

# IMAGINEER TECHNOLOGY GROUP, LLC

## Data Processing Addendum

This Data Processing Addendum (“DPA”) forms part of the Master Software Subscription and Professional Services Agreement or other written or electronic agreement between Imagineer Technology Group, LLC (“ITG”) and Customer for the purchase of software services (including associated ITG offline or mobile components) from ITG (“Services”) (the “Agreement”) to reflect the parties’ agreement with regard to the Processing of Personal Data. By signing the Agreement, Customer enters into this DPA on behalf of itself and any of its Authorized Affiliates for which ITG processes Personal Data.

In the course of providing the Services to Customer pursuant to the Agreement, ITG may Process Personal Data on behalf of Customer and the Parties agree to comply with the following provisions with respect to any Personal Data, each acting reasonably and in good faith.

### 1. Definitions

1.1 All capitalized terms not defined herein shall have the meaning set forth in the Agreement.

1.2 “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.

1.3 “Authorized Affiliate” means any of Customer's Affiliate(s) which (a) is subject to Privacy and Data Protection Requirements and (b) is permitted to use the Services pursuant to the Agreement between Customer and ITG but has not signed its own Order Form with ITG and is not a “Customer” as defined under the Agreement.

1.4 “Contracted Processor” means ITG or any Sub-processor.

1.5 “Controller” means the entity which determines the purposes and means of the Processing of Personal Data. For the purposes of this DPA, the Customer is the Controller.

1.6 “Customer” means, except where indicated otherwise, the Customer and all Authorized Affiliates.

1.7 “Customer Data” means what is defined in the Agreement as “Customer Data” or “Your Data.”

1.8 “Data Subject” means the identified or identifiable person to whom Personal Data relates.

1.9 “ITG” means Imagineer Technology Group, LLC, a company incorporated in Delaware and its Affiliates engaged in the Processing of Personal Data.

1.10 “Personal Data” means any information relating to (i) an identified or identifiable natural person and, (ii) an identified or identifiable legal entity (where such information is protected similarly as personal data or personally identifiable information under applicable Privacy and Data Protection Requirements), where for each (i) or (ii), such data is Customer Data.

1.11 "Privacy Shield Principles" means the Swiss-US and EU-US Privacy Shield Framework and Principles issued by the United States Department of Commerce, both available at <https://www.privacyshield.gov>

1.12 "Privacy and Data Protection Requirements" means all applicable federal, state, and foreign laws and regulations relating to the processing, protection, or privacy of the Personal Data, including where applicable, the guidance and codes of practice issued by regulatory bodies in any relevant jurisdiction. This includes, but is not limited to, those listed in **Schedule 1**.

1.13 "Processing" means any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

1.14 "Processor" means the entity which Processes Personal Data on behalf of the Controller. For the purposes of this DPA, the Processor is ITG.

1.15 "Security and Privacy Documentation" means the Security and Privacy Documentation applicable to the specific Services purchased by Customer, as updated from time to time, and accessible via <https://www.imagineercrm.com>, or as otherwise made reasonably available by ITG.

1.16 "Standard Contractual Clauses" means the agreements executed by and between Customer and ITG for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection, including the Standard Contractual Clauses listed in **Schedule 2**.

1.17 "Sub-processor" means any Processor engaged by ITG.

1.18 In the case of conflict or ambiguity between:

(a) any provision contained in the body of this DPA and any provision contained in the Appendices, the provision in the body of this DPA will prevail;

(b) the terms of any accompanying invoice or other documents annexed to this DPA and any provision contained in the Appendices, the provision contained in the Appendices will prevail;

(c) any of the provisions of this DPA and the provisions of the Agreement, the provisions of this DPA will prevail; and

(d) any of the provisions of this agreement and any executed Standard Contractual Clauses, the provisions of the executed Standard Contractual Clauses will prevail.

## 2. Processing of Personal Data

2.1 The Customer retains control of the Personal Data and remains responsible for its compliance obligations under the applicable Privacy and Data Protection Requirements, including providing any required notices and obtaining any required consents, and for the processing instructions it gives to the Provider.

