

# Salesmate Data Processing Addendum

This Data Processing Addendum ("DPA") is made as of the Effective Date by and between RapidOps Inc ("Salesmate"), and Customer, pursuant to the Master SaaS Subscription Agreement or the Subscription Terms of Service, as applicable ("Agreement").

The Parties have agreed to the Terms of Service posted at <https://www.salesmate.io/tos> according to which Salesmate has agreed to provide certain services to Company (hereinafter the "Services").

When providing the Services, Salesmate may collect, process and gain access to personal data of individuals or behalf of the Company. From a data protection perspective, Company will be the data controller and Salesmate will be the data processor.

This DPA amends the Agreement and sets out the terms that apply when Personal Data is processed by Salesmate under the Agreement. The purpose of the DPA is to ensure such processing is conducted in accordance with applicable laws and with due respect for the rights and freedoms of individuals whose Personal Data are processed. Other capitalized terms used but not defined in this DPA have the same meanings as set out in the Agreement.

## 1. Definitions

For the purposes of this DPA:

- a) "EEA" means the European Economic Area, which constitutes the member states of the European Union, the United Kingdom, Norway, Iceland and Liechtenstein.
- b) "EU Data Protection Legislation" means (i) prior to 25 May 2018, Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data, including any applicable national implementations of it; and (ii) on and after 25 May 2018, Regulation 2016/679 of the European Parliament and of the Council 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of personal data and on the free movement of such data, and repealing Directive 95/46/EC (as amended, replaced or superseded) ("GDPR");
- c) "Controller" shall mean the entity which, alone or jointly with others, determines the purposes and means of the processing of Personal Data;
- d) "Processor" shall mean an entity which processes Personal Data on behalf of the Controller; and
- e) "Personal Data" means any information relating to an identified or identifiable natural person.
- f) "Data Subject" means the individual to whom Personal Data relates.

## 2. Applicability of DPA.

- a) Applicability. This DPA will apply only to the extent that Salesmate processes Personal Data from the EEA on behalf of the Customer.
- b) GDPR. The parties agree on the Standard Contractual Clauses for the transfer of Personal Data to processors established in third countries (the "Clauses") as set out in Annex 2 in order to adduce adequate safeguards (with respect to the protection of privacy and fundamental rights and freedoms of

individuals) for the transfer by Data Exporter to Salesmate of the Personal Data specified in Appendix 1 of the Clauses.

- c) This DPA will apply only on and after 25 May 2018. Where the GDPR materially or adversely impacts Salesmate's continued provision of the Services (including its costs in providing the Services) and / or Customer's receipt of the Services, the Parties shall discuss in good faith and acting reasonably what changes may be necessary and operationally, technically and commercially feasible to the Agreement and/or the DPA and/or the Services (including, without limitation, the fees payable by Customer to Salesmate for the Services) in order to enable Salesmate to continue providing the Services. No such changes shall be effective unless agreed between the Parties pursuant to this Clause.

### 3. Customer Responsibilities

- a) **Compliance with Laws.** Within the scope of the Agreement and in its use of the services, Customer shall be responsible for complying with all requirements that apply to it under applicable Data Protection Laws with respect to its Processing of Personal Data and the Instructions it issues to Salesmate.

In particular but without prejudice to the generality of the foregoing, Customer acknowledges and agrees that it shall be solely responsible for: (i) the accuracy, quality, and legality of Customer Data and the means by which Customer acquired Personal Data; (ii) complying with all necessary transparency and lawfulness requirements under applicable Data Protection Laws for the collection and use of the Personal Data, including obtaining any necessary consents and authorizations (particularly for use by Customer for marketing purposes); (iii) ensuring it has the right to transfer, or provide access to, the Personal Data to Salesmate for Processing in accordance with the terms of the Agreement (including this DPA); (iv) ensuring that its Instructions to Salesmate regarding the Processing of Personal Data comply with applicable laws, including Data Protection Laws; and (v) complying with all laws (including Data Protection Laws) applicable to any emails or other content created, sent or managed through the Subscription Services, including those relating to obtaining consents (where required) to send emails, the content of the emails and its email deployment practices. Customer shall inform Salesmate without undue delay if it is not able to comply with its responsibilities under this sub-section (a) or applicable Data Protection Laws.

