

Data Processing Addendum
SkyGlue

PREVIEW

THIS DATA PROCESSING ADDENDUM (“DPA”) forms part of the Terms of Use Agreement (“Agreement”) between SkyGlue Inc. (“SkyGlue”) and Customer and reflects the parties’ agreement with regard to the processing of Customer Personal Data. All capitalized terms not defined herein shall have the meaning set forth in the Agreement.

RECITALS

WHEREAS, Customer enters into this DPA on behalf of itself and, to the extent required under Applicable Data Protection Law, in the name and on behalf of its Authorized Affiliates, if and to the extent SkyGlue processes Personal Data for which such Authorized Affiliates qualify as the Controller; and

WHEREAS, in providing the Service to Customer pursuant to the Agreement, SkyGlue may Process Customer Personal Data on behalf of Customer, and the parties agree to comply with the following provisions with respect to any Personal Data.

NOW, THEREFORE, SkyGlue and Customer hereby enter into this DPA effective as of the last signature date below. This DPA is incorporated into and forms part of the Agreement.

EXPLANATIONS

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

“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.

“Authorized Affiliate” means any of Customer’s Affiliate(s) which (a) is subject to Applicable Data Protection Laws, and (b) is permitted to use the Service pursuant to the Agreement between Customer and SkyGlue, but has not signed its own Attachment with SkyGlue and is not a “Customer” as defined under the Agreement.

“Breach” means any breach of security leading accidentally or unlawfully to the destruction, loss, alteration, or unauthorized disclosure of or access to Personal Data

“Customer Personal Data” means Personal Data which is Processed by SkyGlue on behalf of the Customer in connection with the Service.

“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, applicable as of 25 May 2018, and repealing Directive 95/46/EC (General Data Protection Regulation).

“Service” means the software and services that SkyGlue provides to the Customer as further detailed in the Agreement or applicable.

“Standard Contractual Clauses” means the standard contractual clauses attached hereto as Exhibit A.

“Controller”, “Data Subject”, “Personal Data”, “Processing”, “Processor”, “Sensitive Data”, “Subprocessor”, and “Supervisory Authority” have the meanings set out in the GDPR.

SECTION 1

PROCESSING OF PERSONAL DATA

- I. **The Parties’ Roles.** The parties agree that with regard to the Processing of Customer Personal Data, Customer is the Controller, SkyGlue is the Processor, and that SkyGlue will engage Subprocessors pursuant to the requirements of this DPA.
- II. **Customer’s Instructions.** By entering into this DPA, Customer instructs SkyGlue to Process Customer Personal Data only in accordance with Applicable Data Protection Laws: (a) to provide the Service; (b) as documented in the Agreement, including this DPA; and (c) as further documented in any other lawful written instructions given by Customer and acknowledged by SkyGlue as constituting instructions for purposes of this DPA.
- III. **SkyGlue’s Responsibilities.** SkyGlue shall keep Customer Personal Data confidential and shall only Process Customer Personal Data on behalf of and in accordance with Customer’s documented instructions for Processing, including with regard to transfers of Customer Personal Data to a third country, in accordance with the Agreement. SkyGlue shall promptly inform Customer if in its opinion, any instruction of Customer infringes Applicable Data Protection Laws or if SkyGlue is required by the applicable law to Process Customer Personal Data in a manner which violates those instructions, in which case SkyGlue will inform Customer of such requirement before Processing unless that law prohibits such information on grounds of public interest. SkyGlue shall not be required to comply with or observe the Customer’s instructions if such instructions would violate Applicable Data Protection Laws.
- IV. **Details and Scope of the Processing.** The subject matter of the Processing of Customer Personal Data by SkyGlue is the performance of the Service pursuant to the Agreement. The duration of the Processing, the nature, and purpose of the processing, the types of Customer Personal Data and categories of Data Subjects Processed, are further specified in Appendix 1 to the Standard Contractual Clauses.

SECTION 2

RIGHTS OF DATA SUBJECTS

- I. **Data Subject Requests.** To the extent legally permitted, SkyGlue shall promptly notify the Customer if it receives a request from a Data Subject to exercise the Data Subject's right of access, right to rectification, restriction of Processing, erasure ("right to be forgotten"), data portability, object to the Processing, or its right not to be subject to an automated individual decision making (collectively, "Data Subject Request"). Taking into account the nature of the Processing, SkyGlue shall assist the Customer through appropriate commercially reasonable organizational and technical measures, insofar as this is possible, for the fulfillment of the Customer's obligation to respond to a Data Subject Request. To the extent legally permitted, the Customer shall be responsible for any costs arising from SkyGlue's provision of such assistance.