2.2 Schedule 3 describes the general Personal Data categories and Data Subject types ITG may process to fulfill the Master Agreement.

### 3. ITG's Obligations

3.1 ITG will only process, retain, use, or disclose the Personal Data for the following purposes: (i) Processing in accordance with the Agreement and applicable Order Form(s); (ii) Processing initiated by Users in their use of the Services; and (iii) Processing to comply with other documented reasonable instructions provided by Customer (e.g., via email) where such instructions are consistent with the terms of the Agreement. In the event that ITG is required by a Privacy and Data Protection Requirement to Process Customer Data other than on instruction from Customer, ITG will inform Customer of its legal requirement without undue delay, unless that law prohibits providing such information.

3.2 ITG must promptly comply with any Customer request or instruction requiring ITG to amend, transfer, or delete the Personal Data, or to stop, mitigate, or remedy any unauthorized processing.

3.3 ITG will maintain the confidentiality of all Personal Data, will not sell it to anyone, and will not disclose it to third parties unless the Customer or this DPA specifically authorizes the disclosure, or as required by law. If a law requires ITG to process or disclose Personal Data, ITG must first inform the Customer of the legal requirement and give the Customer an opportunity to object or challenge the requirement, unless the law prohibits such notice.

3.4 ITG will reasonably assist the Customer with meeting the Customer's compliance obligations under the Privacy and Data Protection Requirements, taking into account the nature of ITG's processing and the information available to ITG.

3.5 The Customer acknowledges that ITG is under no duty to investigate the completeness, accuracy, or sufficiency of any specific Customer instructions or the Personal Data other than as required under the Privacy and Data Protection Requirements.

3.6 ITG will only collect Personal Data for the Customer using a notice or method that the Customer specifically pre-approves in writing, which contains an approved data privacy notice informing the Data Subject of the Customer's identity, the purpose or purposes for which their Personal Data will be processed, and any other information that is required by applicable Privacy and Data Protection Requirements. ITG will not modify or alter the notice in any way without the Customer's prior written consent.

### 4. ITG's Employees

4.1 ITG will limit Personal Data access to those personnel performing Services in accordance with the Agreement.

4.2 ITG will ensure that all employees are informed of the Personal Data's confidential nature and use restrictions, have undertaken training on the Privacy and Data Protection Requirements, and are aware both of ITG's duties and their personal duties and obligations under the Privacy and Data Protection Requirements and this DPA.

4.3 ITG will take reasonable steps to ensure the reliability, integrity, and trustworthiness of all of ITG's employees with access to the Personal Data.

### 5. Security

5.1 Controls for the Protection of Customer Data. 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 Data Subjects to whom the Customer Data relates, ITG shall maintain appropriate technical and organizational measures for

protection of the security (including protection against unauthorized or unlawful Processing and against accidental or unlawful destruction, loss or alteration or damage, unauthorized disclosure of, or access to, Customer Data), confidentiality and integrity of Customer Data, as set forth in the Security and Privacy Documentation. ITG regularly monitors compliance with these measures. ITG will not materially decrease the overall security of the Services during a subscription term.

5.2 ITG has obtained the third-party certifications and audits set forth in the Security and Privacy Documentation. Upon Customer's written request at reasonable intervals, and subject to the confidentiality obligations set forth in the Agreement, ITG shall make available to Customer that is not a competitor of ITG (or Customer's independent, third-party auditor that is not a competitor of ITG) a copy of ITG's then most recent third-party audits or certifications, as applicable.

## 6. CUSTOMER DATA INCIDENT MANAGEMENT AND NOTIFICATION

6.1 ITG maintains security incident management policies and procedures specified in the Security and Privacy Documentation and shall notify Customer without undue delay after becoming aware of the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer Data, including Personal Data, transmitted, stored or otherwise Processed by ITG or its Sub-processors of which ITG becomes aware (a "Customer Data Incident"). ITG shall make reasonable efforts to identify the cause of such Customer Data Incident and take those steps as ITG deems necessary and reasonable in order to remediate the cause of such a Customer Data Incident to the extent the remediation is within ITG's reasonable control. The obligations herein shall not apply to incidents that are caused by Customer or Customer's Users.

