



## SUBSCRIBER DATA PROCESSING ADDENDUM

This Subscriber Data Processing Agreement (“**DPA**”) forms part of, and is subject to, the Master Subscription Agreement or other written or electronic terms of service or subscription agreement between Brightly Software, Inc. or its Affiliate that is party to such agreement (“**Company**”) and the **Subscriber** defined thereunder, together with all Subscriber Affiliates who are signatories on an Order Form for their own Service pursuant to such Agreement (such agreement, the “**Agreement**”). This DPA shall be effected on the effective date of the Agreement unless this DPA is separately executed in which case it is effective on the date of the last signature (“**Effective Date**”).

### WHEREAS

(A) Subscriber acts as a Data Controller. Company offers a suite of Software-as-Service (SaaS) applications, products and services provided as Company-hosted, cloud Service.

(B) Subscriber wishes to contract certain Services, which may include processing of Subscriber’s Personal Data to Company.

(C) The parties seek to implement a data processing agreement that complies with the requirements of the current legal framework in relation to data processing and with the Regulation (EU) 2016/679 and EU 2021/915 of the European Parliament and of the Council of June 2021 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).

(D) The parties agree to comply with the following provisions with respect to Personal Data, each acting reasonably and in good faith.

### IT IS AGREED AS FOLLOWS:

1. Definitions and Interpretation. All capitalized terms not defined herein shall have the meaning set forth in the Agreement. In the event of a conflict between the terms and conditions of this Agreement and the Agreement, the terms and conditions of this Agreement shall supersede and control. Unless otherwise defined herein, capitalized terms and expressions used in this Agreement shall have the following meaning:
  - 1.1. “Authorized Employee” means an employee of Company who has a need to know or otherwise access Personal Data to enable Company to perform its obligations under this DPA or the Agreement;
  - 1.2. “Authorized Individual” means an Authorized Employee or Subprocessor.
  - 1.3. “Data Privacy Laws” means EU General Data Protection Regulation 2016/679 and EU 2021/915 of the European Parliament and of the Council (“GDPR”) and the U.K. Data Protection Act 2018 and the United Kingdom General Data Protection Act (“UK GDPR”), or to the extent applicable and amended, the data protection or privacy laws of any other country designed to replace the foregoing and having equivalent effect;
  - 1.4. “EEA” means the European Economic Area, including the European Union, Iceland, Lichtenstein and Norway;
  - 1.5. “Instructions” means the directions, either in writing, in any form or medium, or by using a software or tool, issued by Subscriber to Company.
  - 1.6. “Model Clauses” means European Commission’s decision 2021/915 of June 2021 on standard contractual clauses for the transfer of personal data to processors established in third countries which do not ensure an adequate level of protection, which may be amended from time to time.
  - 1.7. “Personal Data” means any Personal Data (i) of Data Subjects in the EEA or the United Kingdom or (ii) held by Subscriber if the Subscriber is in the EEA or United Kingdom Processed by Company or any Subprocessor on



behalf of Subscriber pursuant to the Agreement. For avoidance of doubt, De-Identified Data or otherwise aggregated or anonymized data is not Personal Data.

- 1.8. "Service" shall have the meaning set forth in the Agreement.
- 1.9. "Subprocessor" means an authorized third-party appointed by or on behalf of Company to Process Personal Data;
- 1.10. The terms, "Commission", "Subscriber", "Data Subject", "Member State", "Personal Data Breach", "Processing" and "Supervisory Authority" shall have the same meaning as in the GDPR, and their associated terms shall be construed accordingly.

