

DATA PROCESSING ADDENDUM – GDPR

1. DEFINITIONS AND INTERPRETATION

1.1 In this Addendum, the following terms shall have the meanings set out in this clause 1.1, unless expressly stated otherwise:

<u>“Addendum”</u>	means this data processing addendum;
<u>“Adequate Country”</u>	means a country or territory outside the EU/EEA that is recognised for the purposes of the Data Protection Laws (including by virtue of a decision of the European Commission) as providing an adequate level of protection for Personal Data;
<u>“Agreement”</u>	means the Subscription Agreement to which this Addendum is attached;
<u>“Customer Personal Data”</u>	means any Personal Data Processed by TRIBLIO on behalf of Customer pursuant to or in connection with the Agreement;
<u>“Data Protection Laws”</u>	means, until 24 May 2018, EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and, with effect from 25 May 2018, the GDPR;
<u>“Data Subject Request”</u>	means the exercise of rights by Data Subjects of Customer Personal Data under Chapter III of the GDPR;
<u>“Triblio Services”</u>	means the Subscription services provided pursuant to the Agreement;
<u>“GDPR”</u>	means the EU General Data Protection Regulation 2016/679 and to the extent the GDPR is no longer applicable in the United Kingdom, any implementing legislation or legislation having equivalent effect in the United Kingdom;
<u>“Personnel”</u>	means employee, agent, consultant or contractor;
<u>“Third Country”</u>	means a country or territory outside the EU/EEA that is not an Adequate Country;
<u>“Transfer”</u>	means a transfer of Customer Personal Data to a Third Country that falls within the scope of Chapter V of the GDPR (including, where applicable, any ‘onwards transfers’ from that Third Country);
<u>“Sub-processor”</u>	means any third party appointed by or on behalf of TRIBLIO to Process Customer Personal Data; and

1.2 In this Addendum:

- (a) the terms, **“Data Controller”**, **“Data Processor”**, **“Data Subject”**, **“Personal Data”**, **“Personal Data Breach”**, **“Process/Processing/Processed”** and **“Supervisory”**

Authority” shall have the meaning ascribed to the corresponding terms in the Data Protection Laws.

- (b) unless otherwise defined herein, all capitalised terms shall have the meaning given to them in the Agreement;
- (c) references to this Addendum include its Schedules;
- (d) references to clauses and/or Schedules are to clauses of, and Schedules to, this Addendum;
- (e) references to “laws” shall mean (a) any statute, regulation, by-law, or subordinate legislation; (b) the common law and the law of equity; (c) any binding court order, judgment or decree; or (d) any industry code, policy or standard enforceable by law; and
- (f) any English legal term for any legal document, action, remedy, judicial proceeding, court, official, status, doctrine or any other legal concept shall, in relation to any jurisdiction other than England and Wales, be deemed to include the term which most nearly approximates in that jurisdiction to the English legal term.

1.3 This Addendum shall be incorporated into and form part of the Agreement and is subject to the limitations set forth therein. In the event of any conflict or inconsistency between this Addendum and the main body of the Agreement, this Addendum shall prevail.

2. PROCESSING OF CUSTOMER PERSONAL DATA

2.1 TRIBLIO shall:

- (a) comply with all applicable Data Protection Laws in Processing Customer Personal Data; and
- (b) not Process Customer Personal Data other than (i) on Customer’s instructions (subject always to clause 2.7) and (ii) as required by applicable laws.

2.2 To the extent permitted by applicable laws, TRIBLIO shall inform Customer of:

- (a) any Processing to be carried out under clause 2.1(b)(ii); and
- (b) the relevant legal requirements that require it to carry out such Processing,

before the relevant Processing of that Customer Personal Data by TRIBLIO.

2.3 Customer instructs TRIBLIO to Process Customer Personal Data as necessary (i) to provide the TRIBLIO Services to Customer (including, without limitation, to improve and update the TRIBLIO Services and to carry out Processing initiated by Users (as defined in the Agreement) in their use of the TRIBLIO Services) and (ii) to perform TRIBLIO’s obligations and exercise TRIBLIO’s rights under the Agreement.

2.4 Schedule 1 to this Addendum sets out certain information regarding TRIBLIO’s Processing of Customer Personal Data as required by Article 28(3) of the GDPR.

2.5 Customer may amend Schedule 1 on written notice to TRIBLIO from time to time as Customer reasonably considers necessary to meet any applicable requirements of Data Protection Laws. Nothing in Schedule 1 (including as amended pursuant to this clause 2.5) confers any right or imposes any obligation on any party to this Addendum.

2.6 Where TRIBLIO receives an instruction from Customer that, in its reasonable opinion, infringes or violates the GDPR, TRIBLIO shall inform Customer.