- b) **Controller Instructions.** The parties agree that the Agreement (including this DPA), together with Customer's use of the Subscription Service in accordance with the Agreement, constitute Customer's complete and final Instructions to Salesmate in relation to the Processing of Personal Data, and additional instructions outside the scope of the Instructions shall require prior written agreement between Customer and Salesmate.

### 4. Salesmate Obligations

- a) **Compliance with Instructions.** Salesmate shall only Process Personal Data for the purposes described in this DPA or as otherwise agreed within the scope of Customer's lawful Instructions, except where and to the extent otherwise required by applicable law. Salesmate is not responsible for compliance with any Data Protection Laws applicable to Customer or Customer's industry that are not generally applicable to Salesmate.
- b) **Conflict of Laws.** If Salesmate becomes aware that it cannot Process Personal Data in accordance with Customer's Instructions due to a legal requirement under any applicable law, Salesmate will (i) promptly notify Customer of that legal requirement to the extent permitted by the applicable law; and (ii) where necessary, cease all Processing (other than merely storing and maintaining the security of the affected Personal Data) until such time as Customer issues new Instructions with which Salesmate is able to comply. If this provision is invoked, Salesmate will not be liable to Customer under the Agreement for any failure to perform the applicable Subscription Services until such time as Customer issues new lawful Instructions with regard to the Processing.

- c) Confidentiality. Salesmate shall ensure that any personnel whom Salesmate authorizes to Process Personal Data on its behalf is subject to appropriate confidentiality obligations (whether a contractual or statutory duty) with respect to that Personal Data.
- d) Security. Salesmate will have in place and maintain throughout the term of this Agreement appropriate technical and organizational measures to protect the Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, and against all other unlawful forms of processing (a "Security Incident").
- e) Security Incident. Salesmate has in place appropriate security incident management policies and procedures. In the event that Salesmate becomes aware of a security incident involving data stored or otherwise Processed by Salesmate or its Sub-Processors, Salesmate will notify Data Exporter without undue delay after becoming aware of the said security incident. Salesmate will take all commercially reasonable efforts to remediate the security incident and prevent recurrence. Data Exporter acknowledges that Salesmate's obligation specified herein shall not apply to security incidents caused by Data Exporter or its authorized users.
- f) Deletion or Return of Personal Data. Salesmate will delete or return all Customer Data, including Personal Data (including copies thereof) Processed pursuant to this DPA, on termination or expiration of your Subscription Service in accordance with the procedures and timeframes set out in the Agreement, save that this requirement shall not apply to the extent Salesmate is required by applicable law to retain some or all of the Customer Data, or to Customer Data it has archived on back-up systems, which data Salesmate shall securely isolate and protect from any further Processing and delete in accordance with its deletion practices.
- g) Audit. For the purpose of any audit request by the Data Exporter (whether under Clause 5(f), Clause 11 or Clause 12) of the Clauses, the Data Exporter acknowledges and agrees that: (i) it shall, in the first instance, always try to obtain the required information by requesting from the Salesmate such evidence of independent third party audits and appropriate certification as the Salesmate may already hold; (ii) where the Data Exporter requires an audit of the data processing facilities used for the Processing activities covered by the Clauses, the Data Exporter shall always exercise such rights (at the Data Exporter's cost) via an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, and selected, where applicable, in agreement with the relevant supervisory authority and before commencement of such an audit shall agree with the Salesmate the scope, scheduling and duration of such activity with a view to minimizing any disruption to the Salesmate; and (iii) the Salesmate shall have the right to charge the Data Exporter for any reasonable costs or expenses incurred by the Salesmate in order to comply with the audit requirements.
- h) Service Data. Notwithstanding anything in this DPA, Salesmate will have the right to collect, extract, compile, synthesize and analyze non-personally identifiable data or information resulting from Customer's use or operation of the Services ("Service Data") including, by way of example and without limitation, information relating to volumes, frequencies, recipients, bounce rates, or any other information regarding the communications Customer, its end users or recipients generate and send using the Services. To the extent any Service Data is collected or generated by Salesmate, such data will be solely owned by Salesmate and may be used by Salesmate for any lawful business purpose without a duty of accounting to Customer or its recipients, provided that such data is used only in an aggregated form, without directly identifying any person. For the avoidance of doubt, this DPA will not apply to Service Data.

## 5. Data Subject Requests

The Salesmate Service provides Customer with a number of controls that Customer may use to retrieve, correct, delete or restrict Personal Data, which Customer may use to assist it in connection with its obligations under Data Protection Laws, including its obligations relating to responding to requests from Data Subjects to exercise their rights under applicable Data Protection Laws ("Data Subject Requests").

