

## DATA PROCESSING ADDENDUM

Version, 8 July 2024

### 1. Scope and Order of Precedence

This Data Processing Addendum (**DPA**) applies to the Processing of Personal Data by the applicable Licensor legal entity and its Affiliates (collectively **Licensor**) on behalf of the customer (**Customer**) when providing Licensor Products and Services. The Licensor Products and Services are described in the relevant Agreement. In the event of conflict between the terms of the Agreement and this DPA, the terms of this DPA shall control. In the event of conflict between the terms of this DPA and the EU Standard Contractual Clauses (**EU SCCs**) and/or the UK Standard Contractual Clauses (**UK SCCs**), the terms of the EU SCCs and/or the UK SCCs shall control.

This DPA is between Customer and Licensor and is incorporated by reference into the Agreement.

### 2. Defined Terms

**"Affiliates"** means any entity directly or indirectly controlling, controlled by or under common control by another entity. For purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of another entity, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

**"Agreement"** means the agreement entered into between Licensor and Customer pursuant to which Licensor processes Personal Data belonging to Customer.

**"Applicable Data Protection Laws"** means all data protection and privacy laws and regulations that apply to the Processing of Personal Data under this DPA and may include, but are not limited to: (a) the EU General Data Protection Regulation 2016/679 ("GDPR") and laws or regulations implementing or supplementing the GDPR; (b) the EU GDPR as it forms part of the laws of the United Kingdom by virtue of Section 3 of the UK EU (Withdrawal) Act 2018 UK GDPR ("UK GDPR") and the Data Protection Act 2018 ("UK DPA"); (c) the California Consumer Protection Act ("CCPA") as amended by the California Privacy Rights Act of 2020; in each case as currently in effect and as may be amended or superseded from time to time.

**"Customer Data"** means any data that Licensor accesses or receives or that Customer sends or uploads for storage or Processing in order for Licensor to perform Licensor Products and Services. It also includes proprietary technical information associated with Customer environment, such as system and network configurations.

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

**"Licensor Products and Services"** means Software (including License Configuration), SaaS Subscription, Professional Services, Service Deliverables, Maintenance Services, training services, Documentation, Equipment and any other products and services provided by Licensor under the Agreement.

**"Personal Data"** means any Customer Data Processed in connection with the performance of Licensor Products and Services that can identify any natural person ('Data Subject'); directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

The terms **"Data Controller"**, **"Data Subject"** and **"Processing"** shall have the meanings set out in the GDPR. Terms used but not defined in this DPA shall have the same meaning as set out in the Agreement or Applicable Data Protection Laws.



### 3. Roles of Data Controller and Data Processor

For the purposes of this DPA, Customer is the Data Controller of the Personal Data Processed by Licensor in its performance of the Licensor Products and Services under the terms of the Agreement. Licensor is the Data Processor and service provider with respect to such Personal Data.

The Parties shall comply with the provisions and obligations imposed on them by the Applicable Data Protection Laws at all times when Processing Personal Data in connection with the Agreement and this DPA.

The Customer shall:

- (a) comply with its obligations as a Controller under Applicable Data Protection Laws;
- (b) ensure that any instructions it issues to Licensor shall comply with the Applicable Data Protection Laws;
- (c) have sole responsibility for the accuracy, quality and legality of Personal Data and the means by which the Customer acquired the Personal Data, and shall establish the legal basis for processing under Data Protection Laws, including providing all notices and obtaining any consents as may be required under Applicable Data Protection Laws in order for Licensor to Process the Personal Data as necessary to perform Licensor Products and Services;
- (d) unless specified in the Agreement, not provide Licensor with access to any Personal Data that imposes specific data protection requirements greater than those agreed to in the Agreement and this DPA; and
- (e) limit Licensor's access to Personal Data as necessary to perform Licensor Products and Services.