## 2. Subscriber Processing of Personal Data

- 2.1. Subscriber shall, at all times Process Personal Data, and provide instructions for the Processing of Personal Data in compliance with the Data Privacy Laws. Subscriber shall ensure that its Instructions comply with all laws, rules and regulations applicable in relation to the Personal Data and that the Processing of Personal Data in accordance with Subscriber's Instructions will not cause Company to be in breach of the Data Privacy Laws. Subscriber is solely responsible for the accuracy, quality and legality of (i) Personal Data provided to Company by or on behalf of Subscriber, (ii) the means by which Subscriber acquired any such personal Data, and (iii) the Instructions it provides to Company regarding the Processing of such Personal Data. Subscriber shall not provide or make available to Company any Personal Data in violation of the Agreement or which is otherwise inappropriate for the nature of the Service, and shall indemnify Company from all claims and losses in connection therewith.
- 2.2. Company shall Process Personal Data only (i) for purposes set forth in the Agreement, (ii) in accordance with the terms and conditions set forth in this DPA and any other documented Instructions provided by Subscriber, and (iii) in compliance with the Directive and the GDPR. Subscriber hereby instructs Company to Process Personal Data in accordance with the foregoing and as part of any Processing initiated by Subscriber in its use of Service.

## 3. Data Processing Detail

- 3.1. Data Subjects. Subscriber may transfer Personal Data to Company, the extent of which is determined in Subscriber's sole discretion, and which may include Personal Data relating to: the following categories of Data Subjects: (i) the Subscriber's Authorized Individuals, employees, contractors or other Representatives, and (ii) Subscriber's end users/customers..
- 3.2. Categories of Data. The Subscriber may transfer the following types of Personal Data for the purposes set out in this DPA:
  - 3.2.1. identification and contact data (e.g. name, address, GPS location, contact details);
  - 3.2.2. general organizational data (such as your department, job title, area of responsibility);
  - 3.2.3. IT data (IP addresses, passwords, access rights, cookies data and usage data);
  - 3.2.4. special categories of personal data (including, for example, data concerning health); and
  - 3.2.5. other information voluntarily disclosed by Subscriber.
- 3.3. Nature, Subject Matter, and Purpose of Processing. Company Processes Subscriber Personal Data only for the performance of Service pursuant to the Agreement.
- 3.4. Duration of Processing. The duration of the Processing shall be for the Term of the Agreement. Following Termination, Company may return or delete the Personal Data in accordance with the Agreement except as required to be retained by the laws of the EEA member states.

## 4. Authorized Employees

- 4.1. Company shall use commercially reasonable measures to ensure the reliability and training of any employee, agent or contractor of any Authorized Employee who may access the Personal Data. Company shall ensure that Authorized Employees are aware of the Confidential Information nature of the Personal Data and are bound by confidentiality agreements to Company, during and after their engagement with Company. Company shall use commercial reasonable measures to limit access to Personal Data to only Authorized Individuals.



## 5. Subprocessor

- 5.1. Subscriber acknowledges and agrees that Company may (1) engage the Subprocessors listed in Schedule A to this Agreement to access and Process Personal Data in connection with the Service and (2) continue to use those Subprocessors already engaged at the date of this Agreement, subject to Company's compliance with the obligations herein.
- 5.2. Company shall ensure that all Subprocessors have executed confidentiality agreements that prevent them from disclosing or otherwise Processing any Personal Data both during and after their engagement by Company.
- 5.3. Company shall ensure that each Subprocessor is governed by a written contract that imposes data protection obligations at least as protective as this Agreement.
- 5.4. If Subscriber has entered into Model Clauses as described in Section 6 (Transfers of Personal Data), the above authorizations will constitute Subscriber's prior written consent to the subcontracting by Company of the Processing of Personal Data if such consent is required under the Model Clauses.

## 6. Security

- 6.1. 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 risk of varying likelihood and severity for the rights and freedoms of natural persons, Company shall maintain appropriate technical and organizational measures to ensure a level of security appropriate to the risk of Processing Personal Data.
- 6.2. Adherence to an approved certification mechanism will be sufficient to demonstrate Company's (or Subprocessors') compliance with its security obligations under this Agreement.

## 7. Transfers of Personal Data

- 7.1. If Company transfers Personal Data outside of the EEA or the United Kingdom to any countries, Company makes that transfer pursuant to the Model Clauses as defined in this Agreement.