To the extent that Customer is unable to independently address a Data Subject Request through the Subscription Service, then upon Customer's written request Salesmate shall provide reasonable assistance to Customer to respond to any Data Subject Requests or requests from data protection authorities relating to the Processing of Personal Data under the Agreement. Customer shall reimburse Salesmate for the commercially reasonable costs arising from this assistance.

If a Data Subject Request or other communication regarding the Processing of Personal Data under the Agreement is made directly to Salesmate, Salesmate will promptly inform Customer and will advise the Data Subject to submit their request to Customer. Customer shall be solely responsible for responding substantively to any such Data Subject Requests or communications involving Personal Data.

## 6. Sub-Processor

For the purpose of Clause 5(h) of the Clauses, the Data Exporter hereby agrees that the Salesmate may authorize its affiliates and other third-party entities as "Sub-Processors" in order to Process the Personal Data. In each case, any such Sub-Processor shall be permitted to Process Personal Data solely in accordance with the instructions of the Salesmate and not for any other purpose. The Salesmate shall ensure that the Processing activity is carried out by the Sub-Processor in accordance with at least the same level of protection for the Personal Data and the rights of Data Subject as applicable to the Salesmate under the Clauses. With effect from 25 May 2018, Salesmate shall (i) make available to Data Exporter the list of current Sub-Processors through the Privacy Policy - 5 - statement applicable for the services; and (ii) provide email notification prior to appointment of any new Sub-Processor (irrespective of whether such new Sub-Processor is appointed for carrying out an existing Processing function or a new Processing function). Upon notification regarding Salesmate's intention to engage a new Sub-Processor, Data Exporter may object to such engagement by notifying Salesmate promptly in writing within ten (10) business days after receipt of Salesmate's notice. In the event Data Exporter objects to a new Sub-Processor, as allowed in the preceding sentence, Salesmate will recommend to the Data Exporter commercially reasonable changes in the configuration or use of the services to avoid Processing of Personal Data by the proposed new Sub-Processor. If Salesmate is unable to assist Data Exporter with its objection regarding engagement of a new Sub-Processor within a reasonable period of time, which shall not exceed thirty (30) days, Data Exporter may, upon written notice to Salesmate, terminate the Service Agreement. In the event of such termination, Salesmate will refund Data Exporter on a pro-rata basis any amounts paid by such Data Exporter for use of the services.

## 7. Data Transfers

Customer acknowledges and agrees that Salesmate may access and Process Personal Data on a global basis as necessary to provide the Subscription Service in accordance with the Agreement, and in particular that Personal Data will be transferred to and Processed by Salesmate in the United States and to other jurisdictions where Salesmate Affiliates and Sub-Processors have operations. Salesmate shall ensure such transfers are made in compliance with the requirements of Data Protection Laws.

## 8. General Provisions

- a. Amendments. Notwithstanding anything else to the contrary in the Agreement and without prejudice to Section 4(d) (Security), Salesmate reserves the right to make any updates and changes to this DPA and the

terms that apply in Section 8 (a), para. 1 “Amendment; No Waiver” of the Agreement shall apply.

- b. Severability. If any individual provisions of this DPA are determined to be invalid or unenforceable, the validity and enforceability of the other provisions of this DPA shall not be affected.
- c. Limitation of Liability. Each party and each of their Affiliates' liability, taken in aggregate, arising out of or related to this DPA (and any other DPAs between the parties) and the Standard Contractual Clauses (where applicable), whether in contract, tort or under any other theory of liability, shall be subject to the limitations and exclusions of liability set out in the section of the Agreement entitled 'Limitation of Liability' and any reference in such section to the liability of a party means aggregate liability of that party and all of its Affiliates under the Agreement (including this DPA). For the avoidance of doubt, if Salesmate is not a party to the Agreement, the section of the Agreement entitled 'Limitation of Liability' shall apply as between Customer and Salesmate, and in such respect any references to 'Rapidops Inc' 'Salesmate', 'we', 'us' or 'our' shall include both Rapidops Inc and the Salesmate entity that is a party to the Agreement.
- d. Governing Law. This DPA shall be governed by and construed in accordance with the governing law and jurisdiction provisions in the Agreement, unless required otherwise by Data Protection Laws.

