



## Alcea GDPR Data Processing Addendum

This GDPR Data Processing Addendum (“Addendum”) applies only to the extent that (1) Client is subject to the Data Protection Laws, including the General Data Protection Regulation (“GDPR”); (2) Client is a Controller as that term is defined in the Data Protection Laws; and (3) Alcea is a Processor as that term is defined in the Data Protection Laws. If all of the foregoing conditions are met, Client and Alcea agree as follows:

1. Definitions. The following definitions apply to this Addendum. Any capitalized terms not defined in this Addendum have the meaning ascribed to them in the Agreement.

(a) “Commercially Reasonable Efforts” means in respect of the party in question, taking such steps and performing them in such a way as that party would undertake to achieve a particular desired result for its own benefit, assuming such party was acting in a determined, prudent and reasonable manner and in the best interests of the other party.

(b) “Confidential Information” means any information that is received from or on behalf of a disclosing party and/or is obtained by a party or its personnel in connection with or arising out of this Agreement, including for the purposes of providing or receiving the Services that, if disclosed in tangible form, is marked confidential or if disclosed otherwise is confirmed in writing as being confidential or, whether disclosed in tangible form or otherwise, is manifestly confidential. Confidential Information includes this Agreement and the relationship between the parties but does not include Personal Data.

(c) “Data Protection Laws” means:

(i) all statutes, statutory instruments, regulations, by-laws, ordinances or subordinate legislation from time to time made or issued to which a party is subject;

(ii) the common law and the law of equity as applicable to the Parties;

(iii) any binding court order or judgment;

(iv) any applicable guidance, policy or standard which, in each case, is enforceable by law; and

(v) any applicable direction, policy, rule or order that is legally binding and that is issued by a Supervisory Authority insofar as the same relates to the Processing, protection or security of Personal Data.

(d) "Data Subject" means the natural living person to whom Controller Personal Data relates.

(e) "EU Model Contractual Clauses or EU MCCs" means the European Commission approved standard data protection clauses for the transfer of Personal Data from the European Union ("EU") to a third country not recognized by the European Commission as having adequate protection, including transfers to the U.S. notwithstanding any certification to the EU-U.S. Privacy Shield.

(f) "Good Industry Practice" means the exercise of at least the skill, care, prudence and efficiency which would reasonably be expected for a similarly situated provider of services that are the same as, or substantially similar to, the Services under the Agreement.

(g) "Personal Data" means any information, including information in electronic form, relating to a living person who can be identified: (a) from those data, or (b) from those data and the use of additional information, taking into account all means reasonably likely to be used by anyone to identify the person directly or indirectly and includes, without limitation, first and last names, ID numbers, including government-issued identifiers, personal dates such as birthdates, email addresses, location data, internet protocol address or other online identifiers and information concerning race, ethnicity or mental or physical health. For clarity, "Personal Data" includes personal data that is publicly available and excludes personal data that has been anonymized so it's no longer possible to re-identify a Data Subject from the information, taking into account

all means likely reasonably to be used by Alcea or anyone else to re-identify them.

(h) "Personal Data Breach" means a breach of security leading to destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed by Alcea or its Subprocessors, which is adverse to this Addendum or Data Protection Laws, or otherwise unlawful or accidental.

(i) "Personnel" shall include the relevant Party's partners, members, employees, officers and agents, self-employed contractors and those of its sub-contractors.

(j) "Processing" means any operation or set of operations performed on data, whether or not by automated means, such as accessing, collection, downloading, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction (and "Process" and "Processed" shall be construed accordingly).

(k) "Subprocessor" means anyone engaged by Alcea to perform Processing that Alcea performs on behalf of Client.

(l) "Supervisory Authority" means any person or body having regulatory, supervisory, administrative, governmental or competent authority from time to time over all or any part of Alcea or Client, including the European Data Protection Board. For avoidance of doubt, this includes any successors to any person or body that would be considered to be a "Supervisory Authority" at the date of this Addendum.

## 2. Data Protection.

(a) With respect to the Parties' rights and obligations under this Addendum, the Parties agree that Alcea is a Processor and Client is a Controller (each as defined in Data Protection Laws) of Personal Data.

(b) Client and Alcea shall complete and execute such form as provided by Alcea, which sets out certain information regarding the Processing of Personal Data as required by Data Protection Laws, and which shall be incorporated by reference into this Addendum. To the extent necessary to meet those requirements, Alcea may make reasonable

amendments to Schedule 1 by written notice to Client from time-to-time.

### 3. Responsibilities of Client.

(a) Client shall process Personal Data in compliance with Data Protection Laws and good data processing practice.

(b) Client's documented instructions of Processing of Personal Data are primarily given in this agreement. Client shall have the right to give Alcea new documented instructions or amend the documented instructions given by Client to Alcea. Alcea is entitled to charge for reasonable and substantiated additional costs for complying with new or amended documented instructions from Client.

