

## Telepath Data GDPR Data Processing Addendum

**Last Updated:** July 2018

This Data Processing Addendum (“DPA”), that includes the Standard Contractual Clauses adopted by the European Commission, as applicable, reflects the parties’ agreement with respect to the terms governing the Processing of Personal Data under the Telepath Data Customer Agreement or other written or electronic agreement between Telepath Data and Customer for the purchase of online services from Telepath Data (identified either as “Services” or otherwise in the applicable agreement, and hereinafter defined as “Services”) (the “Agreement”) to reflect the parties’ agreement with regard to the Processing of Personal Data.

In the course of providing the Services to Customer pursuant to the Agreement, Telepath Data 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.

The term of this DPA shall follow the term of the Agreement. Terms not otherwise defined herein shall have the meaning as set forth in the Agreement.

### **This DPA Includes:**

- Standard Contractual Clauses, attached hereto as EXHIBIT 1.
- Appendix 1 to the Standard Contractual Clauses, which includes specifics on the Personal Data transferred by the data exporter to the data importer.
- Appendix 2 to the Standard Contractual Clauses, which includes a description of the technical and organizational security measures implemented by the data importer as referenced.
- The Infrastructure and Sub-Processors Page found at <https://theseventhssense.com/trust/sub-processors>, which includes a list of the Sub-processors we use in connection with the provision of the Subscription Service

### **1) Definitions**

**“Controller”** means the entity which determines the purposes and means of the Processing of Personal Data.

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

**“Data Protection Laws and Regulations”** means all laws and regulations, including laws and regulations of the European Union, the European Economic Area and their member states, Switzerland and the United Kingdom, applicable to the Processing of Personal Data under the Agreement.

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

**“GDPR”** means 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).

**“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 Data Protection Laws and Regulations), where for each (i) or (ii), such data is Customer Data.

**“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.

**“Processor”** means the entity which Processes Personal Data on behalf of the Controller.

**“Standard Contractual Clauses”** means the agreement executed by and between Customer and Telepath Data, Inc. and attached hereto as Appendix 1 pursuant to the European Commission’s decision (C(2010)593) of 5 February 2010 on Standard Contractual Clauses for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection.

**“Sub-processor”** means any Processor engaged by Telepath Data, Inc.

**“Supervisory Authority”** means an independent public authority which is established by an EU Member State pursuant to the GDPR

**“Telepath Data Information Security Overview”** means the Information Security Overview document, as updated time to time, and accessible via the <https://www.theseventhssense.com/trust>.

## 2) Details of the Processing

### a) 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

### b) 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)
- ID data
- Localization data
- IP Addresses

- c) **Subject-Matter and Nature of the Processing.** The subject-matter of Processing of Personal Data by Processor is the provision of the services to the Controller that involves the Processing of Personal Data. Personal Data will be subject to those Processing activities as may be specified in the Agreement and an Order.
- d) **Purpose of the Processing.** Personal Data will be Processed for purposes of providing the services set out and otherwise agreed to in the Agreement and any applicable Order.
- e) **Duration of the Processing.** Personal Data will be Processed for the duration of the Agreement, subject to Section 4 of this DPA.

### 3) Customer Responsibility

Within the scope of the Agreement and in its use of the services, Controller shall be solely responsible for complying with the statutory requirements relating to data protection and privacy, in particular regarding the disclosure and transfer of Personal Data to the Processor and the Processing of Personal Data. For the avoidance of doubt, Controller's instructions for the Processing of Personal Data shall comply with the Data Protection Law. This DPA is Customer's complete and final instruction to Telepath Data in relation to Personal Data and that additional instructions outside the scope of DPA would require prior written agreement between the parties. Instructions shall initially be specified in the Agreement and may, from time to time thereafter, be amended, amplified or replaced by Controller in separate written instructions (as individual instructions).

Controller shall inform Processor without undue delay and comprehensively about any errors or irregularities related to statutory provisions on the Processing of Personal Data.