6.2 ITG will not inform any third party of any Security Breach without first obtaining the Customer's prior written consent, except when law or regulation requires it.

## 7. Cross-Border Transfers of Personal Information

If the Privacy and Data Protection Requirements restrict cross-border Personal Information transfers, the Customer will only transfer that Personal Data to ITG under the following conditions:

- (a) ITG, either through its location or participation in a valid cross-border transfer mechanism under the Privacy and Data Protection Requirements, as identified in Schedule 1, may legally receive that Personal Data, however ITG must immediately inform the Customer of any change to that status;
- (b) the Customer obtained valid Data Subject consent to the transfer under the Privacy and Data Protection Requirements; or
- (c) the transfer otherwise complies with the Privacy and Data Protection Requirements for the reasons set forth in Schedule 1.

7.2 If any Personal Data transfer between ITG and the Customer requires execution of Standard Contractual Clauses in order to comply with the Privacy and Data Protection Requirements, the parties will complete all relevant details in, and execute, the Standard Contractual Clauses contained in Schedule 2, and take all other actions required to legitimize the transfer, including, if necessary:

- (a) co-operating to register the Standard Contractual Clauses with any required supervisory authority;
- (b) procuring approval from any such supervisory authority; or

(c) providing additional information about the transfer to such supervisory authority.

7.3 ITG will not transfer any Personal Data to another country unless the transfer complies with the Privacy and Data Protection Requirements.

## 8. Sub-Processors

8.1 ITG may authorize a third party Sub-processor to process the Personal Data if ITG enters into a written contract with the Sub-processor that contains terms substantially the same as those set out in this DPA. Should the Sub-processor fail to fulfill its obligations under such written agreement, ITG remains fully liable to the Customer for the Sub-processor's performance of its agreement obligations.

8.2 ITG shall make available to Customer the current list of Sub-processors for the Services identified in Appendix 3. Such Sub-processor list shall include the identities of those Sub-processors and their country of location ("Sub-processor Lists"). Customer may find on ITG's website at <https://www.imagineercrm.com> a mechanism to subscribe to notifications of new Sub-processors for each applicable Service, to which Customer shall subscribe, and if Customer subscribes, ITG shall provide notification of a new Sub-processor(s) before authorizing any new Sub-processor(s) to Process Personal Data in connection with the provision of the applicable Services.

8.3 Customer may object to ITG's use of a new Sub-processor by notifying ITG promptly in writing within ten (10) business days after receipt of ITG's notice in accordance with Section 8.2. Upon objection, ITG will use reasonable efforts to make available to Customer a change in the Services or recommend a commercially reasonable change to Customer's configuration or use of the Services to avoid Processing of Personal Data by the objected-to new Sub-processor without unreasonably burdening the Customer. If ITG is unable to make available such change within a reasonable period of time, which shall not exceed thirty (30) days, Customer may terminate the applicable Order Form(s) with respect only to those Services which cannot be provided by ITG without the use of the objected-to new Sub-processor by providing written notice to ITG. In such an event, ITG will refund Customer any prepaid fees covering the remainder of the term of such Order Form(s) following the effective date of termination with respect to such terminated Services, without imposing a penalty for such termination on Customer.

## 9. Complaints, Data Subject Requests, and Third Party Rights

9.1 To the extent legally permitted, ITG shall promptly notify the Customer if

(a) ITG receives any complaint, notice, or communication that directly or indirectly relates to the Personal Data processing or to either party's compliance with the Privacy and Data Protection; or

(b) ITG receives a request from a Data Subject for access to or deletion of their Personal Data.

9.2 ITG will give the Customer its full co-operation and assistance in responding to any complaint, notice, communication, or Data Subject request under the Privacy and Data Protection Requirements. To the extent legally permitted, Customer shall be responsible for any costs arising from ITG's provision of such assistance.

9.3 ITG must not disclose Personal Data to any Data Subject or to a third party unless the disclosure is either at the Customer's request or instruction, permitted by this DPA, or is otherwise required by Privacy and Data Protection Requirements.