### 4. Responsibilities of Alcea. Alcea shall and shall procure that its personnel shall, at all times:

(a) process Personal Data in compliance with Data Protection Laws and good data processing practice;

(b) process Personal Data in accordance with this Addendum or on documented instructions from Client, unless prescribed otherwise by a provision of Data Protection Laws applicable to Alcea. In such case, Alcea shall inform Client of such requirement before beginning the Processing of Personal Data in accordance with the instructions, unless informing of such requirement is prohibited in Data Protection Laws;

(c) inform Client without undue delay if Alcea considers that instructions of Client are in breach of Data Protection Laws;

(d) ensure that Alcea personnel who are authorized to process Personal Data agree to maintain the confidentiality of such Personal Data in a manner consistent with the provisions of this Addendum;

(e) implement and maintain technical and organizational measures to ensure an appropriate level of security to protect Personal Data against unauthorized access and loss, destruction, damage, alteration or disclosure, or against other unlawful Processing;

(f) follow the conditions concerning the use of Subprocessors as prescribed in Section 7(a) below;

(g) taking into account the information available to Alcea, provide reasonable assistance to Client in responding to requests for exercising the rights of Data Subjects where Client does not have the required information. Alcea is entitled to charge Client, and Client must pay to Alcea upon demand, for additional costs and expenses that were reasonably incurred as a result of complying with this Section 4(g). Alcea will promptly notify Client if it receives a request from a Data Subject to access, correct or delete that Data Subject's Personal Data or other right under Data Protection Laws or if a Data Subject objects to the Processing thereof and Alcea shall not respond to a Data Subject request without Client's prior written consent;

(h) taking into account the information available to Alcea, provide reasonable assistance to Client in ensuring compliance with its obligations set out in Data Protection Laws relating to data security, Personal Data Breaches, data protection impact assessments, and prior consulting obligations. Alcea is entitled to charge Client, and Client must pay to Alcea upon demand, for additional costs and expenses that were reasonably incurred as a result of complying with this Section 4(h);

(i) at the choice of Client, delete or return Personal Data to Client on termination of the Services and delete all existing copies unless Alcea is required to store such Personal Data by any law or regulation to which Alcea is subject; and

(j) make available to Client all information necessary to demonstrate compliance with Alcea obligations set out in this Addendum and in Data Protection Laws. Client is obliged to keep all such information confidential at all times.

#### 5. Personal Data Breach Notification.

(a) Alcea shall notify Client of all Personal Data Breaches without undue delay, but no later than one (1) business day after Alcea has become aware of the Personal Data Breach. Alcea shall make reasonable efforts to identify the cause of such Personal Data Breach and take those steps deemed necessary and reasonable in order to remediate the cause of such Personal Data Breach. The Personal Data Breach notification shall contain the following:

(i) a description of the nature of the Personal Data Breach, including the categories and approximate number of Data Subjects concerned and the categories and approximate number of data records concerned;

(ii) the name and contact details of the relevant contact person at Alcea handling the Personal Data Breach;

(iii) a description of the likely consequences and/or actual, realized consequences of the Personal Data Breach; and

(iv) a description of the measures Alcea has taken to address the Personal Data Breach and to mitigate its adverse effects.

(b) To the extent Alcea is unable to provide all of the information set forth above upon initial notice to Client, Alcea may supplement such notice with information as it becomes available and/or known to Alcea.

(c) Alcea shall document Personal Data Breaches and, subject to attorney-client privilege, disclose the documentation to Supplier upon Supplier's written request.

(d) After Alcea has become aware of the Personal Data Breach, Alcea shall ensure security of Personal Data and take appropriate measures to ensure protection of Personal Data in cooperation with Client.

## 6. Transfers of Personal Data.

(a) Alcea shall not transfer Personal Data outside the borders of the European Economic Area without written consent from Client. Consent given by the Customer as prescribed in this Section 6(a) shall be irrevocable.

(b) Where Client has given consent as prescribed in Section 6(a), the mechanism to export Personal Data shall be EU Model Contractual Clauses, which are hereby incorporated by reference, and in such event, the parties shall complete, execute and deliver *Schedule 1* attached hereto. The parties may jointly agree that another valid mechanism under Data Protection Laws may be used with respect to the export Personal Data.

## 7. Subprocessors.

(a) Alcea is entitled to engage and use Subprocessors in Processing Personal Data. Alcea may continue to use those Subprocessors already engaged by Alcea as of the date of this Addendum, and subject to Alcea meeting its obligations in Section 7(d) below Client hereby approves of such Subprocessors.

(b) Alcea is entitled to reduce the number of Subprocessors without separate notice to Client.

(c) Alcea shall notify Clients at least thirty (30) days prior to new Subprocessor commencing to Process Personal Data under this Addendum. Client may deny the use of the new Subprocessor only if Client has good faith, reasonable doubts about the ability of the Subprocessor to comply with Data Protection Laws. If Client does not deny the use of the new Subprocessor in writing within fourteen (14) days from the date of written notice from Alcea, Alcea may use the new Subprocessor in Processing Personal Data. If Client reasonably objects to a change in Subprocessor and Alcea cannot change the Service or recommend a commercially reasonable change to Client's configuration or use of the Service to avoid Processing of Personal Data by such Subprocessor, Client may terminate the Agreement. In such case, Alcea will refund Client any prepaid fees covering the remainder of the term of the Agreement.

(d) Alcea shall take appropriate measures to ensure that the Subprocessors comply with the obligations specified in this Addendum, including security and confidentiality requirements, and Alcea shall enter into a written agreement with each Subprocessor containing data protection obligations substantially similar to, and no less protective than those contained in this Addendum. Alcea is responsible for the performance of its Subprocessors.

8. Amendment. Except as set forth herein, this Addendum may only be amended by mutual written agreement of the Parties.

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## Schedule 1

This Schedule forms part of the EU Model Clauses and must be completed and signed by the parties. The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Schedule.

| Data exporter

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

| Data importer

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

| Data subjects

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

| Categories of data

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

Special categories of data (if appropriate)

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



Processing operations

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

DATA EXPORTER:

Signature: \_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_  
\_\_\_\_\_

Title: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_  
\_\_\_\_\_

DATA IMPORTER

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_