To the extent Licensor processes any Personal Data on behalf of the Customer, Licensor shall:

- (a) comply with its obligations as a Processor under Applicable Data Protection Laws that apply to its Processing of Personal Data under the Agreement and this DPA;
- (b) Process such Personal Data only in accordance with the Customer's written instructions as set out in the Agreement, this DPA and Applicable Data Protection Laws. If during the relevant term of Licensor Products and Services Customer wishes to provide additional instructions related to the Processing of Personal Data, Licensor will comply with such instructions, provided that in the event that such processing instructions impose costs on Licensor beyond those included in the scope of Licensor Products and Services under the Agreement, Licensor shall not be required to implement such measures and processes unless and until the Customer agrees in writing to bear the cost for implementing such measures and processes.
- (c) ensure only Licensor's personnel who need access to the Personal Data are authorised to have access to such Personal Data, and ensure that any such Licensor's personnel are bound by appropriate confidentiality agreements or are under an appropriate statutory obligation of confidentiality when Processing such Personal Data; and
- (d) taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing, implement administrative, technical and organisational measures and procedures to ensure a level of security for such Personal Data appropriate to the risk, including the risks of accidental, unlawful or unauthorised destruction, loss, alteration, disclosure, dissemination or access.

### 4. Purpose of Processing

Licensor and any persons acting under its authority under this DPA, including sub-processors and Affiliates, will Process Personal Data only for the purposes of performing the Licensor Products and Services in accordance with Customer's written instructions as specified in the Agreement, this DPA and Applicable Data Protection Laws.

Licensor will not disclose Personal Data in response to a subpoena, judicial or administrative order, or other binding instrument ("Demand") unless required by law. Licensor will promptly notify the Customer of any Demand unless prohibited by law and provide Customer with reasonable assistance to facilitate its timely response to the Demand.

Licensor may provide Personal Data to Affiliates in connection with any anticipated or actual merger, acquisition, sale, bankruptcy, or other reorganization of some or all of its business, subject to the obligation to protect Personal Data consistent with the terms of this DPA.

## 5. Data Subjects and Categories of Personal Data

Customer determines and has sole control of the Personal Data to which it provides Licensor access in order to perform Licensor Products and Services. This may involve the Processing of Personal Data of the following categories of Data Subjects:

- Employees and applicants
- Customers and end users
- Suppliers, agents and contractors

The Processing of Personal Data may also include but is not limited to the following elements of Personal Data:

- Direct identifiers such as first name, last name, date of birth, and home address
- Home telephone number, mobile telephone number, email address, postal mail address, and fax number
- Age, date of birth, marital status, spouse or partner, and number and names of children
- Employment information such as employer, work address, work email and phone, job title and function, salary, manager, employment ID, system usernames and passwords, performance information, and CV data
- Other data such as financial, goods or services purchased, device identifiers, online profiles and behavior, and IP address
- Other Personal Data to which Customer may provide Licensor access in connection with the provision of Licensor Products and Services.

## 6. Sub-processing

The Customer generally authorizes Licensor to engage third party suppliers and Affiliates to support Licensor in its provision of Licensor Products and Services where processing of Personal Data is involved ("**Sub-Processors**"). These Sub-Processors are bound by written agreements that require them to provide at least the level of data protection required of Licensor by the Agreement and this DPA. Customers may request copies of the data protection terms Licensor has in place with any Sub-Processor involved in providing the Licensor Products and Services. Licensor remains responsible at all times for such Sub-Processors' compliance with the requirements of the Agreement, this DPA and Applicable Data Protection Laws. An up-to-date list of Sub-Processors can be obtained on request.

If Licensor wishes to engage a new Sub-Processor ("**New Sub-Processor**"), at least fourteen (14) calendar days before authorizing any new Sub-Processor to access Personal Data, Licensor shall update the Sub-Processor list and inform the Customer of the engagement. Customer may object to the engagement of such New Sub-Processor by notifying Licensor within ten (10) calendar days from receiving Licensor's notification. Any 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 DPA and must include sufficient detail to enable Licensor to consider properly the objection. If the Customer does not so object, the engagement of the New Sub-Processor shall be deemed accepted by the Customer.

