



Data Protection Addendum

This Data Protection Addendum (“**Addendum**”) forms part of, and is incorporated into the Services Agreement entered into between **Customer**, on behalf of itself and its Authorised Affiliates, and **Telstra** for the provision of the Services referred to in this Addendum (the “Services”).

Capitalised terms that are not defined in this Addendum have the meaning specified in the GDPR or the UK GDPR (as the context requires). Except as modified below, the terms of the Services Agreement and each Service Order Form agreed between you and us shall remain in full force and effect; provided that this Data Protection Addendum shall supersede and replace any data protection agreement, addendum or clauses that the parties or their Affiliates may have previously entered into that would otherwise apply to subject matter of this Addendum.

This Addendum contains the mandatory clauses required by Article 28 of the GDPR and equivalent provisions contained in the UK GDPR and shall only apply in the circumstances where provision of the Services, including the associated Processing of your Personal Data, is covered by such provisions.

1. Processing of your Personal Data

Our Processing of Personal Data

- 1.1 We shall not Process your Personal Data other than on your documented instructions unless Processing is required by Applicable Laws, in which case we shall to the extent permitted by such law inform you of that legal requirement before the relevant Processing of your Personal Data.
- 1.2 You instruct us (and authorise us to instruct each Subprocessor) to:
 - 1.2.1 Process your Personal Data; and
 - 1.2.2 in particular, transfer your Personal Data to any third country or territory, in connection with the provision of goods and services to you in accordance with the Services Agreement and this Addendum, including the relevant SCC Annexes attached to this Addendum.
- 1.3 This Addendum incorporates the Standard Contractual Clauses approved by the European Commission for the purposes of allowing us and our suppliers that may process Personal Data on our behalf (each, a Contracted Processor) to process your Personal Data in accordance with Article 28(3) of the GDPR and its equivalent terms in the UK GDPR.

- 1.4 In relation to Personal Data that we process in the course of supplying goods or performing services for you and we will comply with the SCCs including the Processing details contained in the Annexes which are attached as an Appendix to this Addendum.

2. Our Personnel

We shall ensure that all employees of any Contracted Processor who have access to your Personal Data are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

3. Security

- 3.1 We shall implement and maintain, and shall ensure that each Subprocessor implements and maintains the technical and organisational measures set out in Annex 2 of the Appendix to this Addendum with respect to all Processing of your Personal Data pursuant hereto by Contracted Processors.
- 3.2 You represent, undertake and warrant that at all times all Personal Data Processed by the Contracted Processors that is provided by you, or on your behalf has been and shall be collected and processed by you in accordance with all Applicable Data Protection Laws and without limitation to the foregoing you shall take all steps necessary, including without limitation providing appropriate fair collection notices and ensuring that at all times there is a lawful basis for Contracted Processors to process such Personal Data, to ensure that the Processing of such Personal Data by Contracted Processors is compliant with Applicable Data Protection Laws.
- 3.3 Notwithstanding anything to the contrary in any Services Agreement or Service Order Form, you shall indemnify and hold harmless each Contracted Processor against all claims (including any claims by any Supervisory Authority), losses, fines and sanctions of any kind arising from, or in connection with, any breach of section 3.2.
- 3.4 You may implement additional technical and organisational measures (“**Customer Security Measures**”) from time to time for the purpose of complying with your obligations under the GDPR and the UK GDPR in respect of any goods and services that we provide you, provided that:
- 3.4.1 at all times you will ensure that all Customer Security Measures are compatible with our technical and organisational measures described in Annex 2 of the Appendix;
 - 3.4.2 no Contracted Processor shall be required to change any of the technical or organisational measures set out in Annex 2 of the Appendix to this Addendum, or incur any costs of implementing or supporting any Customer Security Measures; and
 - 3.4.3 you indemnify and hold harmless each Contracted Processor in respect of any claims (including any claims by any Supervisory Authority), losses, fines and sanctions arising from, or in connection with, any Customer Security Measures.

