

## Data Processing Addendum

*Last Updated: November 11, 2021*

This Data Processing Addendum, including its schedules and appendices (the “**DPA**”), forms part of the Agreement or electronic agreement between the Company and the Customer for the purchase of certain online services from the Company (the “**Agreement**”) to reflect the parties’ agreement with regard to the Processing of Personal Data.

By signing the Agreement, the Customer enters into this DPA on behalf of itself and, to the extent required under Applicable Data Protection Laws, in the name and on behalf of its Authorized Affiliates, if and to the extent the Company Processes Personal Data for which such Authorized Affiliates qualify as the Controller. For the purposes of this DPA only, and except where indicated otherwise, the term “Customer” shall include the Customer and Authorized Affiliates. All capitalized terms not defined herein shall have the meaning set forth in the Agreement.

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

### **HOW TO EXECUTE THIS DPA:**

1. This DPA consists of two parts: the main body of the DPA, and Schedule 1 (Standard Contractual Clauses).
2. This DPA has been pre-signed on behalf of the Company.
3. To complete this DPA, the Customer must sign the Agreement.

For the avoidance of doubt, the signature of this DPA shall be deemed to constitute signature and acceptance of the Standard Contractual Clauses incorporated herein, including their appendices. Where the Customer wishes to separately execute the Standard Contractual Clauses and its appendices, the Customer should also complete the information as the data exporter and complete the information on the signature page and send the signed Standard Contractual Clauses to the Company by email to [DPA@builder.ai](mailto:DPA@builder.ai).

### **APPLICABILITY OF THE STANDARD CONTRACTUAL CLAUSES:**

The Standard Contractual Clauses as approved by the European Union will apply to Personal Data within the Customer Data that is transferred from the European Economic Area and/or Switzerland to outside the European Economic Area and Switzerland, either directly or via onward transfer, to any country or recipient not recognized by the European Commission as providing an adequate level of protection for Personal Data.

#### **Contact for data protection enquiries:**

##### **Builder Privacy Team**

**Email:** [privacy@builder.ai](mailto:privacy@builder.ai)

#### **Customer Contact:**

**Email:** as specified in the Agreement

## DATA PROCESSING TERMS

The parties have entered into an Agreement, which regulates the terms of the provisions of Services by the Company to the Customer, which this DPA is incorporated into. The parties intend to define the terms of the Processing of Personal Data and the responsibilities of each party regarding the Processing of such data. If there is any conflict between this DPA and the Agreement regarding the parties' respective privacy and security obligations, the provisions of this DPA shall control.

### DEFINITIONS

“**Affiliate**” means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with the subject entity.

“**Agreement**” means the Agreement, including the order forms and this DPA, signed and executed by the Customer.

“**Applicable Data Protection Laws**” means all laws and regulations, including laws and regulations of the European Union (e.g. the GDPR and any applicable legal regulations) and Switzerland, applicable to the Processing of Personal Data under the Agreement.

“**Authorized Affiliate**” means any of the Customer's Affiliate(s) which (a) is subject to the data protection laws and regulations of the European Union, the European Economic Area and/or their Member States, Switzerland and/or the United Kingdom, and (b) is permitted to use the Services pursuant to the Agreement between the Customer and the Company, but has not signed its own order form with the Company.

“**Company**” means the Engineer.ai entity which is a party to this DPA and the Agreement.

“**Company Group**” means the Company and its Affiliates engaged in the Processing of Personal Data.

“**Contact**” means [privacy@builder.ai](mailto:privacy@builder.ai).

“**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.

“**Controller**” means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data; where the purposes and means of such Processing are determined by European Union or Member State law, the controller or the specific criteria for its nomination may be provided for by European Union or Member State law.

“**Customer**” means the entity that executed the Agreement together with its Affiliates (for so long as they remain Affiliates) which have signed the Agreement.

“**Customer Data**” means what is defined in the Agreement as customer data, provided that such data is electronic data and information submitted by or for the Customer pursuant to the Agreement. This DPA does not apply to Third-Party Services, including add-ons.

“**Customer's Personal Data**” means data Processed by the Company for the purposes of the Services provided in alignment with the Agreement, which is defined under Applicable Data Protection Laws as Personal Data. This includes, without limitation, (i) the names and/or contact information of individuals authorized by the Customer to access the Services (e.g. agents and supervisors); and (ii) information collected by the Customer when using the Services.

