying Watermark within 5 Business Days of Watermark's update to the list found at 7.2 above,

provided that such objection must be on reasonable, substantial grounds, directly related to such New Sub-Processor's ability to comply with substantially similar obligations to those set out in this paragraph.

- 7.5 If Organization does not so object, the engagement of the New Sub-Processor shall be deemed accepted by Organization.
- 7.6 Watermark shall ensure that its contract with each New Sub-Processor shall impose obligations on the New Sub-Processor that are materially equivalent to the obligations to which Watermark is subject to under this Addendum.
- 7.7 Any sub-contracting or transfer of Personal Data pursuant to this paragraph 7 shall not relieve Watermark any of its liabilities, responsibilities and obligations to Organization under this Addendum and Watermark shall remain liable for the acts and omissions of its Sub-Processors.
- 7.8 If Organization wishes to be informed of Watermark's engagement with New Sub-Processors by email, it shall request such notification in writing to Watermark. Watermark shall, upon written confirmation of receipt of any request under this paragraph 7.8, send Organization an updated list of Sub-Processors by email to an email address requested by Organization if it engages a new Sub-Processor.

8. Transfer of Personal Data

- 8.1 Unless the transfer is based on an "adequacy decision", is otherwise "subject to appropriate safeguards" or if a "derogation for specific situations" applies, each within the meanings given to them in Articles 45, 46 and 49 of the GDPR respectively, Watermark shall not transfer, access or process such Personal Data outside the European Economic Area (EEA).
- 8.2 In connection with paragraph 8.1 above, Watermark shall rely on the European Commission's Standard Contractual Clauses for controller to processor transfers (for the purposes of Article 46 of the GDPR), with Organization, in their current form, which shall apply only in respect of transfers of Personal Data to Watermark from the EEA.

9. Order of precedence

If there is a conflict between the provisions of the main body of the Data Protection Addendum and the Standard Contractual Clauses, the main body of the Data Protection Addendum shall prevail.

Schedule 1 to Data Protection Addendum

Details of Processing Activities

The Personal Data processing activities carried out by Watermark under this Agreement may be described as follows:

1. Subject matter of processing

The subject matter and duration of the processing of the Organization Personal Data are set out in the Agreement and this Addendum.

2. Nature and purpose of processing

Watermark will process Organization Personal Data for the purposes of providing the Services to Organization in accordance with the terms of the Agreement.

3. Categories of Personal Data

Data relating to individuals provided to Watermark via the Services, by (or at the direction of) Organization.

4. Categories of data subjects

Data subjects include the individuals about whom data is provided to Watermark via the Services by (or at the direction of) Organization.

5. Duration

The term of the Agreement plus the period from the expiry of the term until deletion of all Organization Personal Data by Watermark in accordance with the terms of the Agreement.

Appendix 1

To the standard contractual clauses

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

Data exporter

The data exporter is (please specify briefly your activities relevant to the transfer): The Organization.
The data exporter has appointed the data importer to provide the Services as set out in the Agreement.

Data importer

The data importer is (please specify briefly activities relevant to the transfer): Watermark Insights, LLC.
The data importer is processing certain personal data in connection with providing Services to the Organization in accordance with the Agreement.

Data subjects

The personal data transferred concern the following categories of data subjects (please specify): Data subjects include the individuals about whom personal data is provided to the data importer via the Services by (or at the direction of) the data exporter.

Categories of data

The personal data transferred concern the following categories of data (please specify): Personal data relating to individuals provided to the data importer via the Services, by (or at the direction of) the data exporter.

Special categories of data (if appropriate)

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

Processing operations

The personal data transferred will be subject to the following basic processing activities (please specify): The data importer may process personal data within normal operation of the Services as more fully set forth in the Agreement.

Appendix 2

To the Standard Contractual clauses

Description of the technical and organisational security measures implemented by the data importer in accordance with clauses 8(4) and 9(3) (or document/legislation attached):

Data importer will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Personal Data uploaded. Data importer may modify or update these practices at its discretion provided that such modification and update does not result in a material degradation in the protection offered by these practices.