4. Subprocessing

- 4.1 You authorise us to engage the Subprocessors specified in Annex III of the Appendix to this Addendum for the specified purposes described in the Appendix and authorise us, to appoint further Subprocessors in accordance with this section 4 and subject to the requirements of the SCCs.
- 4.2 We shall give you at least fourteen (14) days' prior written notice of the appointment of any new Subprocessor or changes to any Subprocessor's Processing arrangements, including necessary details of the Processing to be undertaken by the Subprocessor.
- 4.3 If, within 30 calendar days of notice, you notify us in writing of any objections (on reasonable grounds) to the proposed appointment, we shall:
 - 4.3.1 not appoint (or disclose any of your Personal Data to) that proposed Subprocessor until it has taken reasonable steps to address the objections raised by you; or
 - 4.3.2 notify you that you may terminate the relevant service without incurring any early termination costs.

With respect to each Subprocessor, we shall ensure that the Subprocessor's Processing is governed by a written contract including terms which offer at least the same level of protection for your Personal Data as those set out in this Addendum.

5. Data Subject Rights

- 5.1 We shall:
 - 5.1.1 promptly notify you if any Contracted Processor receives a request from a Data Subject under any EU or UK Data Protection Law in respect of your Personal Data; and
 - 5.1.2 ensure that we, or any Subprocessor, do not respond to that request except on your documented instructions or as required by Applicable Laws, in which case we shall to the extent permitted by Applicable Laws inform you of that legal requirement before the Contracted Processor responds to the request.

6. Personal Data Breach

We shall notify you without undue delay upon us or any Subprocessor becoming aware of a Personal Data Breach affecting your Personal Data, providing you with information (as and when available) to assist you to meet any obligations to report or inform affected Data Subjects of the Personal Data Breach under applicable Data Protection Laws.

7. Data Protection Impact Assessment and Prior Consultation

We shall provide reasonable information and assistance to you in relation to any data protection impact assessments you need to complete in order to comply with your obligations under UK or EU Data Protection Laws in relation to our services, to the extent you do not have access to relevant information already and to the extent that such information is available to us.

8. Deletion or return of your Personal Data

- 8.1 Subject to sections 8.1 and 8.3 and to the requirements of any applicable exit plan, you instruct us to, after the date of cessation of any Services involving the Processing of your Personal Data (the "**Cessation Date**"), delete and procure the deletion of all copies of your Personal Data.
- 8.2 You acknowledge and agree that you will be responsible for making a copy of or exporting, before the Cessation Date (or any later date as specifically set out in the applicable Service Schedule), any of your Personal Data which you wish to retain.
- 8.3 Each Contracted Processor may retain your Personal Data to the extent required by local laws applicable to such Contracted Processor and only to the extent and for such period as required by such laws and always provided that we shall ensure the confidentiality of such Personal Data and shall ensure that your Personal Data is only Processed as necessary for the purpose(s) specified in such laws requiring its storage and for no other purpose.

9. Audit rights

- 9.1 Subject to sections 9.2 to 9.3, we shall make available to you on request all information reasonably necessary to demonstrate compliance with this Addendum, and shall allow for and contribute to audits, including inspections, by an auditor appointed by you in relation to the Processing of your Personal Data by the Contracted Processors.
- 9.2 You shall give us reasonable notice of any audit or inspection to be conducted under section 9.1. We may object in writing to an auditor appointed by you to conduct any audit under section 9.1 if the auditor is, in our reasonable opinion, not suitably qualified or independent, a competitor of ours, or otherwise manifestly unsuitable. Any such objection by us will require you to appoint another auditor.
- 9.3 You shall make (and ensure that each appointed auditor makes) all necessary efforts to avoid causing any damage, injury or disruption to the Contracted Processors' premises, equipment, personnel and business while its personnel are on those premises in the course of such an audit or inspection. A Contracted Processor need not give access to its premises for the purposes of such an audit or inspection:
- 9.3.1 to any individual unless he or she produces reasonable evidence of identity and authority;

- 9.3.2 outside normal business hours at those premises, unless the audit or inspection is required to be carried out on an emergency basis by a Supervisory Authority; or
- 9.3.3 for the purposes of more than one audit or inspection, in respect of each Contracted Processor, in any calendar year, except for any additional audits or inspections which you are required or requested to carry out by Data Protection Law, a Supervisory Authority or any similar regulatory authority responsible for the enforcement of Data Protection Laws in any country or territory.