“**Data Breach**” means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed.

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

“**Effective Date**” means the date of signing of this DPA by the Customer.

“**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 (the “Data Subject”) and (ii) an identified or identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person, 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 a natural or legal person, public authority, agency or other body which Processes Personal Data on behalf of the Controller, including as applicable any “service provider” as that term is defined by the GDPR.

“**Services**” means the services and other activities to be supplied to or carried out by the Company pursuant to the Agreement.

“**Standard Contractual Clauses**” means the European Commission’s Standard Contractual Clauses for the transfer of Personal Data from the European Union to Processors (as set out in Annex to Commission Decision 2010/87/EU) established in third countries which do not ensure an adequate level of data protection.

“**Sub-processor**” means a processor appointed by the Company, on its behalf, to Process the Customer’s Personal Data excluding any employee of the Company.

“**Supervisory Authority**” means an independent public authority that is established by a Member State pursuant to Article 51 of the GDPR.

“**Third-Party Services**” means certain services and applications operated by various third parties available on or via the Services.

## 1. RELATIONSHIP AND PROCESSING OF PERSONAL DATA.

- 1.1. **Roles of the parties.** The parties acknowledge and agree that with regard to the Processing of Personal Data, the Customer is acting as the Controller, the Company acts as the Processor and the Company will engage Sub-processors pursuant to the requirements set forth in **Section 6 (“Sub-processors”)** below.
- 1.2. **Customer’s Processing of Personal Data.** The Customer retains control of the Customer’s Personal Data and remains responsible for its compliance obligations under the Applicable Data Protection Laws, including providing any required notices, information and obtaining any required consents, and for the Processing instructions it gives to the Company. For the avoidance of doubt, the Customer’s instructions for the Processing of Personal Data shall comply with Applicable Data Protection Laws. The Customer shall have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which the Customer acquired Personal Data. The Customer specifically acknowledges that its use of the Services will not violate the rights of any data subject that has opted-out from sales or other disclosures of Personal Data, to the extent applicable under the GDPR.
- 1.3. **Company’s Processing of Personal Data.** The Company shall treat Personal Data as Confidential Information and shall Process Personal Data on behalf of and only in accordance with the Customer’s documented instructions for the following purposes: (i) Processing in accordance with the Agreement and applicable order form(s); (ii) Processing initiated by authorised users in their access and/or use of the Services; and (iii) Processing to comply with the instructions in **Section 2 (“Instructions”)** below.
- 1.4. **Details of the Processing.** The subject matter of Processing of Personal Data by the Company is the performance of the Services pursuant to the Agreement. The duration of the Processing, the nature and purpose of the Processing, the types of Personal Data and categories of data subjects Processed under this DPA are further specified in **Section 4 (“Details of the Processing”)** to this DPA.

## 2. INSTRUCTIONS.

- 2.1. **Processing Instructions.** The Company shall not Process the Customer’s Personal Data other than on the relevant Customer’s documented instructions unless the Processing is required by applicable laws to which the Company or the relevant Sub-processor is subject.
- 2.2. **Additional Instructions.** The Agreement and this DPA will be considered as the only documented instructions relevant to the purposes of this DPA. Any other instructions will be construed as additional instructions; provided, however, that the additional instructions are (a) reasonable instructions provided by the Customer; (b) approved and accepted by the Company; and (c) consistent with the terms of the Agreement. Any additional instructions shall be subject to an additional agreement that may entail additional pricing between the parties.
- 2.3. **Customer Instructions.** The Customer shall ensure that its instructions comply with all laws, regulations and rules applicable to the Customer Data and that the Company’s Processing of

the Customer Data in accordance with the Customer's instructions will not cause the Company to violate any applicable law, regulation or rule, including, without limitation, Applicable Data Protection Laws. The Company agrees not to access or use Customer Data, except as necessary to maintain or provide the Service, or as necessary to comply with the law or other binding governmental order.

### 3. THIRD-PARTY SERVICES.

- 3.1. **Non-Builder Applications and Add-ons.** The Customer may make available Third-Party Services that integrate or connect with the Service. Under the terms of the Agreement, the Customer contracts directly with the Third-Party Services and the Company is not a party to such contract. Third-party providers and Third-Party Services are not the Company's Sub-processors and the Company is not liable for their actions.
- 3.2. **Integration with Third-Party Services.** Under the terms of the Agreement, if the Customer chooses to connect its account with a Third-Party Service, the Customer grants the Company permission to access and use its information from that service as permitted by that Third Party Service which might include Personal Data and to store its access credentials/tokens for that Third Party Service solely for the purpose of facilitating such connection.