If the Customer does not approve of a new Sub-Processor, the Parties shall enter into good faith discussions with a view to finding a mutually agreeable solution to the objection.

## 7. International Data Transfers

For SaaS Subscription Services, Customer and Licensor may agree upon the location for where Personal Data at rest resides as at the effective date of the Agreement. Notwithstanding the foregoing, Licensor may transfer Personal Data to the United States, India and/or to other countries including third countries as necessary to perform the Licensor Products and Services, and Customer authorizes Licensor to perform any such transfer in order to process Personal Data as necessary to provide the Licensor Products and Services. Licensor will follow the requirements of this DPA regardless of where such Personal Data is stored or Processed.

Where the Processing involves the international transfer of Personal Data of residents of a country within the EEA, Switzerland or UK to Licensor, its Affiliates or Sub-Processors in a jurisdiction (i) that has not been deemed by the European Commission or the UK Information Commissioner's Office to provide an adequate level of data protection, and (ii) there is not another legal basis for the international transfer of such Personal Data, such transfers are subject to either the EU SCCs, the UK SCC Addendum and/or Swiss SCC Addendum (as applicable). For international transfers subject to:



- the GDPR, the Parties hereby incorporate by reference the 2021 EU SCCs (Module One where Customer and Licensor are both Controllers, Module Two where Customer is a Controller and Licensor is a Processor, or Module Three where both Customer and Licensor are both Processors, as applicable);
- the UK Data Protection Laws, the Parties hereby incorporate by reference the UK SCC Addendum; and
- the Swiss Federal Act on Data Protection the Parties hereby incorporate by reference the Swiss SCC Addendum.

The 2021 EU SCCs and the UK SCC Addendum are available at the Aptean Trust Centre <https://trust.aptean.com/> and shall be between Customer and Aptean, Inc., irrespective of the Customer's location. For such purposes, Customer will act as the Data Exporter on its behalf and on behalf of any of its entities, and Aptean, Inc. will act as the Data Importer on its own behalf and/or on behalf of its Affiliates. For purposes of Clause 7 of the 2021 EU SCCs, any acceding entity shall enforce its rights through Customer.

For the purposes of the Swiss SCC Addendum, (i) the term "member state" shall not be interpreted in such a way as to exclude data subjects in Switzerland from the possibility of suing for their rights in their place of habitual residence (Switzerland) in accordance with Clause 18(c) of the 2021 EU SCCs; (ii) the references to the GDPR should be understood as references to the FADP insofar as the data transfers are subject to the FADP; (iii) the Federal Data Protection and Information Commissioner of Switzerland shall be the competent supervisory authority in Annex I.C under Clause 13 of the 2021 EU SCCs, where the transfer of Personal Data is subject to the FADP. In the event of any direct conflict between this Addendum and the 2021 EU Standard Contractual Clauses, the UK SCC Addendum and/or Swiss SCC Addendum the 2021 EU Standard Contractual Clauses, the UK SCC Addendum and/or the Swiss SCC Addendum (as applicable) shall prevail.

## **8. Requests from Data Subjects**

Licensor will make available to Customer the Personal Data of its Data Subjects and will assist Customer with its obligations to fulfill requests from Data Subjects in a manner consistent with Licensor's role as a Data Processor. If Licensor receives a request directly from the Customer Data Subject, Licensor will direct the Data Subject to the Customer unless prohibited by law.

## **9. Security**

Licensor shall implement and maintain appropriate administrative, technical and organizational controls designed to protect Personal Data against any misuse or accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data. Such security practices are set out in the Aptean Services Security Exhibit available at the Aptean Trust Centre <https://trust.aptean.com/> . Licensor seeks to continuously strengthen and improve its security practices, and so reserves the right to modify the controls described herein. Any modifications will not diminish the level of security during the relevant term of Licensor Products and Services.