SECTION 3

SKYGLUE PERSONNEL

- I. **Confidentiality.** SkyGlue shall ensure that its personnel engaged in the Processing of Customer Personal Data are informed of the confidential nature of the Personal Data and have executed written confidentiality agreements.
- II. **Reliability.** SkyGlue shall take commercially reasonable steps to ensure the reliability of any SkyGlue personnel engaged in the Processing of Customer Personal Data.
- III. **Limitation.** SkyGlue shall ensure that SkyGlue's access to Customer Personal Data is limited to that personnel assisting in the provision of the Service in accordance with the Agreement.

SECTION 4

SUBPROCESSORS

- I. **SkyGlue's Subprocessors.** SkyGlue has instructed or authorized the use of Subprocessors to assist SkyGlue with respect to the performance of SkyGlue's obligations under the Agreement. A list of SkyGlue's Subprocessors shall be attached to this DPA as Appendix 3. SkyGlue shall inform Customer of any intended changes concerning the addition or replacement of Subprocessors, thereby giving Customer the opportunity to reasonably object to such changes. SkyGlue shall enter into a contract with the Subprocessor whereby SkyGlue shall require the Subprocessor to comply with obligations no less onerous than SkyGlue's obligations under this DPA.
- II. **Liability for Subprocessors.** SkyGlue shall be liable for the acts and omissions of its Subprocessors to the same extent SkyGlue would be liable if performing the services of each Subprocessor directly under the terms of this DPA, except as otherwise set forth in the Agreement.
- III.

SECTION 5

CUSTOMERS OBLIGATIONS

- I. **Compliance with Applicable Data Protection Laws.** Customer shall, in its use of the Service, Process Customer Personal Data in accordance with Applicable Data Protection Laws. For the avoidance of doubt, Customer's instructions for the Processing of Personal Data shall comply with Applicable Data Protection Laws, and Customer further acknowledges and agrees that its transfer of Customer Personal Data to SkyGlue for Processing pursuant to this DPA and the Agreement shall comply with Applicable Data Protection Laws. Customer shall have sole responsibility for the accuracy, quality, and legality of Customer Personal Data and the means by which Customer acquired Customer Personal Data.

- II. **Nature of Personal Data.** Customer acknowledges and agrees that, except as otherwise set forth in this Section 6 or as expressly set forth in Appendix 1 of the Standard Contractual Clauses, Customer Personal Data provided or made available to SkyGlue for Processing in connection with the Service shall consist of information relating to Customer's Traffic Data. Traffic Data contains the categories of data set forth in Appendix 1 of the Standard Contractual Clauses.
- III. **Disclosure of Customer End User Information.** To the extent Customer, in its sole discretion, deems it necessary to disclose or otherwise provide to SkyGlue Customer Personal Data other than Traffic Data, Customer shall: (a) notify SkyGlue in writing and in advance that it intends to disclose such Customer Personal Data to SkyGlue, pursuant to a process as specified by SkyGlue; and (b) ensure that such Customer Personal Data is encrypted in accordance with industry-standard best practices.
- IV. **Sensitive Data.** Notwithstanding any provision to the contrary in this DPA, the Customer shall not provide SkyGlue with any high-risk or Sensitive Data. In the event Customer does provide Sensitive Data, Customer shall comply with all Applicable Data Protection Laws, including without limitation applicable security and confidentiality measures in accordance with GDPR Article 32. Customer accepts full liability for any breaches of its responsibilities in this Section 6(d).
- V. **Lawful Basis.** Customer warrants that it has a lawful basis (as defined under Article 6 of GDPR or, with respect to Sensitive Data, as additionally defined in Article 9 of GDPR) for all Customer Personal Data it provides to SkyGlue. If at any time during the Term of this Agreement, Customer discovers that it does not have a lawful basis for providing SkyGlue any Customer Personal Data, then it shall notify SkyGlue in writing immediately, and SkyGlue upon such notification will cease Processing that Customer Personal Data.
- VI. **Indemnity.** Customer shall defend, indemnify and hold SkyGlue harmless from and against all losses, damages, costs, charges, fines, fees, awards or other expenses, (including, without limitation, fines imposed by any Supervisory Authority or other regulator under the GDPR), arising out of or in connection with any action, claim, proceeding or allegation related to (a) Customer's disclosure of Customer Personal Data to SkyGlue or (b) SkyGlue's Processing of such Personal Data in accordance with the terms of this DPA.