### 4. DETAILS OF THE PROCESSING.

- 4.1. The main characteristics of the Processing of the Customer's Personal Data are the following:
  - 4.1.1. **Purpose and nature of the Processing.** The Processing of the Customer's Personal Data aims at the provision of the Service.
  - 4.1.2. **Type of Personal Data.** The Customer may submit Personal Data to the Services, the extent of which is determined and controlled by the Customer in its sole discretion.
  - 4.1.3. **Duration.** The Company will Process Personal Data for the duration of the Agreement unless otherwise agreed upon in writing.
  - 4.1.4. **Categories of Data Subjects.** Data subjects may include the Customer's clients, employees, suppliers and end-users about whom Personal Data is provided to the Company via the Service by (or at the direction of) the Customer.

### 5. COMPLIANCE WITH APPLICABLE LAWS.

- 5.1. **Each Party's Responsibilities.** Each party shall be in material compliance with applicable laws and regulations in the performance or receipt, as the case may be, of the Services hereunder, including, but not limited to, Applicable Data Protection Laws.
- 5.2. **Customer's Responsibilities.** The Customer undertakes to:
  - 5.2.1. Define the grounds of lawfulness to each Processing and act accordingly, namely, obtaining and keeping proof of the necessary consents;
  - 5.2.2. Give all the necessary information to the data subjects; and
  - 5.2.3. Appoint a data protection officer if required by the GDPR or any relevant laws and, if not, have at least one person responsible for data protection matters available to be contacted by data subjects.

### 6. SUB-PROCESSORS.

- 6.1. **Appointment of Sub-processors.** The Customer acknowledges and hereby authorizes that (a) the Company's Affiliates may be appointed as Sub-processors; and (b) the Company and the Company's Affiliates respectively may engage third-party Sub-processors in connection with the provision of the Services.
- 6.2. **List of Sub-processors.** The Company shall maintain an up-to-date list of its Sub-processors and shall make available to the Customer the current list of Sub-processors upon the Customer's written request.
- 6.3. **Notification of New Sub-processors.** The Company shall provide details of any new Sub-processor with the details regarding the Sub-processors appointed (the "Sub-processor List") and to provide the opportunity to the Customer to object to the appointment of each new Sub-processor.
- 6.4. **Objection Right for New Sub-processors.** The Customer may object to the Company's appointment or replacement of a Sub-processor prior to its appointment or replacement, provided such objection is in writing and based on reasonable grounds relating to data

protection. In such an event, the parties shall discuss commercially reasonable alternative solutions in good faith. If the parties cannot reach a resolution, the Company will either not appoint or replace the Sub-processor or, if this is not possible, the Customer may terminate the applicable order form(s) with respect only to those Services which cannot be provided by the Company without the use of the objected-to new Sub-processor by providing written notice to the Company. The Company will refund the 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 the Customer. If the Customer does not object to the appointment of a new sub-processor within three (3) business days, the appointment or replacement of the relevant sub-processor shall be deemed approved by the Customer. For the purposes of this Section 6.4, a "business day" means Monday to Friday excluding public holidays in the region in which the Company is located.

- 6.5. Liability.** The Company shall be liable for the acts and omissions of its Sub-processors to the same extent the Company 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.