## **10. Personal Data Breach**

Licensor shall inform the Customer without undue delay upon becoming aware of an actual Personal Data Breach involving Personal Data in its possession, custody and control. Such notification shall at least:

- (a) describe the nature of the Personal Data Breach including, where possible, the categories and approximate number of Customer's Data Subjects concerned and the categories and approximate number of Personal Data records concerned.
- (b) provide the name and contact details of the data protection officer or other contact where more information can be obtained; and
- (c) describe the measures taken or proposed to be taken to address the Personal Data Breach including, where appropriate, measures to mitigate its possible adverse effects.

Licensor will coordinate with Customer on the content of any public statements or required notices to individuals and/or Supervisory Authorities.

## **11. Providing co-operation and assistance**

Licensor will provide Customer with information reasonably necessary to assist Customer in enabling its compliance with its obligations under Applicable Data Protection Laws, including without limitation Licensor's obligations under the EU GDPR to implement appropriate



data security measures, carry out data protection impact assessments and consult the competent Supervisory Authority taking into account the nature of Processing and the information available to Licensor, and as further specified in this DPA, provided that the Customer shall be responsible for Licensor's reasonable costs and expenses arising from such co-operation and assistance.

If Customer receives any complaint, notice or communication from a DP Regulator which relates directly to the Processing of Personal Data by Licensor, it shall as soon as reasonably practicable notify Licensor at [privacy@aptean.com](mailto:privacy@aptean.com) or such other contact as advised and Licensor agrees to provide Customer with commercially reasonable co-operation and assistance in relation to any such complaint, notice or communication.

## **12. Return and Deletion of Personal Data**

Licensor will not retain Personal Data any longer than is reasonably necessary to accomplish the intended purposes for which the Personal Data was Processed pursuant to the Agreement, except as required by law or in order to defend any actual or possible legal claims.

Licensor will return or provide an opportunity for Customer to retrieve Customer Data after the end of the provision of Licensor Products and Services and delete existing copies. Customer may obtain a written confirmation of deletion upon request. To the extent that Licensor is required by applicable laws and regulations to retain part of the Personal Data, Licensor shall continue to comply with the relevant provisions of this DPA until such Personal Data has been deleted.

With respect to SaaS Subscription, Customer may request Customer Data within thirty (30) days of termination and Licensor will make available to Customer an electronic copy of the Customer Data in SQL backup format at no additional cost. Customer must contact Licensor's technical support team for download access and instructions. If the Customer requests to receive a copy of its data in any other formats it will be required to pay an additional fee.

Subject to applicable laws, Licensor will not provide Customer Data unless all amounts due and owing for any agreed Licensor Products and Services have been paid in full by Customer.

## **13. Audit**

Customer may carry out an audit of the Licensor's Processing of Personal Data up to one time per year or as otherwise required by Applicable Data Protection Laws. To request an audit, Customer must provide Licensor with a proposed detailed audit plan six (6) weeks in advance, and the Parties will work in good faith to agree on a final written plan. Any such audit shall be conducted at the Customer's own expense and shall take the form of conference calls and/or Licensor's completion of information security or other questionnaires submitted by or on behalf of the Customer in order to verify compliance with the terms of the Agreement, this DPA, and Applicable Data Protection Laws.

Prior to any audit, Licensor undertakes to provide to the Customer reasonably requested information and associated evidence to satisfy Customer's audit obligations, and Customer undertakes to review this information prior to undertaking any independent audit. If any of the requested scope of the audit is covered by an audit report issued to Licensor by a qualified third-party auditor within the prior twelve months, then the Parties agree that the scope of the audit will be reduced accordingly.

The Customer may use a third-party auditor to perform the audit on its behalf with the Licensor's agreement, which will not be unreasonably withheld, provided such third party executes an appropriate confidentiality agreement with the Licensor ("NDA") before the audit.

Any audit must be conducted during regular business hours, subject to Licensor's policies, and may not unreasonably interfere with Licensor's business activities. Due to the multi-tenant nature of some of Licensor's business systems, Licensor may limit the scope of audit activities and relevant reporting to ensure other customers' confidentiality. The person carrying out the audit shall be supervised by Licensor at all times, and nothing in this Section 13 shall require Licensor to breach any duties of confidentiality owed to any of its customers, employees or third parties.