## 8. Data Subject Rights

- 8.1. Company shall, to the extent permitted by law, promptly notify Subscriber upon receipt of a request by a Data Subject to exercise the Data Subject's right of: access, rectification, erasure, data portability, restriction or cessation of Processing, withdrawal of consent to Processing, and/or objection to being subject to Processing that constitutes automated decision-making (herein referred as "Data Subject Requests"). If Company receives a Data Subject Request in relation to Subscriber's data, Company will advise the Data Subject to submit their request to Subscriber and Subscriber will be responsible for responding to such request, including, where necessary, by using the functionality of the Service.
- 8.2. Company shall, at the request of the Subscriber, and taking into account the nature of the Processing applicable to any Data Subject Request, apply appropriate technical and organizational measures to assist Subscriber in complying with Subscriber's obligation to respond to such Data Subject Request and/or in demonstrating such compliance, where possible, provided that (i) Subscriber is itself unable to respond without Company's assistance and (ii) Company is able to do so in accordance with all applicable laws, rules, and regulations. Subscriber shall be responsible to the extent legally permitted for any costs and expenses arising from any such assistance by Company.

## 9. Actions and Access Requests

- 9.1. Company shall provide Subscriber with reasonable cooperation and assistance, where Subscriber must comply with its obligations under the GDPR, conduct a data protection impact assessment and/or to demonstrate such compliance, provided that Subscriber does not otherwise have access to the relevant information. To the extent legally permitted, Subscriber shall be responsible for any costs and expenses arising from any Company assistance.
- 9.2. Company shall provide Subscriber with reasonable cooperation and assistance with respect to Subscriber's cooperation and/or prior consultation with any Supervisory Authority, where necessary and required by the GDPR.



9.3. To the extent legally permitted, Subscriber shall be responsible for any costs and expenses arising from any Company assistance.

10. Audit Rights

- 10.1. Company shall maintain records sufficient to demonstrate its compliance with its obligations under this Agreement.
- 10.2. If Subscriber reasonably considers that information made available pursuant to Section 9.1 is insufficient to demonstrate compliance with this Agreement, Company will allow an audit by Subscriber (or auditors appointed) in relation to Company’s processing of Employee Personal Data. Any such audit will be carried out remotely (unless otherwise agreed by the parties or expressly required by a Supervisory Authority) and in accordance with Company’s reasonable security requirements. All results of the audit shall be subject to the confidentiality obligations of the parties under the Agreement and the applicable Data Privacy Law.

11. Personal Data Breach

- 11.1. Company shall notify Subscriber, without undue delay upon Company’s confirmation of any Personal Data Breach affecting Employee Personal Data.
- 11.2. Company shall provide Subscriber with information regarding such Personal Data Breach as required by the applicable Data Privacy Laws or as otherwise reasonably requested by Subscriber to enable Subscriber to comply with its obligations under the Data Privacy Laws.
- 11.3. Company shall use commercially reasonable efforts to: (i) identify the cause of such Personal Data Breach, and (ii) remediate the cause of such Personal Data Breach within Company’s systems, to the extent such remediation is within Company’s reasonable control.
- 11.4. The obligations described in Sections 11.2 and 11.3 shall not apply in the event that a Personal Data Breach results from the actions or omissions of Subscriber.

12. Limitation of Liability

- 12.1. The total liability of each of Subscriber and Company (and their respective employees, directors, officers, affiliates, successors, and assigns), arising out of or related to this Agreement, whether in contract, tort, or other theory of liability, shall not, when taken together in the aggregate, exceed the limitation of liability set forth in the Agreement.

IN WITNESS WHEREOF, the Subscriber and Company have executed this Agreement as of the Effective Date:

**Brightly Software, Inc. (and its Affiliates, “Company”)** \_\_\_\_\_ (**“Subscriber”**)

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: Kelly Caputo

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

Title: General Counsel

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

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

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

Email: [GDPR@brightlysoftware.com](mailto:GDPR@brightlysoftware.com)

Email: \_\_\_\_\_

Tel.: 877-868-3833

Tel: \_\_\_\_\_



## **SCHEDULE A: Subprocessors**

Company uses its Affiliates, certain platform subprocessors, infrastructure suppliers and other third party business partners to provide Service to its Subscribers.

The complete list of Subprocessors is set forth at: <https://www.brightlysoftware.com/privacy>