## **7. COOPERATION AND DATA SUBJECT RIGHTS AND REQUESTS.**

- 7.1. Data Subject Requests.** The Company shall, to the extent legally permitted, promptly notify the Customer if the Company receives a request from a data subject to exercise the data subject's right of access, right to rectification, restriction of Processing, erasure (the "right to be forgotten"), data portability, object to the Processing, or its right not to be subject to an automated individual decision making, each such request being a "Data Subject Request".
- 7.2. Cooperation with Customer on Requests.** The Customer must provide data subjects with a contact or means deemed adequate to exercise their rights with the Customer. In any case, the Company does not reply directly to the Data Subjects Request of the Customer's Personal Data nor provides a direct helpline or any other communication challenge to the purposes of the exercise of the data subject's rights. Considering the nature of the Processing, the Company shall assist the Customer by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of the Customer's obligation to respond to a Data Subject Request under Applicable Data Protection Laws.
- 7.3. Customer Responsibilities for Requests.** The parties acknowledge that the Company does not have a direct relationship with the Customer's end users whose Personal Data the Company may Process in connection with the Customer's use of the Service. The Customer shall be responsible for ensuring its end users are provided adequate notice of the Company's Processing activities.
- 7.4. Request Assistance.** To the extent the Customer, in its use of the Services, does not have the ability to address a Data Subject Request, the Company shall upon the Customer's request provide commercially reasonable efforts to assist the Customer in responding to such Data Subject Request, to the extent the Company is legally permitted to do so and the response to such Data Subject Request is required under Applicable Data Protection Laws. To the extent legally permitted, the Customer shall be responsible for any costs arising from the Company's provision of such assistance.

## **8. INTERNATIONAL DATA TRANSFERS.**

- 8.1. Company Group.** The Company may transfer data to companies of the same group of companies and to processors outside of the European Economic Area which is hereby authorized by the Customer subject to the terms set forth in this Section 8.
- 8.2. Company Locations.** The Customer acknowledges that, as of the Effective Date of this DPA, the Company maintains some facilities in the European Union, however, its primary Processing facilities are in the United States, and it is possible that some of the Customer's Personal Data are transferred out of the European Economic Area in which case the Company will take such measures as are necessary to ensure the transfer is in compliance with Applicable Data Protection Laws if the transfer is not to a territory subject to a finding by the European Commission that the territory provides adequate protection for the privacy rights of individuals. Such measures may include (without limitation) transferring the Customer's Personal Data to a recipient that is certified in accordance with the Privacy Shield Framework, or any other approved certification mechanism or codes of conduct, has entered into Binding Corporate Rules in accordance with Applicable Data Protection Laws, or to a recipient that has executed Standard Contractual Clauses or standard data protection clauses approved by a Supervisory Authority and approved by the European Commission.

**8.3. Transfer Mechanism.** In the event that the Services are covered by more than one transfer mechanism and not subject to any derogation for specific situations in accordance with article 49 of the GDPR and the territory is not subject to any adequacy finding, the transfer of Personal Data will be subject to one of the following transfer mechanisms: the Standard Contractual Clauses or standard data protection clauses.

**8.4. Standard Contractual Clauses.** The parties further agree that the Standard Contractual Clauses as approved by the European Union will apply to Personal Data within the Customer Data that is transferred from the European Economic Area and/or Switzerland to outside the European Economic Area and Switzerland, either directly or via onward transfer, to any country or recipient: (i) not recognized by the European Commission as providing an adequate level of protection for Personal Data.

## 9. CONFIDENTIALITY.

**9.1. Confidentiality.** The Company shall ensure that its personnel engaged in the Processing of Personal Data are informed of the confidential nature of the Personal Data, have received appropriate training on their responsibilities and have executed written confidentiality agreements. The Company shall ensure that such confidentiality obligations survive the termination of the personnel engagement. The Company shall bear responsibility for any breach of confidentiality obligations by any personnel engaged in the Processing of Personal Data as if such breach was the act of the Company itself.

**9.2. Limitation of Access.** The Company shall ensure that the Company's access to Personal Data is limited to those of its personnel performing Services in accordance with the Agreement.

## 10. SECURITY.

**10.1. Protection of Customer Data.** Taking into account the state of the art and the costs of implementation, the Company shall maintain appropriate technical and organizational measures for the protection of the security (including protection against unauthorized or unlawful Processing and against accidental or unlawful destruction, loss or alteration or damage, unauthorized disclosure of, or access to, Customer Data), confidentiality and integrity of Customer Data.

**10.2. Customer Responsibilities.** The Customer acknowledges that the Service includes certain features and functionalities that the Customer may elect to use that impact the security of the data processed by the Customer's use of the Service. The Customer is responsible for reviewing the information the Company makes available regarding its data security, including its audit reports, and making an independent determination as to whether the Service meets the Customer's requirements and legal obligations, including its obligations under this DPA. The Customer is further responsible for properly configuring the Service and using available features and functionalities to maintain appropriate security considering the nature of the data processed by the Customer's use of the Service.