- 2.7 Customer acknowledges and agrees that any instructions issued by Customer with regards to the Processing by TRIBLIO of Customer Personal Data pursuant to or in connection with the Agreement shall (i) be strictly required for the sole purpose of ensuring compliance with Data Protection Laws, and (ii) not relate to the scope of, or otherwise materially change the TRIBLIO Services. Notwithstanding anything to the contrary herein, TRIBLIO may terminate the Agreement in its entirety upon written notice to Customer with immediate effect if TRIBLIO considers (in its absolute discretion) that (a) it is unable to adhere to, perform or implement any instructions issued by Customer due to the technical limitations of its systems, equipment and/or facilities, and/or (b) to adhere to, perform or implement any such instructions would require disproportionate effort (whether in terms of time, cost, available technology, manpower or otherwise).
- 2.8 Customer represents and warrants on an ongoing basis that, (i) for the purposes of Article 6 of the GDPR, there is, and will be throughout the term of the Agreement, a legal basis for the Processing by TRIBLIO of Customer Personal Data in accordance with this Addendum and the Agreement (including, without limitation, any and all instructions issued by Customer from time to time in respect of such Processing); and (ii) it shall not provide or otherwise make available to TRIBLIO any special categories of Personal Data (as the term 'special categories' is defined in Article 9(1) of the GDPR) or any Personal Data relating to criminal convictions and/or offences (as those terms are defined in Article 10 of the GDPR).

3. TRIBLIO PERSONNEL

- 3.1 TRIBLIO shall take reasonable steps to ensure the reliability of any Personnel who may Process Customer Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know or access the relevant Customer Personal Data for the purposes described in this Addendum, and to comply with applicable laws, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

4. SECURITY

- 4.1 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, TRIBLIO shall in relation to the Customer Personal Data implement appropriate technical and organisational measures, as described in further detail in the Security Schedule, to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.
- 4.2 In assessing the appropriate level of security, TRIBLIO shall take into account the risks presented by Processing, in particular from a Personal Data Breach.

5. SUBPROCESSING

- 5.1 Customer authorises TRIBLIO to appoint sub-processors in accordance with this clause 5 provided that TRIBLIO provides written notice of such sub-processors to Customer and ensures that all such sub-processors comply with the requirements of this Addendum. TRIBLIO will comply with the conditions referred to Article 28 of GDPR for engaging sub-processors and will inform the Customer of any intended changes (taking place after conclusion of the Agreement) concerning the sub-processors giving the Customer opportunity to object to such changes. Customer acknowledges that such objection may limit the Customer's possibilities to use services provided by TRIBLIO.
- 5.2 TRIBLIO is responsible that its sub-processors Process the Personal Data in accordance with this Addendum. TRIBLIO must especially ensure that each sub-processor implements all the

appropriate technical and organisational measures compliant with the Controls so that the Personal Data are Processed in accordance with this Addendum and the Data Protection Legislation.

- 5.3 TRIBLIO will, at Customer's written request, provide Customer with a written confirmation on how TRIBLIO has ensured that its sub-processors comply with the aforementioned obligations.

6. DATA SUBJECT RIGHTS

- 6.1 Taking into account the nature of the Processing, TRIBLIO shall, at Customer's cost, provide Customer with such assistance as may be reasonably necessary and technically possible in the circumstances, to assist Customer in fulfilling its obligation to respond to Data Subject Requests.

- 6.2 TRIBLIO shall:

- (a) promptly notify Customer if TRIBLIO receives a Data Subject Request; and
- (b) ensure that TRIBLIO does not respond to any Data Subject Request except on the documented instructions of Customer (and in such circumstances, at Customer's cost) or as required by applicable laws, in which case TRIBLIO shall to the extent permitted by applicable laws inform Customer of that legal requirement before TRIBLIO responds to the Data Subject Request.

7. PERSONAL DATA BREACH

- 7.1 TRIBLIO shall notify Customer without undue delay upon TRIBLIO becoming aware of a Personal Data Breach affecting Customer Personal Data, providing Customer with sufficient information (insofar as such information is within TRIBLIO's possession) to allow Customer to meet any obligations to report or inform Data Subjects or Supervisory Authorities of the Personal Data Breach under Data Protection Laws.

- 7.2 TRIBLIO shall co-operate with Customer and take such reasonable commercial steps as may be directed by Customer to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

8. DATA PROTECTION IMPACT ASSESSMENT AND PRIOR CONSULTATION

- 8.1 TRIBLIO shall provide reasonable assistance to Customer, at Customer's cost, with any data protection impact assessments, and prior consultations with Supervisory Authorities, which Customer reasonably considers to be required of Customer by Article 35 or 36 of the GDPR, in each case solely in relation to Processing of Customer Personal Data by, and taking into account the nature of the Processing by, and information available to, TRIBLIO.

9. DELETION AND RETURN OF CUSTOMER PERSONAL DATA

- 9.1 TRIBLIO will Process Personal Data as long as it is necessary for TRIBLIO in order to provide Services to the Customer under the Agreement. TRIBLIO undertakes, in accordance with Customer's written request and without undue delay, to delete or return the Personal Data to Customer (or to a third party appointed by Customer) in agreed format.