#### 4) Obligations of Processor

- a) **Compliance with Instructions.** The parties acknowledge and agree that Customer is the Controller of Personal Data and Telepath Data is the Processor of that data. Processor shall collect, process and use Personal Data only within the scope of Controller's Instructions. If the Processor believes that an Instruction of the Controller infringes the Data Protection Law, it shall immediately inform the Controller without delay. If Processor cannot process Personal Data in accordance with the Instructions due to a legal requirement under any applicable European Union or Member State law, Processor will (i) promptly notify the Controller of that legal requirement before the relevant Processing to the extent permitted by the Data Protection Law; and (ii) cease all Processing (other than merely storing and maintaining the security of the affected Personal Data) until such time as the Controller issues new instructions with which Processor is able to comply. If this provision is invoked, Processor will not be liable to the Controller under the Agreement for any failure to perform the applicable services until such time as the Controller issues new instructions in regard to the Processing.
- a) **Security.** Processor shall take the appropriate technical and organizational measures to adequately protect Personal Data against accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data, described under Appendix 2 to the Standard Contractual Clauses. Such measures include, but are not be limited to:
- i) the prevention of unauthorized persons from gaining access to Personal Data Processing systems,
  - ii) the prevention of Personal Data Processing systems from being used without authorization,
  - iii) ensuring that persons entitled to use a Personal Data Processing system gain access only to such Personal Data as they are entitled to accessing in accordance with their access rights, and that, in the course of Processing or use and after storage, Personal Data cannot be read, copied, modified or deleted without authorization,
  - iv) ensuring that Personal Data cannot be read, copied, modified or deleted without authorization during electronic transmission, transport or storage on storage media, and that the target entities for any transfer of Personal Data by means of data transmission facilities can be established and verified,
  - v) ensuring that Personal Data is Processed solely in accordance with the Instructions,
  - vi) ensuring that Personal Data is protected against accidental destruction or loss.

Processor will facilitate Controller's compliance with the Controller's obligation to implement security measures with respect to Personal Data (including if applicable Controller's obligations pursuant to Articles 32 to 34 (inclusive) of the GDPR), by (i) implementing and maintaining the security measures described under Appendix 2, (ii) complying with the terms of Section 4.d. (Personal Data Breaches); and (iii) providing the Controller with information in relation to the Processing in accordance with Section 5 (Audits).

- b) **Confidentiality.** Processor shall ensure that any personnel whom Processor authorizes to process Personal Data on its behalf is subject to confidentiality obligations with respect to that Personal Data. The undertaking to confidentiality shall continue after the termination of the above-entitled activities.
- c) **Personal Data Breaches.** Processor will notify the Controller as soon as practicable after it becomes aware of any Personal Data Breach affecting any Personal Data. At the Controller's request, Processor will promptly provide the Controller with all reasonable assistance necessary to enable the Controller to notify relevant Personal Data Breaches to competent authorities and/or affected Data Subjects, if Controller is required to do so under the Data Protection Law.
- d) **Data Subject Requests.** Processor will provide reasonable assistance, including by appropriate technical and organizational measures and taking into account the nature of the Processing, to enable Controller to respond to any request from Data Subjects seeking to exercise their rights under the Data Protection Law with respect to Personal Data (including access, rectification, restriction, deletion or portability of Personal Data, as applicable), to the extent permitted by the law. If such request is made directly to Processor, Processor will promptly inform Controller and will advise Data Subjects to submit their request to the Controller. Controller shall be solely responsible for responding to any Data Subjects' requests.

To the extent that Controller does not have the ability to address a Data Subject request, then upon Controller's request Processor shall provide reasonable assistance to the Controller to facilitate such Data Subject request to the extent able and only as required by applicable Data Protection Law. Controller shall reimburse Processor for the commercially reasonable costs arising from this assistance.