10. Data Return and Destruction

10.1 On termination of the Agreement for any reason or expiration of its term, ITG will securely return or destroy the Personal Data related to this DPA in its possession or control in accordance with the procedures and timeframes specified in the Security and Privacy Documentation, except as otherwise required to be retained by the Privacy and Data Protection Requirements.

11. Authorized Affiliates

11.1 Any Authorized Affiliate entering into this DPA with ITG establishes a separate DPA between ITG and each such Authorized Affiliate subject to the provisions of the Agreement and this Section 11 and Section 12. Each Authorized Affiliate agrees to be bound by the obligations under this DPA and, to the extent applicable, the Agreement. An Authorized Affiliate is not and does not become a party to the Agreement and is only a party to the DPA. All access to and use of the Services by Authorized Affiliates must comply with the Agreement and any violation of the terms and conditions of the Agreement by an Authorized Affiliate shall be deemed a violation by Customer.

11.2 The Customer that is the contracting party to the Agreement shall remain responsible for coordinating all communication with ITG under this DPA and be entitled to make and receive any communication in relation to this DPA on behalf of its Authorized Affiliates.

11.3 An authorized Affiliate subject to the DPA shall to the extent required under applicable Privacy and Data Protection Requirements be entitled to exercise the rights and seek remedies under this DPA, subject to the following:

(a) Except where prohibited by applicable Privacy and Data Protection Requirements solely the Customer that is the contracting party to the Agreement shall (i) exercise any such right or seek any such remedy on behalf of the Authorized Affiliate, and (ii) exercise any such rights under this DPA not separately for each Authorized Affiliate individually but in a combined manner for all of its Authorized Affiliates together (as set forth, for example, in Section 11.3(b) below).

(b) The parties agree that the Customer that is the contracting party to the Agreement shall, when carrying out an on-site audit of the procedures relevant to the protection of Personal Data, take all reasonable measures to limit any impact on ITG and its Sub-Processors by combining, to the extent reasonable possible, several audit requests carried out on behalf of different Authorized Affiliates in one single audit.

12. LIMITATION OF LIABILITY

12.1 Each party's and all of its Affiliates' liability, taken together in the aggregate, arising out of or related to this DPA, and all DPAs between Authorized Affiliates and ITG, whether in contract, tort or under any other theory of liability, is subject to the 'Limitation of Liability' section of the Agreement, and any reference in such section to the liability of a party means the aggregate liability of that party and all of its Affiliates under the Agreement and all DPAs together. For the avoidance of doubt, ITG's and its Affiliates' total liability for all claims from the Customer and all of its Authorized Affiliates arising out of or related to the Agreement and each DPA shall apply in the aggregate for all claims under both the Agreement and all DPAs established under this Agreement, including by Customer and all Authorized Affiliates, and, in particular, shall not be understood to apply individually and severally to Customer and/or to any Authorized Affiliate that is a contractual party to any such DPA. Also, for the avoidance of doubt, each reference to the DPA in this DPA means this DPA including its Schedules and Appendices.

[SIGNATURE PAGE FOLLOWS]



Authorized signatories of the Customer and ITG have duly executed this Agreement:

**CUSTOMER**

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

Customer Legal Name: \_\_\_\_\_

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

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

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

**IMAGINEER TECHNOLOGY GROUP, LLC**

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

Print Name: **Erol Dusi**

Title: **President**

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



**Schedule 1**  
**Privacy and Data Protection Requirements**

The DPA is subject to the following Privacy and Data Protection Requirements:

- **“GDPR”** - the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 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).
- **“Cayman DPL”** – the law to provide for the protection of personal data and for incidental and connected purposes enacted by the Legislature of the Cayman Islands (Data Protection Law, 2017).

**Schedule 2**  
**Standard Contractual Clauses**

The DPA is subject to the following Standard Contractual Clauses:

- **GDPR** – European Commission's Standard Contractual Clauses for the transfer of Personal Information from the European Union to processors established in third countries (controller-to-processor transfers), as set out in the Annex to Commission Decision 2010/87/EU, a completed copy of which comprises Schedule 4.3.
- **Cayman DPL** – To the extent required, the GDPR standard contractual clauses will apply with the intent of the parties to interpret references to GDPR laws as references to the equivalent Cayman DPL laws.