The Customer must provide Licensor with any audit reports generated in connection with any audit at no charge unless prohibited by applicable law. The Customer may use the audit reports only for the purposes of meeting its audit requirements under Applicable Data Protection Laws and/or confirming compliance with the requirements of the terms of the Agreement, this DPA, and Applicable Data Protection Laws. The audit reports shall be confidential.



#### **14. Limitation of Liability**

For the avoidance of doubt, the limitation and exclusion of liability provisions contained in the relevant Agreement shall apply to this DPA.

#### **15. Term**

This DPA becomes effective upon Customer's purchase of Licensor Products and Services. Termination of the Agreement does not relieve either Party of its obligations under this DPA.

## ANNEX I

### 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:** Customer and any Customer affiliates as stated in the Agreement

**Address:** Address of Customer as stated in the Agreement

**Contact person's name and position:** As stated in the Agreement

**Contact person's contact details:** As stated in the Agreement

**Activities relevant to the data transferred under these Clauses:** Use of Licensor Products and Services as further described in the Agreement.

**Role (controller/processor):** Controller

**Signature and date:** The parties agree that the execution and the effective date of these Clauses is the effective date of the Agreement, Order Form or DPA amendment into which these Clauses are incorporated.

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

**Name:** APTEAN, Inc. and its Affiliates

**Address:** 4325 Alexander Drive, Suite 100, Alpharetta, GA 30022, USA

**Contact person's name and position:** As stated in the Agreement

**Contact person's contact details:** [privacy@aptean.com](mailto:privacy@aptean.com)

**Activities relevant to the data transferred under these Clauses:** Use of Licensor Products and Services as further described in the Agreement.

**Role (controller/processor):** Processor

**Signature and date:** The parties agree that the execution and the effective date of these Clauses is the effective date of the Agreement, Order Form or DPA amendment into which these Clauses are incorporated.

## B. DESCRIPTION OF TRANSFER

### ***Categories of data subjects whose personal data is transferred***

Customer may submit personal data to the Licensor Products and Services, the extent of which is solely determined and controlled by the Customer, and which may include, but is not limited to the personal data of individuals as described in Section 5 of the DPA.

### ***Categories of personal data transferred***

Customer may submit personal data to the Licensor Products and Services, the extent of which is solely determined and controlled by the Customer and which may include, but is not limited to the categories of personal data as described in Section 5 of the DPA.

### ***Sensitive Data Transferred (if applicable)***

*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.*

Customer may submit special categories of data to the Licensor Products and Services, the extent of which is solely determined and controlled by the Customer, and which for avoidance of doubt is personal data with information revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade-union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

The applicable security measures as described in the Aptean Services Security Exhibit available at the Aptean Trust Centre <https://trust.aptean.com/>.

### ***The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).***

Transfers on continuous basis as needed to perform the Licensor Products and Services.

### ***Nature of the processing***

The nature of the processing is the performance of the Licensor Products and Services pursuant to the Agreement.

### ***Purpose(s) of the data transfer and further processing***

Licensor will process personal data as necessary to perform the Licensor Products and Services pursuant to the Agreement with the Customer, and as further described in the DPA.

### ***The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period***

Licensor will retain personal data for the duration of the relevant Agreement with the Customer, unless otherwise agreed upon in writing. Personal data will be deleted promptly once no longer required for the purpose unless retention by Licensor is required by applicable law.

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





*Sub-processors will process personal data as necessary to perform the Licensor Products and Services, as described above.*

**C. COMPETENT SUPERVISORY AUTHORITY**

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

*The Dutch Data Protection Authority (Autoriteit Persoonsgegevens) shall act as the competent supervisory authority.*

**ANNEX II**

**TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA**

*Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.*

Licensor will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Personal Data uploaded to the Licensor Products and Services, as described in the Aptean Services Security Exhibit available at the Aptean Trust Centre <https://trust.aptean.com/>.