SECTION 6 **SECURITY**

- I. 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, both SkyGlue and Customer will implement technical and organizational measures designed to ensure a level of security appropriate to the risk related to the Processing of the Personal Data and to protect Personal Data, particularly against any accidental or unlawful destruction, loss, alteration or unauthorized disclosure or access (whether such Personal Data is on SkyGlue's or Customer's systems or facilities, in transit or being disposed of). SkyGlue shall ensure that Personal Data communicated by or obtained from Customers are properly isolated from Personal Data from other customers.

SECTION 7 **PERSONAL DATA BREACH**

- I. SkyGlue shall take the following actions in the event of any Breach: (a) SkyGlue shall notify the Customer about any Breach without undue delay, and in any event within seventy-two (72) hours, after becoming aware of it; (b) take all actions as may be required of a Processor by Applicable Data Protection Law, and more generally provide Customer with reasonable assistance in relation to Customer's obligations to notify any Supervisory Authority of the Breach and to the Data

Subjects as the case may be; (c) maintain any records relating to the Breach, including the results of its own investigations and authorities' investigations; (d) cooperate with the Customer and take reasonable measures as necessary to prevent the Breach from occurring again; and (e) where Customer reasonably determines that a Breach notification is required under Applicable Data Protection Laws and to the extent the Breach was directly caused by SkyGlue's breach of Applicable Data Protection Laws, SkyGlue shall, as its sole liability and Customer's sole remedy under this DPA, reimburse Customer for the direct, verifiable, necessary and reasonably incurred third-party costs of the Customer in the (i) investigation of such Breach, (ii) preparation and mailing of notices to such Data Subjects and any Supervisory Authority as required by the GDPR and (iii) mitigation of any adverse effects of such infringement on a Data Subject..

SECTION 8

AUDITS

- I. Upon not less than thirty (30) days prior written notice by Customer, and not more than once in any twelve (12) month period, SkyGlue shall permit Customer and/or its authorized agents to audit its written records to the extent reasonably required in order to confirm that Company is complying with its obligations under this DPA or any Applicable Data Protection Law.

SECTION 9

RETENTION AND DELETION OF CUSTOMER PERSONAL DATA

- I. At the Customer's written election, SkyGlue shall delete or return all Customer Personal Data, and, in any event, shall delete all copies of Customer Personal Data within ninety (90) days after SkyGlue's completion of the applicable Service, or unless otherwise required by Applicable Data Protection Law.

SECTION 10

AUTHORIZED AFFILIATES

- I. **Contractual Relationship.** The parties acknowledge and agree that, by executing the Agreement, the Customer enters into the DPA on behalf of itself and, as applicable, in the name and on behalf of its Authorized Affiliates.
- II. **Communication.** Customer shall remain responsible for coordinating all communication with SkyGlue under this DPA and be entitled to make and receive any communication in relation to this DPA on behalf of its Authorized Affiliates.
- III. **Rights of Authorized Affiliates.** Except where Applicable Data Protection Laws require an Authorized Affiliate to exercise a right or seek any remedy under this DPA against SkyGlue directly by itself, the parties agree that Customer shall (a) exercise any such right or seek any such remedy on behalf of the Authorized Affiliate, and (b) exercise any such rights under this DPA in a combined manner for all of its Authorized Affiliates together.

SECTION 11

INDEMNIFICATION AND LIMITATION OF LIABILITY

- I. **Indemnity.** In the event a Data Subject brings a claim against either or both parties (under Article 79 of the GDPR or any other cause of action) for alleged infringement of the GDPR, each party

shall at its own expense control the defense of any such claim (or its portion of the defense) and remain solely responsible for any costs, expenses, and liabilities related thereto, including legal fees or any amounts awarded against it by a court or made by it in a settlement; provided, however, that where each party is responsible for a portion of the damages suffered by a Data Subject for the same incident or series of incidents, and the Data Subject has recovered full compensation from only one party (the "Compensating Party") pursuant to Article 82(4) of the GDPR, then the Compensating Party shall be entitled to claim back from the other party that portion of the compensation corresponding to the damage caused by such other party.