10. General Terms

Order of precedence

- 10.1 In the event of any conflict or inconsistency among the SCCs, this Addendum, any Service Order Form and any Services Agreement, the following descending order of precedence shall apply:
 - 10.1.1 The SCCs (including the relevant Annexes set forth in the Appendix to this Addendum);
 - 10.1.2 the terms of this Addendum;
 - 10.1.3 the terms of the Service Order Form; and
 - 10.1.4 to the extent applicable, the terms of any Services Agreement with you.

Governing Law & Supervisory Authority

- 10.2 In respect of any Personal Data exported from the EU and for the purposes of clauses 17 and 18 of the SCCs, the Processing of such Personal Data and any applicable data transfers are governed by the laws of Ireland, and the parties submit to the non-exclusive jurisdiction of the Irish courts and courts entitled to hear appeals from them.
- 10.3 In respect of any Personal Data exported from the United Kingdom, the Processing of such Personal Data and any applicable data transfers are governed by the Courts of England and Wales and the parties submit to the non-exclusive jurisdiction of the English courts and courts entitled to hear appeals from them.
- 10.4 For the avoidance of doubt, in respect of any Personal Data exported from the EU, the parties acknowledge (and this Addendum does not limit or seek to modify) the right of any Data Subject whose Personal Data is subject of this Addendum to bring legal proceedings against either party in the Data Subject's country of habitual residence, if they are resident in a Member State.

Changes in Applicable Laws

- 10.5 If any variation is required to this Addendum as a result of a change in Applicable Laws, including any replacement of or variation to the Standard Contractual Clauses, then either party may provide written notice to the other party of that change in law. The parties shall discuss the change in Applicable Laws and negotiate in good faith with a

view to agreeing any necessary variations to this Addendum, including the Standard Contractual Clauses, to address such changes.

Severance

- 10.6 Should any provision of this Addendum be invalid or unenforceable, then the remainder of this Addendum shall remain valid and in force. The invalid or unenforceable provision shall be either (i) amended as necessary to ensure its validity and enforceability, while preserving the parties' intentions as closely as possible or, if this is not possible, (ii) construed in a manner as if the invalid or unenforceable part had never been contained therein.

Costs

- 10.7 You shall reimburse us for all costs (including internal and third party costs) which are reasonably and properly incurred by us in the performance of our obligations under sections 5 (Data Subject Rights); 6 (Personal Data Breach); 7 (Data Protection Impact Assessment and Prior Consultation) and 9 (Audit rights) of this Addendum. We shall charge for internal resources at our current professional day rates as set by us from time to time.

Indemnity

- 10.8 You shall indemnify and hold harmless us and each other Contracted Processor in accordance with this Addendum against all losses, fines and sanctions howsoever arising from any breach of this Addendum by you.

Notices

- 10.9 Any notice required to be given under this Addendum must be sent by email to, in the case of notices to Customer, the contact person specified in the applicable Service Order Form and, in the case of notices to Telstra to privacy@online.telstra.com.au.

11. Definitions

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- 11.1 In this Addendum, the following terms shall have the meanings set out below and cognate terms shall be construed accordingly:

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

11.1.2 "**Applicable Data Protection Laws**" EU Data Protection Laws, UK Data Protection Laws and any applicable third country data protection laws directly applicable to any personal data processed pursuant to this Addendum;

11.1.3 "**Applicable Laws**" means in the case of Personal Data that is subject to the UK GDPDR, any UK law, and in the case of Personal Data that is subject to the GDPR, any European Union or Member State laws.

