

DATA PROCESSOR ADDENDUM

This Data Processor Addendum (the “**DPA**”) by and between customer as identified below (the “**Customer**”) and either Accellion, Inc. or Accellion Pte Ltd (each together with its affiliated companies, “**Accellion**”) forms part of the agreement (the “**Agreement**”) between Customer and Accellion. It is entered into for compliance with the General Data Protection Regulation (EU) 2016/679 (the “**GDPR**”).

1. Definitions: Scope.

1.1 Definitions. Unless otherwise defined herein, capitalized terms in this DPA shall have the meanings ascribed to them in the Agreement. The terms “**controller**”, “**data subject**”, “**personal data**”, “**personal data breach**”, “**processing**” and “**processor**” shall have the same meaning as in the GDPR.

1.2 Scope. The provisions of this DPA prevail over the provisions of the Agreement with respect to personal data hosted by Accellion pursuant to the Agreement. If adjustments to this DPA are necessary to comply with legal requirements, the parties shall make such adjustments immediately. To the extent the laws of any jurisdiction within the EU are contrary to this DPA or require a modification to this DPA, Customer shall have the responsibility of informing Accellion.

1.3 Notice and Consent Regarding Transfer of Data. Use of the Accellion Solution requires that personal data be processed in: (i) the United States of America by Accellion, Inc. if hosting is provided by Accellion, Inc. in the United States of America, or if Customer’s End Users utilize Accellion’s mobile applications, or where Accellion, Inc. provides customer support; and (ii) Singapore by Accellion Pte Ltd, where customer support teams are located. Computing systems, resources and infrastructure necessary for those functions and, hence, for Customer’s exercise of its rights under the Agreement, are located in those jurisdictions. Those items would not be available without such processing of personal data in the United States of America and Singapore as described. Pursuant to Article 49 of the GDPR, Customer hereby expressly consents to the processing by, and transfer of, personal data to Accellion, Inc. in the United States of America and Accellion Pte Ltd in Singapore for those purposes. Accellion Pte Ltd is a subsidiary of Accellion, Inc. and each entity processes such personal data in compliance with the contractual requirements established with Customer.

2. Roles and Responsibilities.

2.1 Roles & Responsibilities.

(a) Customer as Controller. Customer represents that it is the sole controller of the personal data for the purposes of the GDPR and applicable data protection laws and has all necessary rights, and has obtain all necessary consents to use the personal data with the Accellion Solution. Customer has the right to give instructions regarding the nature, scope and process of personal data pursuant to express terms in the GDPR. Accellion will comply and maintain records for all such instructions to the extent necessary for Accellion to: (i) comply with its processor obligations under the GDPR and applicable law; or (ii) assist Customer to comply with Customer’s obligations as a controller under the GDPR or applicable law relevant to Customer’s use of the Accellion Solution. Customer represents and warrants that is responsible for the lawfulness of the processing of the personal data using the Accellion Solution and Customer agrees that it will not use the Accellion Solution in conjunction with

personal data to the extent that doing so would violate the GDPR or applicable data protection laws. Customer further represents and warrants that personal data used with the Accellion Solution will not subject Accellion to any obligations beyond those set forth in the Agreement, the DPA or any other written agreement between the parties.

(b) Accellion as Processor. Accellion is the processor and processes personal data solely for the purposes mentioned in the Agreement on behalf of Customer's instructions as embodied in the Agreement. Accellion shall not use the personal data for any other purpose. Accellion will monitor its compliance with data protection requirements and its contractual obligations as well as the documented and authorized instructions of Customer provided during the term of the Agreement. To the extent required by the GDPR or applicable law, Accellion will immediately inform Customer if, in its opinion, Customer's instructions violate the GDPR or applicable law, but Customer acknowledges and agrees that Accellion is not responsible for performing legal research and/or for providing legal advice to Customer. Accellion shall create records of all processing activities in its responsibility meeting at least the requirements of Article 30(2) and (3) of the GDPR.

2.2 Limitations. Customer acknowledges and agrees that software and services provided by Accellion give the Customer, not Accellion, control over access, additions, deletions, modifications and monitoring of personal data and that, accordingly: (i) the core activities of Accellion do not involve any monitoring of a data subject; and (ii) Accellion does not have actual knowledge of the types of personal data that Customer may host using the Accellion Solution. Hence, the provisions of Article 11 of the GDPR apply to the processing conducted by Accellion; and (iii) Accellion does not have to appoint a data protection officer as referenced in Article 37 of the GDPR or a representative in the EU pursuant to Article 27(2)(a) of the GDPR.