- 9.2 TRIBLIO will return or delete the Personal Data upon termination of this Addendum, including all existing copies of the Personal Data in its possession, unless TRIBLIO is required to store the said Personal Data under mandatory law or regulation.

- 9.3 TRIBLIO undertakes not to Process Personal Data after it has been successfully transferred to Customer or a third party appointed by Customer, or after it has been successfully removed.

TRIBLIO may however continue to store and access Personal Data as provided by Section 9.2 above.

10. AUDIT RIGHTS

- 10.1 TRIBLIO will provide Customer with all information reasonably requested by the Customer to demonstrate TRIBLIO's compliance with the requirements of this Addendum (including implementation of the Controls).
- 10.2 During the term of this Addendum, Customer or an independent third-party auditor appointed by Customer will have the right to audit TRIBLIO's compliance with the obligations under this Addendum (including any implementation of the Controls).
- 10.3 The third-party auditor used by the Customer must have the necessary skills and qualifications required to carry out such audit, must be bound by appropriate confidentiality obligations and may not be TRIBLIO's competitor. The report of the auditor must be shared with both Parties.
- 10.4 Customer must notify TRIBLIO of the audit at least 14 days in advance. TRIBLIO will always allow the regulatory authority supervising Customer's business to conduct audits targeted at Customer's obligations as data controller. The relevant parts of this Section 11 will be applied to such audits.
- 10.5 The subject of the audit will be TRIBLIO's documentation related to information security and the Processing of Personal Data and other information necessary to evaluate TRIBLIO's compliance with this Addendum. TRIBLIO will participate in and contribute to the audit to the extent necessary. TRIBLIO will also, on Customer's request, participate in a supervisory authority's audit targeted at Customer and provide the supervisory authority with the required information to conduct such audit. Both the Customer and TRIBLIO agree to cooperate, on request, with the supervisory authority in the performance of its tasks.
- 10.6 Each Party will bear its own costs resulting from the audit and Customer will bear the costs for the use of third-party auditor.

11. TRANSFERS

- 11.1 TRIBLIO and its sub-processors may transfer personal data outside the EU/EEA area for processing in order to provide services to the Customer. When such transfer takes place, the European Commission Standard Contractual Clauses for the Transfer of Personal Data to Processors Established in Third Countries (2010/87/EU) ("Standard Contractual Clauses"), or other appropriate safeguards provided by the GDPR, will apply to such transfer.
- 11.2 Customer may transfer personal data to TRIBLIO for processing in order to provide services to the Customer. Any such transfer shall also be subject to, and the parties agree to be bound by, the Standard Contractual Clauses available at <http://triblio.com/scs/>.
- 11.3 TRIBLIO will notify Customer upon request of the countries in which Personal Data will be Processed (including the countries from which the Personal Data can be accessed).

12. STATISTICAL DATA

- 12.1 Customer acknowledges and agrees that (i) TRIBLIO shall be freely able to use and disclose Statistical Data for TRIBLIO's own purposes without restriction; (ii) to the extent that Statistical Data constitutes Personal Data for the purposes of the GDPR, each Party shall be an independent Data Controller in respect of such data, shall independently determine the purposes and means of

its processing of such data and will comply with the obligations applicable to it under Data Protection Laws in respect of such data; (iii) Statistical Data does not constitute Customer Personal Data for the purposes of this Agreement; and (iv) except for this clause 12, the terms of this Addendum shall not apply to TRIBLIO's Processing of Statistical Data.

[Signature Page Follows]

Agreed to via Platform Terms of Service

**SCHEDULE 1 TO THE DATA PROCESSING ADDENDUM
DETAILS OF PROCESSING OF CUSTOMER PERSONAL DATA**

1. THE PURPOSE OF THE PROCESSING OF PERSONAL DATA

TRIBLIO will Process Personal Data only for the following purposes:

Providing Customer the Service under the Agreement (including the technical support and maintenance services specified in the Agreement) and other purposes provided by the Agreement.

2. CONTENTS OF THE PROCESSING

TRIBLIO will perform the following Personal Data Processing operations:

- TRIBLIO will store the Personal Data on servers hosted by TRIBLIO or a service provider engaged by TRIBLIO.
- TRIBLIO will have access to the Personal Data and use the data for providing services to the Customer under the Agreement and carrying out other acts provided by the Agreement.

3. CATEGORIES OF DATA SUBJECTS AND PERSONAL DATA

TRIBLIO will Process the following categories of data subjects and Personal Data:

- Information related to the users of the Services provided by TRIBLIO to Customer under the Agreement, such as:
 - Username and other user credentials,
 - e-mail addresses,
 - IP addresses,
 - other contact details of the users, such as phone numbers,
 - log data relating to the use of the services and
 - other Personal Data that may be provided by the users under the Agreement (for example data provided in the service requests sent by the users).