- 11.1.4 **Authorised Affiliate**" means each Customer Affiliate(s) which:
- 11.1.4.1 is a Controller of Personal Data Processed by Telstra pursuant to this Addendum, which data is subject to EU or UK Data Protection Laws; and
 - 11.1.4.2 is permitted to use the Services pursuant to the Services Agreement or a Service Order Form between Customer and Telstra, but which has not signed its own Services Agreement or Service Order Form with Telstra and is not a "Customer" as defined in this Addendum;
- 11.1.5 **"Contracted Processor"** means us or a Subprocessor;
- 11.1.6 **"Customer" or "you"** shall have the meaning set forth in the applicable Service Order Form for the Services, including, in the case of any obligations hereunder, any Authorised Affiliate;
- 11.1.7 **"EEA" means the European Economic Area;**
- 11.1.8 **"EU Data Protection Laws"** means the Data Protection Directive (95/46/EC) if applicable, the GDPR and the ePrivacy Directive (2002/58/EC) , including implementing or supplementing laws, as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time;
- 11.1.9 **"GDPR"** means EU General Data Protection Regulation (2016/679);
- 11.1.10 **"Services"** mean in relation to this Addendum the Services supplied by us or our Affiliates that involve the Processing of Personal Data as described in the Appendix to this Addendum;
- 11.1.11 **"Services Agreement"** means our Global Business Services Agreement or other agreement for the provision of Services;
- 11.1.12 **"Service Order Form"** means our standard Service Order Form for Services, or any other order form we agree with you in writing that incorporates the provisions of this Addendum;
- 11.1.13 **"Standard Contractual Clauses or SCCs" means:**
- In the case of Personal Data exported from the EEA: the contractual clauses located at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021D0914&from=EN>, which for avoidance of doubt shall include all Module Two clauses included therein, in each case, as may be amended supplemented or replaced by the European Commission from time to time, and incorporating as Annexes the information contained in the Appendix to this Addendum.
 - 11.1.13.1 in the case of Personal Data exported from the United Kingdom, the contractual clauses for controllers to processors located at <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation->

gdpr/international-transfers-after-uk-exit/sccs-after-transition-period; and any amendment or replacement of these terms (as applicable) published from time to time;

- 11.1.14 **"Subprocessor"** means any person (including any third party and any Telstra Affiliate, but excluding any employee of ours or any of our sub-contractors) appointed by or on behalf of us to Process Personal Data on behalf of you in connection with this Addendum;
 - 11.1.15 **"Telstra" or "we"** means the Telstra entity set forth in the applicable Service Order Form;
 - 11.1.16 **"UK Data Protection Laws"** means the Data Protection Act 2018 (incorporating the UK GDPR) and the Privacy and Electronic Communications (EC Directive) Regulations 2003, and the laws implementing or supplementing them;
 - 11.1.17 **"UK GDPR"** means the UK General Data Protection Regulation as defined in the Data Protection Act 2018 (UK); and
 - 11.1.18 **"your Personal Data"** means any Personal Data Processed by a Contracted Processor on behalf of you pursuant to this Addendum.
- 11.2 The terms, **"Commission"**, **"Controller"**, **"Data Subject"**, **"Member State"**, **"Personal Data"**, **"Personal Data Breach"**, **"Processor"**, **"Processing"** and **"Supervisory Authority"** and other defined terms contained in the GDPR or UK GDPR shall in the context of processing to which EU Data Protection Laws apply, have the same meaning as in the GDPR and in the context of processing to which UK Data Protection Laws apply, shall have the same meaning as in the UK GDPR..

APPENDIX

Annexes I, II and III (1, 2 and 3) to the SCCs

Customer agrees that it request, review and approve these Annexes prior to use of the Services. Requests shall be directed to privacy@online.telstra.com.au.