**10.3. Notification of Data Breach.** The Company shall, to the extent permitted by law, notify the Customer without undue delay after becoming aware of any Data Breach. To the extent such Data Breach is caused by a violation of the requirements of this DPA by the Company, or by the Company's negligence or willful misconduct, the Company shall use best efforts to identify and remediate the cause of such Data Breach to the extent the remediation is within the Company's reasonable control. The Company shall also be liable for such breach as set forth in Section 15. The obligations herein shall not apply to incidents that are caused by the Customer or the Customer's authorized users.

## 11. AUDITS.

**11.1. Audits.** Upon the Customer's written request at reasonable intervals and no more than once a year, and subject to reasonable confidentiality controls, the Company shall make available to the Customer (or the Customer's independent, third-party auditor), which is not a competitor of the Company, information regarding the Company's compliance with the obligations set forth in this DPA. The Customer may contact the Company in accordance with the "Notices" section of the Agreement to request an on-site audit of the procedures relevant to the protection of Personal Data. The Customer shall reimburse the Company for any time expended for any such on-site audit at the Company's then-current professional services rate, which shall be made available to the Customer upon written request. Prior to the commencement of any such on-site audit, the Company and the Customer shall mutually agree upon the scope, timing, and duration of the audit in addition to the reimbursement rate

for which the Customer shall be responsible. The Customer shall promptly notify the Company with information regarding any non-compliance discovered during the course of an audit. For the avoidance of doubt, any information obtained by the Customer under this Section 11 shall be treated as Confidential Information of the Company in accordance with the Agreement.

## **12. EUROPEAN AREA ECONOMIC SPECIFIC PROVISIONS.**

- 12.1. GDPR.** The Company will Process Personal Data in accordance with the GDPR requirements directly applicable to the Company's provision of its Services as Processor.
- 12.2. Data Protection Impact Assessment.** Upon the Customer's request, the Company shall provide reasonable assistance (at the Customer's expense) needed to fulfil the Customer's obligation under the GDPR to carry out a data protection impact assessment to the Customer's use of the Services, to the extent the Customer does not otherwise have access to the relevant information, and to the extent such information is available to the Company. The Company shall provide reasonable assistance to the Customer in the cooperation or prior consultations with Supervising Authorities or other competent data privacy authorities, which the Customer reasonably considers to be required by articles 35 or 36 of the GDPR.

## **13. DELETION OR RETURN OF CUSTOMER DATA.**

- 13.1. Deletion.** Following termination or expiry of the Agreement, the Company will delete all Customer Data within the timeframe stated in the Agreement. In case of any dispute, the Customer Data may be maintained at the Customer written request with at least 30 days notice in advance and on its expenses.
- 13.2. Return.** In the event the Customer requests the return of Customer Data, the Company will provide timely assistance to provide the return of such data, at the Customer's expenses. This requirement shall not apply to the extent that the Company is required by law to retain some or all of the Customer Data.

## **14. AUTHORIZED AFFILIATES.**

- 14.1. 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, thereby establishing a separate DPA between the Company and each such Authorized Affiliate subject to the provisions of the Agreement and this Section 14 and Section 16. Each Authorized Affiliate agrees to be bound by the obligations under this DPA and, to the extent applicable, the Agreement. For the avoidance of doubt, an Authorized Affiliate is not and does not become a party to the Agreement, and is only a party to the DPA. All access to and use of the Services by Authorized Affiliates must comply with the terms and conditions of the Agreement and any violation of the terms and conditions of the Agreement by an Authorized Affiliate shall be deemed a violation by the Customer.
- 14.2. Communication.** The Customer that is the contracting party to the Agreement shall remain responsible for coordinating all communications with the Company under this DPA and be entitled to make and receive any communication in relation to this DPA on behalf of its Authorized Affiliates.
- 14.3. Rights of Authorized Affiliates.** Where an Authorized Affiliate becomes a party to the DPA with the Company, it shall, to the extent required under Applicable Data Protection Laws, be entitled to exercise the rights and seek remedies under this DPA, subject to the following:
- 14.3.1.** Except where Applicable Data Protection Laws require the Authorized Affiliate to exercise a right or seek any remedy under this DPA against the Company directly by itself, the parties agree that (i) solely the Customer that is the contracting party to the Agreement shall exercise any such right or seek any such remedy on behalf of the Authorized Affiliate, and (ii) the Customer that is the contracting party to the Agreement shall exercise any such rights under this DPA not separately for each Authorized Affiliate individually but in a combined manner for itself and all of its Authorized Affiliates together (as set forth, for example, in **Section 14.3.2**, below).
- 14.3.2.** The parties agree that the Customer that is the contracting party to the Agreement shall, when carrying out an onsite audit of the procedures relevant to the protection of Personal Data, take all reasonable measures to limit any impact on the Company and its Sub-Processors by combining, to the extent reasonably possible, several audit requests carried out on behalf of itself and all of its Authorized Affiliates in one single audit.