**This DPA has been entered into on the date stated at the beginning of it.**

Executed for and behalf of Data Exporter by:

..... (signature)

..... (print name)

..... (position)

Executed for and behalf of Salesmate by:

*D. M. Patel*  
..... (signature)

Dipesh Patel  
..... (print name)

Founder & CTO  
..... (position)

## Annex 1 – Details of processing

This Annex forms part of the DPA.

- a) **Nature and Purpose of Processing** - Salesmate will Process Personal Data as necessary to provide the Subscription Services pursuant to the Agreement.
- b) **Duration of Processing** - Subject to the "Deletion or Return of Personal Data" section of this DPA, Salesmate will Process Personal Data for the duration of the Agreement, unless otherwise agreed in writing.
- c) **Categories of Data subjects** - Customer may submit Personal Data in the course of using the Subscription Service, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of Data Subjects:

Customer's Contacts and other end users including Customer's employees, contractors, collaborators, customers, prospects, suppliers and subcontractors. Data Subjects may also include individuals attempting to communicate with or transfer Personal Data to Customer's end users.

Salesmate will not have any knowledge or control over categories of identities of the Data Subjects whose 'Personal Data' company (data exporter) may elect to record or upload into the Service, except as provided in the TOS ( terms of service )

- d) **Categories of Personal Data** - Customer may submit Personal Data to the Subscription Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include but is not limited to the following categories of Personal Data
  - 1. Contact Information (as defined in the Salesmate Terms of Service).
  - 2. Any other Personal Data submitted by, sent to, or received by Customer, or Customer's end users, via the Subscription Service.
- e) **Special categories of data (if appropriate)** - The parties do not anticipate the transfer of special categories of data.
- f) **Processing operations** - Personal Data will be Processed in accordance with the Agreement (including this DPA) and may be subject to the following Processing activities:
  - 1. Storage and other Processing necessary to provide, maintain and improve the Subscription Services provided to Customer; and/or
  - 2. Disclosure in accordance with the Agreement (including this DPA) and/or as compelled by applicable laws.

## Annex 2 - Standard Contractual Clauses

## **Clause 1**

### **Definitions For the purposes of the Clauses:**

1. '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 ( 1 );
2. 'the data exporter' means the controller who transfers the personal data; (also defined as Salesmate customer)
3. 'the data importer' means the processor (Salesmate) 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;
4. '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;
5. '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;
6. '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**

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

## **Clause 3**

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

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.
2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data

exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the 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.
4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

## **Clause 4**

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

The data exporter agrees and warrants:

- a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State
- b) that it has instructed and throughout the duration of the personal data-processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;
- c) that the data importer will provide sufficient guarantees in respect of the technical and organizational security measures specified in Appendix 2 to this contract;
- d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, 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) 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 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;
- 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 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;

- i) 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 data subject as the data importer under the Clauses; and
- j) that it will ensure compliance with Clause 4(a) to (i).

## **Clause 5**

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

The data importer agrees and warrants:

- a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- c) that it has implemented the technical and organizational security measures specified in Appendix 2 before processing the personal data transferred;
- d) that it will promptly notify the data exporter about:
  - i. any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;
  - ii. any accidental or 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 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**

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 sub processor 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 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 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 sub-processor 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 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 - 11 - 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**

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 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.
3. 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 Clause.

## **Clause 11**

### **Sub-processing**

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 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 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 sub-processor's obligations under such agreement.

2. 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.
3. 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.
4. The data exporter shall keep a list of sub-processing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

## Clause 12

### Obligation after the termination of personal data-processing services

1. The parties agree that on the termination of the provision of data-processing services, the data importer and the 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.
2. 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 the legal entity specified as "Customer" in the DPA.

**Data importer** - The data importer is Salesmate.

**Data Subjects** - Please see Annex 1 of the DPA, which describes the data subjects.

**Categories of data** - Please see Annex 1 of the DPA, which describes the categories of data.

**Special categories of data (if appropriate)** -The parties do not anticipate the transfer of special categories of data.

**Purposes of Processing** -Salesmate shall process personal data as necessary to provide the Subscription Services to data exporter in accordance with the Agreement.

**Processing operations** - Please see Annex 1 of the DPA, which describes the processing operations.

## Appendix 2 to the Standard Contractual Clauses

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

Our security practices are described in our Security Policy available at <https://www.salesmate.io/security-reliability/> (or at such other URL as may be notified to the Data Exporter from time to time).