2.3 Sub-processors. Accellion will inform Customer, and obtain customer approval, about the intended engagement of sub processors. Accellion shall impose on the sub processor by way of contract the substantially the same data protection obligations as those set forth in this DPA. Customer acknowledges and agrees that Amazon Web Services ("AWS") and Microsoft, through its Azure services ("MS"), may act as a sub processors under this DPA and Customer hereby accepts the provisions of AWS's form of Data Processing Addendum (the "AWS DPA") and Microsoft's GDPR compliance terms (the "MS DPA"). Customer acknowledges that the AWS DPA and the MS DPA meet the requirements of the GDPR and this DPA, and that processing of personal data under the AWS DPA and MS DPA is authorized and approved by Customer.

3. Technical and Organizational Measures. Accellion takes appropriate technical and organizational measures for its own systems to comply with data privacy in order to ensure a level of data protection appropriate to the risk resulting from the processing of personal data under the Agreement, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing, as well as the severity and likelihood of realization of risks for the rights and freedoms of data subjects. In particular, Accellion offers versions of the Accellion Solution which are certified as FIPS 140 compliant and/or for which Accellion has received FedRAMP authorization. Accellion is in the process of registering with the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks, as set forth by the U.S. Department of Commerce with respect to personal information that is transferred from the European Economic Area and Switzerland to the United States, and expects that to be completed prior to the date the GDPR becomes effective.

4. Personal Data; Audit.

4.1 Rights in Personal Data. Accellion recognizes that the right to use personal data is exclusive to Customer as data controller and Accellion does not claim any rights over the personal data. To the extent permitted by law, Accellion will inform Customer of requests made directly to Accellion from data subjects exercising their rights regarding personal data. Since it is the Customer, not Accellion, which retains control over the access, additions, deletions, modifications and monitoring of personal data, Customer shall be responsible to respond to such requests of data subjects. Similarly, if Accellion receives any subpoena or similar order from a court or other governmental authority which relates to the processing of personal data on behalf of the Customer, it will promptly pass on the same to Customer without responding to it, unless otherwise required by applicable law, and Customer shall promptly respond to the same. Upon termination or expiration of the Agreement Accellion, to the extent that Accellion maintains any personal data of Customer, it will either delete or return such personal data unless otherwise required by applicable law.

4.3 Reporting of Unauthorized Access. Accellion shall inform the Customer without undue delay, but at least within 48 hours, about any errors or irregularities in processing of personal data of the Customer or reasonable suspicion of any other breach of the protection of personal data.

4.4 Audit. At its sole cost and expense, Customer may audit Accellion's compliance with its obligations under this DPA up to once per year and upon at least 14 days advance written notice to Accellion, with such notice to include a detailed proposed audit plan; provided that to the extent required by the GDPR or applicable law, Customer or the relevant data protection authority may perform more frequent audits. The proposed audit plan must describe the proposed scope, duration, and start date of the audit. Accellion will review the proposed audit plan and provide Customer with any concerns or questions and work cooperatively with Customer to agree on a final audit plan. Accellion will contribute to such audits by providing the information and assistance reasonably necessary to conduct the audit, including any relevant records of processing activities applicable to Customer's use of the Accellion Solution where such records are not otherwise available to the Customer through the Accellion Solution. The audit must be conducted during regular business hours, may not unreasonably interfere with Accellion business activities, and be conducted subject to the agreed final audit plan and Accellion's or the applicable sub processor's internal policies. Customer will provide Accellion any audit reports generated as part of any audit under paragraph unless prohibited by the GDPR, applicable law, or the applicable data protection authority. Customer may use the audit reports only for the purposes of meeting Customer's regulatory audit requirements and/or confirming compliance with the requirements of this DPA. The audit reports are Confidential Information of the parties under the terms of the Agreement. Where assistance requested of Accellion in conjunction with such audit requires the use of resources different from or in addition to those required of Accellion under the Agreement, Customer shall pay for such additional resources at Accellion's then-current rates.

4.5 Audit Rights to Subcontractors. Accellion hereby grants the Customer power of attorney to exercise any audit rights granted by AWS under the AWS DPA and/or by MS under the MS NDA, provided that any results of audits will be shared with Accellion. The execution of the Customer's audit rights regarding subcontractors is performed by Accellion in the framework of the audit rights described in this Section 4.



5. Liabilities. Liability of the parties under this DPA is governed by the Agreement, provided that except for the intentional misconduct of Accellion, Customer shall defend, indemnify and hold harmless Accellion, its affiliated companies, their respective officers, directors, employees, agents, successors and assigns of the foregoing, and their authorized distributors and resellers, from and against any and all claims, losses, liabilities, damages, penalties, fines, costs and expenses (including reasonable attorneys' fees and costs) arising out of this DPA. This paragraph controls in the event of any conflict between this paragraph and any other provision of the Agreement or any other document.

IN WITNESS WHEREOF, the Parties hereto, through their duly authorized representatives, have executed this Agreement as of the Effective Date.

ACCELLION: _____

CUSTOMER: _____

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____