- II. **Limitation of Liability.** For the avoidance of doubt, except as set forth in this Section 12, neither party shall be liable to the other party resulting from such other party's infringement of the GDPR. By way of example and not of limitation, in the event a Supervisory Authority imposes any fines, penalties or other sanctions on or against a party (the "Infringing Party"), the non-infringing party shall not indemnify or otherwise hold the Infringing Party harmless and the Infringing Party shall not seek indemnification, contribution or other recovery from the non-infringing party in connection therewith.

SECTION 12

CALIFORNIA SPECIFIC PROVISIONS

- I. This Section is applicable to California businesses only and is intended to provide guidance on SkyGlue's compliance with Cal. Civ. Code § 1798.100 et. seq., otherwise known as the "California Consumer Privacy Act of 2018" or "CCPA" in the performance of services. Capitalized terms used throughout this Section but undefined elsewhere shall have their respective meanings under CCPA. In performing the services, SkyGlue operates as a Customer service provider under the CCPA. As a Customer's service provider, SkyGlue processes certain personal information, in accordance with the Customer's instructions, to fulfill a legitimate business purpose for the Customer. The business purpose(s) for which Customer has retained SkyGlue for include any one or more of the following activities: maintaining or servicing SkyGlue accounts, providing customer service in connection with the Service, processing or fulfilling orders and transactions involving your website patrons, providing advertising or marketing services through the SkyGlue proprietary tools, providing analytic services, or providing similar services on Customer's behalf. Aside from fulfilling the business purpose for the Customer, SkyGlue does not disclose or resell Personal Information for any other commercial purpose, except in certain cases where the personal information has been pseudonymized or is considered aggregate consumer information. The CCPA provides California Consumers ("Consumers") the right to request that SkyGlue delete the Consumer's personal information under certain conditions. When SkyGlue receives a request to delete personal information from a Consumer, SkyGlue will verify the identity of the Consumer and then, as applicable, direct its service providers to delete the Consumer's personal information approved for deletion. Accordingly, in the event that Customer receives a verifiable Consumer request to delete personal information held by SkyGlue (as determined in Customer's sole discretion), SkyGlue shall fulfill such request without delay, provided Customer makes such request using the form provided by SkyGlue. SkyGlue shall not respond to any other request made in any other manner by the Customer so as to ensure the confidentiality, integrity, and security of the personal information it processes.

SECTION 13

EUROPEAN SPECIFIC PROVISIONS

- I. Data Protection Impact Assessment. Taking into account the nature of the Processing, upon Customer's reasonable request and at Customer's cost, SkyGlue shall provide Customer with

reasonable cooperation and assistance needed to fulfill Customer's obligations under the GDPR to carry out a data protection impact assessment related to Customer's use of the Service, to the extent Customer does not otherwise have access to the relevant information, and to the extent, such information is available to SkyGlue. SkyGlue shall provide reasonable assistance to Customer in the cooperation or prior consultation with the Supervisory Authority in the performance of its tasks related to this Section, to the extent required under the GDPR and taking into account the nature of the Processing and the information available to SkyGlue.

- II. Standard Contractual Clauses. The Standard Contractual Clauses apply to (a) the legal entity that has executed the Standard Contractual Clauses as the data exporter and its Authorized Affiliates and, (b) the Affiliates of Customer established within the European Economic Area, Switzerland and the United Kingdom, which have signed an applicable Attachment for the Service. For the purpose of the Standard Contractual Clauses, the aforementioned entities shall be deemed "data exporters."

SECTION 14

ORDER OF PRECEDENCE

This DPA is incorporated into and forms part of the Agreement. In the event of a conflict between the terms of the Agreement and this DPA, the terms of this DPA will control. In the event of a conflict between the terms of the DPA and Standard Contractual Clauses, the Standard Contractual Clauses will prevail.

Exhibit A-1

STANDARD CONTRACTUAL CLAUSES (PROCESSORS)

Note: Directive 95/46/EC has been repealed with 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.

The Parties (Customer as Data Exporter and SkyGlue as Data Importer) 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 identified in either the Agreement or Annex 1 to the DPA.

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 Regulation (EU) 2016/679 of the

European Parliament and of the Council of 27 April 2016 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, identified above, 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 sub-processor' means any processor engaged by the data importer or by any other sub-processor of the data importer who agrees to receive from the data importer or from any other sub-processor 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, unauthorized 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

- a. 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

- a. 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 a third-party beneficiary.
- b. 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.
- c. The data subject can enforce against the sub-processor 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 sub-processor shall be limited to its own processing operations under the Clauses.