## **Schedule 3**

### **Details of the Processing**

#### **Nature and Purpose of Processing**

ITG will Process Personal Data as necessary to perform the Services pursuant to the Agreement, as further specified in the Documentation, and as further instructed by Customer in its use of the Services.

#### **Duration of Processing**

Subject to Section 10 of the DPA, ITG will Process Personal Data for the duration of the Agreement, unless otherwise agreed upon in writing.

#### **Categories of Data Subjects**

Customer may submit Personal Data to the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of data subjects:

- Prospects, customers, business partners and vendors of Customer (who are natural persons)
- Employees or contact persons of Customer's prospects, customers, business partners and vendors
- Employees, agents, advisors, freelancers of Customer (who are natural persons)
- Customer's Users authorized by Customer to use the Services

#### **Type of Personal Data**

Customer may submit Personal Data to the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:

- First and last name
- Title
- Position
- Employer
- Contact information (company, email, phone, physical business address)
- Identification data
- Professional life data
- Personal life data
- Connection data
- Localization data
- Photographs

## Schedule 4

### European Specific Provisions

1. ITG will Process Personal Data in accordance with the GDPR requirements directly applicable to ITG's provision of its Services.
2. Data Protection Impact Assessment. Upon Customer's request, ITG shall provide Customer with reasonable cooperation and assistance needed to fulfil Customer's obligation under the GDPR to carry out a data protection impact assessment related to Customer's use of the Services, to the extent Customer does not otherwise have access to the relevant information, and to the extent such information is available to ITG. ITG shall provide reasonable assistance to Customer in the cooperation or prior consultation with the supervisory authority in the performance of its tasks relating to this section, to the extent required under the GDPR.
3. Transfer mechanisms for data transfers. Subject to the additional terms in Section 5, ITG makes available the transfer mechanisms listed below which shall apply, in the order of precedence as set out in Section 4, to any transfers of Personal Data under this DPA from the European Union, the European Economic Area and/or their member states, Switzerland and the United Kingdom to countries which do not ensure an adequate level of data protection within the meaning of Privacy and Data Protection Requirements of the foregoing territories, to the extent such transfers are subject to such Privacy and Data Protection Requirements:
  - 3.1. ITG's internal rules for processing Personal Data as a Contracted Processor which apply to the Services identified in Schedule 4-1;
  - 3.2. ITG's EU-U.S. and Swiss-U.S. Privacy Shield Framework self-certifications apply to the Services listed in Schedule 4-2 to this DPA (the "EU-US and Swiss-US Privacy Shield Services");
  - 3.3. The Standard Contractual Clauses set forth in Schedule 4-3 to this DPA apply to the Services listed in Appendix 3 to the Standard Contractual Clauses in Schedule 4-3 (the "SCC Services").
4. Order of precedence. In the event that Services are covered by more than one transfer mechanism, the transfer of Personal Data will be subject to a single transfer mechanism in accordance with the following order of precedence: (1) ITG's internal rules for processing Personal Data, (2) ITG's EU-U.S. and Swiss-U.S. Privacy Shield Framework self-certifications and, (3) the Standard Contractual Clauses.
5. Transfer Mechanisms for European Data Transfers
  - 5.1. Additional Terms for ITG Services. These additional terms of this Section 5.1 shall apply to the Processing of Personal Data of a Customer established in (i) European Economic Area member states whose processing activities for the relevant data are governed by the GDPR and/or implementing national legislation; or (ii) non-European Economic Area member states for which Customer has contractually specified that the GDPR and implementing national legislation shall apply.
    - 5.1.1. Audits and Certifications for the ITG's internal processing rules. Upon Customer's request, and subject to the confidentiality obligations set forth in the Agreement, ITG shall make available to Customer that is not a competitor of ITG (or Customer's independent, third-party auditor that is not a competitor of ITG) information regarding ITG's compliance with the obligations set forth in this DPA as described in the relevant Security and Privacy Documentation. Customer may contact ITG to request an on-site audit of the architecture, systems and procedures relevant to the protection of Personal Data at locations where Personal Data is stored by ITG. Customer shall reimburse ITG for any time expended by