**15. LIMITATION OF LIABILITY.**

- 15.1.** Each party's and all of its Affiliates' liability, taken together in the aggregate, arising out of or related to this DPA, and all DPAs between Authorized Affiliates and the Company, 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.
- 15.2.** For the avoidance of doubt, the Company'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 all DPAs shall apply in the aggregate for all claims under both the Agreement and all DPAs established under this Agreement, including by the Customer and all Authorized Affiliates, and, in particular, shall not be understood to apply individually and severally to the Customer and/or to any Authorized Affiliate that is a contractual party to any such DPA.

**16. LEGAL EFFECT.**

This DPA supersedes and replaces all prior and contemporaneous proposals, statements, sales materials or presentations and agreements, oral and written, with regard to the subject matter of this DPA, including any prior data processing addenda entered into between the Company and the Customer. If there is any conflict between this DPA and any agreement, including the Agreement, the terms of this DPA shall control.

**LIST OF SCHEDULES**

**Schedule 1:** Standard Contractual Clauses

The parties' authorized signatories have duly executed this DPA.



**ENGINEER.AI GLOBAL LIMITED**

DocuSigned by:  
Signature: Andres Elizondo  
9852028128C648E...

Print Name: Andres Elizondo

Title: Chief Financial Officer

**ENGINEER.AI CORP.**

DocuSigned by:  
Signature: Joe Norena  
9D625F0A6D57480...

Print Name: Joe Norena

Title: Chief Operating Officer

**ENGINEER.AI INDIA PRIVATE LIMITED**

DocuSigned by:  
Signature: Rajiv Saini  
BD48F9ED68104AB...

Print Name: Rajiv Saini

Title: Head of Global Financial Control & FinOps

## Standard Contractual Clauses (processors)

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

Name of the data exporting organisation: the legal entity that has executed the Agreement as the Customer and all Affiliates (as defined in the Agreement) of the Customer established within the European Economic Area (EEA) and Switzerland that have purchased Services on the basis of one or more order form(s).

The Address, Telephone and Email of the data exporter are as specified in the Agreement (the “**Data Exporter**”).

And

Name of the data importing organisation: Engineer.ai Corp.

Address: 26 S. Rio Grande Street, Suite 2072 Salt Lake City, Utah 84101, USA

E-mail: [privacy@builder.ai](mailto:privacy@builder.ai)

(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.

### 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.

### 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.

### **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.

### **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).

## **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 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) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;

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

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

## **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.

## **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.

## **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).

## **9. GOVERNING LAW**

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

## **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.

## **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.

## **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**

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

The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix

### **Data exporter**

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

### **Data importer**

The data importer is:

Engineer.ai Corp and its Affiliates are providers of the Service which may process 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:

- (A) Prospect, vendors, partners, and customers of Customer;
- (B) Employees, contractors, advisors, and agents of Customer; and
- (C) Users authorized by Customer to access and/or use the Service.

### **Categories of data**

The personal data transferred concern the following categories of data:

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

- (A) First and last name
- (B) Title
- (C) Position
- (D) Employer
- (E) Contact information (email, phone etc.)
- (F) ID data
- (G) Professional life data
- (H) Personal life data
- (I) Connection data
- (J) Localisation data

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

The personal data transferred concern the following special categories of data:

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

### **Processing operations**

The personal data transferred will be subject to the following basic processing activities:

Pursuant to the Agreement



## Appendix 2 to the Standard Contractual Clauses

This Appendix forms part of the Clauses and must be completed and signed 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):**

The data importer will maintain administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of personal data, pursuant to Section 1.8 of the Agreement.

DATA IMPORTER (ENGINEER.AI CORP.)

Joe Norena  
Name:..... DocuSigned by:  
*Joe Norena*  
Authorised Signature.....9D625F0A8D57480.....