- d. 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, unauthorized 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) to forward any notification received from the data importer or any sub-processor 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;
- (g) 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 sub-processing 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;
- (h) that, in the event of sub-processing, the processing activity is carried out in accordance with Clause 11 by a sub-processor providing at least the same level of protection for the personal data and the rights of the data subject as the data importer under the Clauses; and

(i) 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 unauthorized access; and
- iii. any request received directly from the data subjects without responding to that request unless it has been otherwise authorized 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 an 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 sub-processing, 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 sub-processing, it has previously informed the data exporter and obtained its prior written consent;

(i) that the processing services by the sub-processor will be carried out in accordance with Clause 11;

(j) to send promptly a copy of any sub-processor agreement it concludes under the Clauses to the data exporter.

CLAUSE 6

LIABILITY

- a. 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 sub-processor is entitled to receive compensation from the data exporter for the damage suffered.
- b. 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 sub-processor 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 the contract of by operation of law, in which case the data subject can enforce its rights against such entity.
- c. The data importer may not rely on a breach by a sub-processor of its obligations in order to avoid its own liabilities.
- d. 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 sub-processor 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 sub-processor agrees that the data subject may issue a claim against the data sub-processor 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 sub-processor 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

- a. 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.
- b. The Parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any sub-processor, 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.
- c. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any sub-processor preventing the conduct of an audit of the data importer, or any sub-processor, 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 Clauses.

CLAUSE 11

SUB-PROCESSING

- a. 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 sub-processor which imposes the same obligations on the sub-processor as are imposed on the data importer under the Clauses. Where the sub-processor fails to fulfill 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.
- b. The prior written contract between the data importer and the sub-processor 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 sub-processor shall be limited to its own processing operations under the Clauses.

- c. The provisions relating to data protection aspects for sub-processing 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.
- d. The data exporter shall keep a list of sub-processing agreements concluded under the Clauses and be 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 TERMINATION OF PERSONAL DATA PROCESSING SERVICES

- a. The Parties agree that on the termination of the provision of data processing services, the data importer and the sub-processor 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.
- b. The data importer and the sub-processor 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 (please specify briefly your activities relevant to the transfer):

The data exporter is the entity identified as "Customer" or "Controller" in the Agreement.

Data Importer

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

The data importer is SkyGlue, Inc. ("SkyGlue"), a company providing hosted business software applications that 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):

The personal data transferred concern the following categories of data subjects: Customer's employees, agents, and visitors of its website(s)

Categories Of Data

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

(1) Traffic data (e.g., the pages visited, the visitor's mouse movements and clicks, keystroke data, and HTML data on a page visited by a visitor (if such HTML data includes Personal Information)). (2) IP address and header information (e.g., browser type, referring URL)

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 the data importer is the performance of the Service pursuant to the Terms of Service Agreement, in particular, to provide SkyGlue's Service. The Processing of Personal Data will be performed in the United States and Europe.

APPENDIX 2 TO THE STANDARD CONTRACTUAL CLAUSES

This Appendix forms part of the Clauses.

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

SkyGlue shall maintain administrative, physical and technical safeguards for the protection of the security, confidentiality and integrity of Customer Personal Data. SkyGlue regularly monitors compliance with these safeguards. SkyGlue will not materially decrease the overall security of the Service during the term of the Service.

APPENDIX 3 TO THE STANDARD CONTRACTUAL CLAUSES

Notices.

For the Data Exporter, any notices shall be sent to the email address of the individual(s) with administrative rights to Data Exporter's account with access to Data Importer's services; Data Exporter may request this contact information to be updated for the purpose of these Clauses by emailing support@SkyGlue.com.

For the Data Importer, any notices shall be sent to:

SkyGlue, Inc.

Attn: Data Protection Officer

2140 Peralta Blvd. Suite 212B

Fremont, CA 94536, USA

support@skyglue.com.

Sub-processors. For the purposes of Clause 11 of these Clauses, the data exporter hereby consents to the data importer subcontracting any or all of its data processing operations performed under these Clauses to the extent permitted and in accordance with the DPA. Further, the Parties agree that for the purpose of Clause 11:

- (i) A list of approved sub-processors is available to the Data Exporter upon written request to support@skyglue.com; and
- (ii) Prior notification of updates to the list of sub-processors requires Data Exporter to first submit a request for such notifications in writing to SkyGlue by emailing support@SkyGlue.com. Data Importer will then provide Data Exporter with a copy of Data Importer's Subprocessor list within 30 days, and send Data Exporter updates to such Subprocessor list (if any) in accordance with the DPA.