ITG or its third-party Sub-processors for any such on-site audit at ITG's then-current professional services rates, which shall be made available to Customer upon request. Before the commencement of any such on-site audit, Customer and ITG shall mutually agree upon the scope, timing, and duration of the audit in addition to the reimbursement rate for which Customer shall be responsible. Customer shall promptly notify ITG with information regarding any non-compliance discovered during the course of an audit.

5.1.2.Liability. In accordance with the Agreement, Customer shall have the right to enforce ITG's obligations under the Agreement and the Security and Privacy Documentation, including judicial remedies and the right to receive compensation.

5.1.3.Conflict. In the event of any conflict or inconsistency between this DPA and ITG's internal rules for processing Personal Data as a Contracted Processor, ITG's internal rules for processing Personal Data as a Contracted Processor shall prevail.

5.2. Additional Terms for EU-U.S. and Swiss-U.S. Privacy Shield Services. ITG self-certifies to, and complies with, the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks, as administered by the US Department of Commerce, and ITG shall ensure that it maintains their self-certifications to and compliance with the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks with respect to the Processing of Personal Data that is transferred from the European Economic Area and/or Switzerland to the United States.

5.3. Additional Terms for SCC Services. The Standard Contractual Clauses and the additional terms specified in this Section apply to (i) the legal entity that has executed the Standard Contractual Clauses as a data exporter and its Authorized Affiliates and, (ii) all Affiliates of Customer established within the European Economic Area, Switzerland and the United Kingdom, which have signed Order Forms for the SCC Services. For the purpose of the Standard Contractual Clauses and this Section, the aforementioned entities shall be deemed "data exporters".

5.3.1.This DPA and the Agreement are Customer's complete and final documented instructions at the time of signature of the Agreement to ITG for the Processing of Personal Data. Any additional or alternate instructions must be agreed upon separately. For the purposes of Clause 5(a) of the Standard Contractual Clauses in Schedule 4-3, the following is deemed an instruction by the Customer to process Personal Data: (a) Processing in accordance with the Agreement and applicable Order Form(s); (b) Processing initiated by Users in their use of the SCC Services and (c) Processing to comply with other reasonable documented instructions provided by Customer (e.g., via email) where such instructions are consistent with the terms of the Agreement.

5.3.2.Appointment of new Sub-processors and List of current Sub-processors. Pursuant to Clause 5(h) of the Standard Contractual Clauses in Schedule 4-3, Customer acknowledges and expressly agrees that ITG may engage third-party Sub-processors in connection with the provision of the SCC Services. ITG shall make available to Customer the current list of Sub-processors in accordance with Section 8.2 of this DPA.

5.3.3.Notification of New Sub-processors and Objection Right for new Sub-processors. Pursuant to Clause 5(h) of the Standard Contractual Clauses in Schedule 4-3, Customer acknowledges and expressly agrees that ITG may engage new Sub-processors as described in Sections 8.2 and 8.3 of the DPA.

5.3.4.Copies of Sub-processor Agreements. The parties agree that the copies of the Sub-processor agreements that must be provided by ITG to Customer pursuant to Clause 5(j) of the Standard Contractual Clauses in Schedule 4-3 may have all commercial information, or clauses unrelated to the Standard Contractual Clauses or their equivalent, removed by ITG beforehand; and, that such copies will be provided by ITG, in a manner to be determined in its discretion, only upon request by Customer.