- e) **Deletion or Retrieval of Personal Data.** Other than to the extent required to comply with Data Protection Law, following termination or expiration of the Agreement, Processor will delete or return all Personal Data (including copies thereof) processed pursuant to this DPA. If Processor is unable to delete Personal Data for technical or other reasons, Processor will apply measures to ensure that Personal Data is blocked from any further Processing.

Controller shall, upon termination or expiration of the Agreement and by way of issuing an Instruction, stipulate, within a period of time set by Processor, the reasonable measures to return data or to delete stored data. Any additional cost arising in connection with the return or deletion of Personal Data after the termination or expiration of the Agreement shall be borne by Controller.

- f) **Data Protection Impact Assessments and Consultation with Supervisory Authorities.** To the extent that the required information is available to Processor and the Controller does not otherwise have access to the required information, Processor will provide reasonable assistance to Controller with any data protection impact assessments, and prior consultations with supervisory authorities or other competent data privacy authorities, which Controller reasonably considers to be required by article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to the processing of Personal Data.

## 5) Sub-processing

- a) **Appointment of Sub-processors.** Customer acknowledges and agrees that (a) Telepath Data's Affiliates may be retained as Sub-processors; and (b) Telepath Data and Telepath Data's Affiliates respectively may engage third-party Sub-processors in connection with the provision of the Services. Telepath Data or a Telepath Data Affiliate has entered into a written agreement with each Sub-processor containing data protection obligations not less protective than those in this Agreement with respect to the protection of Customer Data to the extent applicable to the nature of the Services provided by such Sub-processor.
- b) **List of Current Sub-processors and Notification of New Sub-processors.** Telepath Data shall make available to Customer the current list of Sub-processors for the Services identified in Appendix 3 of the Standard Contractual Clauses attached hereto. Such Sub-processor lists shall include the identities of those Sub-processors and their country of location ("**Infrastructure and Sub-processor Documentation**"). The documentation may be found at <https://www.theseventh sense.com/trust/> along with a mechanism to subscribe to notifications of changes to the list of Sub-processors. Telepath Data 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.
- c) **Objection Right for New Sub-processors.** Customer may object to Telepath Data's use of a new Sub-processor by notifying Telepath Data promptly in writing within ten (10) business days after receipt of Telepath Data's notice in accordance with the mechanism set out in Section 5b. In the event Customer objects to a new Sub-processor, as permitted in the preceding sentence, Telepath Data 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 Telepath Data 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 Telepath Data without the use of the objected-to new Sub-processor by providing written notice to Telepath Data. Telepath Data 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.
- d) **Liability.** Telepath Data shall be liable for the acts and omissions of its Sub-processors to the same extent Telepath Data would be liable if performing the services of each Sub-processor directly under the terms of this DPA, except as otherwise set forth in the Agreement.

## 6) Limitation of Liability

- a) 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 Telepath Data, 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.

- b) For the avoidance of doubt, Telepath Data'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.
- c) Also for the avoidance of doubt, each reference to the DPA in this DPA means this DPA including its Schedules and Appendices.

**Appendix 1**  
**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

The entity identified as “Customer” in the DPA (the “**data exporter**”)

and

Telepath Data, Inc.  
2017 N Dinwiddie Street, Arlington VA 22207, USA. (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.

*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 organisational 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 organisational 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<sup>1</sup>***

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 organisational 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) 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.

## **APPENDIX 1 to the Standard Contractual Clauses**

### **Data exporter**

The data exporter is the entity identified as “Customer” in the Telepath Data Customer Agreement (“Agreement”)

### **Data importer**

The data importer is Telepath Data, Inc., a provider of software as a service.

### **Data subjects**

Data subjects are defined in Section 1.2 of the DPA.

### **Categories of data**

The personal data is defined in Section 1.3 of the DPA.

### **Processing operations**

The personal data transferred will be subject to the following basic processing activities (please specify):  
The processing operations are defined in Section 1.3 of the DPA.

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

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

### **Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):**

The technical and organisational security measures implemented by the data importer are as described in the “Telepath Data Information Security Overview”, which may be found at <https://www.theseventhssense.com/trust/>.