- 5.3.5. Audits and Certifications. The parties agree that the audits described in Clause 5(f) and Clause 12(2) of the Standard Contractual Clauses in Schedule 4-3 shall be carried out in accordance with the following specifications: Upon Customer's request, and subject to the confidentiality obligations set forth in the Agreement, ITG shall make available to Customer that is not a competitor of ITG (or Customer's independent, third-party auditor that is not a competitor of ITG) information regarding ITG's compliance with the obligations set forth in this DPA in the form of the third-party certifications and audits set forth in the Security, Privacy and other Documentation to the extent ITG makes them generally available to its customers. Customer may contact ITG to request an on-site audit of the procedures relevant to the protection of Personal Data. Customer shall reimburse ITG for any time expended for any such on-site audit at ITG's then-current professional services rates, which shall be made available to Customer upon request. Before the commencement of any such on-site audit, Customer and ITG shall mutually agree upon the scope, timing, and duration of the audit in addition to the reimbursement rate for which Customer shall be responsible. Customer shall promptly notify ITG with information regarding any non-compliance discovered during the course of an audit.
- 5.3.6. Certification of Deletion. The parties agree that the certification of deletion of Personal Data that is described in Clause 12(1) of the Standard Contractual Clauses in Schedule 4-3 shall be provided by ITG to Customer only upon Customer's request.
- 5.3.7. Conflict. In the event of any conflict or inconsistency between the body of the DPA and any of its Schedules (not including the Standard Contractual Clauses in Schedule 4-3) and the Standard Contractual Clauses in Schedule 4-3, the Standard Contractual Clauses in Schedule 4-3 shall prevail.

#### **Schedule 4-1**

##### **ITG Services**

- Clienteer
- Webvision
- Synap
- Fundinsight

#### **Schedule 4-2**

##### **EU-US and Swiss-US Privacy Shield Services**

- Clienteer
- Webvision
- Synap
- Fundinsight

**Schedule 4-3**

**GDPR Standard Contractual Clauses (processors)**

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection.

Name of the data exporting organization: \_\_\_\_\_

Address: \_\_\_\_\_

Tel.: \_\_\_\_\_; e-mail: \_\_\_\_\_

Other information needed to identify the organization

.....  
(the data **exporter**)

And

Name of the data importing organization: **Imagineer Technology Group, LLC**

Address: **551 Madison Avenue, 14<sup>th</sup> Floor New York, NY 10022**

Tel.: **646-416-5800**; fax: **646-416-5858**; e-mail: **privacy@itgny.com**

Other information needed to identify the organization:

.....  
(the data **importer**)

each a "party"; together "the parties",

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

**Background**

The data exporter has entered into a data processing addendum ("DPA") with the data importer. Pursuant to the terms of the DPA, it is contemplated that services provided by the data importer will involve the transfer of personal data to data importer. Data importer is located in a country not ensuring an adequate level of data protection. To ensure compliance with Directive 95/46/EC and applicable data protection law, the controller agrees to the provision of such Services, including the processing of personal data

incidental thereto, subject to the data importer's execution of, and compliance with, the terms of these Clauses.

#### *Clause 1*

##### **Definitions**

For the purposes of the Clauses:

- (a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- (b) 'the data exporter' means the controller who transfers the personal data;
- (c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;
- (d) 'the subprocessor' means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;
- (e) 'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;
- (f) 'technical and organizational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

#### *Clause 2*

##### **Details of the transfer**

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

#### *Clause 3*

##### **Third-party beneficiary clause**

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third- party beneficiary.



2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.
3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third- party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

#### *Clause 4*

#### ***Obligations of the data exporter***

The data exporter agrees and warrants:

- (a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;
- (b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;
- (c) that the data importer will provide sufficient guarantees in respect of the technical and organizational security measures specified in Appendix 2 to this contract;
- (d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;
- (e) that it will ensure compliance with the security measures;
- (f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;
- (g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

- (h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;
- (i) that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and
- (j) that it will ensure compliance with Clause 4(a) to (i).

#### *Clause 5*

#### ***Obligations of the data importer***

The data importer agrees and warrants:

- (a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- (b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- (c) that it has implemented the technical and organizational security measures specified in Appendix 2 before processing the personal data transferred;
- (d) that it will promptly notify the data exporter about:
  - (i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,
  - (ii) any accidental or unauthorised access, and
  - (iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;
- (e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;
- (f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

- (g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;
- (h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;
- (i) that the processing services by the subprocessor will be carried out in accordance with Clause 11;
- (j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

#### *Clause 6*

#### ***Liability***

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.
2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

#### *Clause 7*

#### ***Mediation and jurisdiction***

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:
  - (a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

(b) to refer the dispute to the courts in the Member State in which the data exporter is established.

2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

#### *Clause 8*

#### **Cooperation with supervisory authorities**

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.
2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.
3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

#### *Clause 9*

#### **Governing Law**

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

#### *Clause 10*

#### **Variation of the contract**

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

#### *Clause 11*

#### **Subprocessing**

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.
2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data

exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.
4. The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5 (j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

*Clause 12*

***Obligation after the termination of personal data processing services***

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.
2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

**On behalf of the data exporter:**

Name (written out in full):

Position:

Address:

Other information necessary in order for the contract to be binding (if any):

Signature.....


**On behalf of the data importer:**

Name (written out in full): **Erol Dusi**

Position: **President**

Address: **551 Madison Avenue, 14<sup>th</sup> Floor New York, NY 10022**

Other information necessary in order for the contract to be binding (if any):

Signature.....  


## APPENDIX 1 TO THE GDPR STANDARD CONTRACTUAL CLAUSES

This Appendix forms part of the 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 Appendix.

### Data exporter

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

Data Exporter is (i) the legal entity that has executed the Standard Contractual Clauses as a Data Exporter and, (ii) all Affiliates (as defined in the Agreement) of Customer established within the European Economic Area (EEA) and Switzerland that have purchased SCC Services on the basis of one or more Order Form(s).

### Data importer

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

Imagineer Technology Group, LLC is a provider of enterprise cloud computing solutions which processes personal data upon the instruction of the data exporter in accordance with the terms of the Agreement.

### Data subjects

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

Data exporter may submit Personal Data to the SCC Services, the extent of which is determined and controlled by the data exporter in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of data subjects:

- Prospects, customers, business partners and vendors of data exporter (who are natural persons)
- Employees or contact persons of data exporter's prospects, customers, business partners and vendors
- Employees, agents, advisors, freelancers of data exporter (who are natural persons)
- Data exporter's Users authorized by data exporter to use the SCC Services

### Categories of data

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

Data exporter may submit Personal Data to the SCC Services, the extent of which is determined and controlled by the data exporter in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:

- First and last name
- Title
- Position
- Employer
- Contact information (company, email, phone, physical business address)
- Identification data
- Professional life data

- Personal life data
- Connection data
- Localization data
- Photographs

**Special categories of data (if appropriate)**

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

Data exporter may submit special categories of data to the SCC Services, the extent of which is determined and controlled by the data exporter in its sole discretion, and which is for the sake of clarity Personal Data with information revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning health or sex life.

**Processing operations**

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

The objective of Processing of Personal Data by data importer is the performance of the SCC Services pursuant to the Agreement.

**DATA EXPORTER**

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

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

**DATA IMPORTER**

Name: **Erol Dusi**

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

**APPENDIX 2 TO THE GDPR STANDARD CONTRACTUAL CLAUSES**

This Appendix forms part of the Clauses and must be completed and signed by the parties.

**Description of the technical and organizational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c):**

Data importer will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Personal Data uploaded to the SCC Services, as described in the Security, Privacy and other Documentation applicable to the specific SCC Services purchased by data exporter, and accessible via <https://imagineercrm.com> or otherwise made reasonably available by data importer. Data importer will not materially decrease the overall security of the SCC Services during a subscription term.

**DATA EXPORTER**

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

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

**DATA IMPORTER**

Name: **Erol Dusi**

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



## **APPENDIX 3 TO THE GDPR STANDARD CONTRACTUAL CLAUSES**

### List of Sub-processors

- Microsoft Azure
- Amazon AWS
- HubSpot
- Cloud Elements
- Salesforce Heroku
- Pendo
- Freshdesk
- HelpScout
- Rapid7 Logentries
- One More Cloud
- Mailchimp Mandrill
- Segment
- Mixpanel
- Keen
- Stripe