Data Processing Addendum with EU Model Contract

This is the Data Processing Addendum that is given within the application on the Privacy and Compliance page. This same addendum must be accepted via 'click to accept' in order to have additional GDPR features and helps within the app.

KEAP DATA PROCESSING ADDENDUM

Controller to Processor

This Keap Data Processing Addendum (the "Addendum") is entered into by and between Infusion Software, Inc. ("Keap") and you (the "Client") (each, a "Party" and, collectively, the "Parties"). If you are accepting the terms of this Addendum on behalf of an entity, you represent and warrant to Keap that you have the authority to bind that entity and its affiliates, where applicable, to the terms and conditions of this Addendum. This Addendum is effective as of the date on which you agree to it (the "Addendum Date") by clicking the "I Agree to the Keap Data Processing Addendum" checkbox in the Privacy and Compliance page that makes reference to and contains this Addendum.

WHEREAS, the Parties entered into an agreement for the provision of services (the "Service Agreement") and have retained the power to alter, amend, revoke, or terminate the Service Agreement as provided in the Service Agreement;

WHEREAS, the Parties now wish to amend the Service Agreement to ensure that Personal Data (as defined below) transferred between the Parties is Processed (as defined below) in compliance with applicable data protection principles and requirements; and

WHEREAS, the Parties agree that in the event of any conflict between the Service Agreement and this Addendum, the provisions of this Addendum shall control.

NOW, THEREFORE, in consideration of the mutual agreements set forth in this document and for other good and valuable consideration, the receipt and sufficiency of which the Parties both acknowledge, the Parties agree as follows:

1. **Definitions.**
    1. The definitions used in this Addendum shall have the meanings set forth in this Addendum. Capitalized definitions not otherwise defined herein shall have the meaning given to them in the Service Agreement. Except as modified or supplemented below, the definitions of the Service Agreement, as well as all the other terms and conditions of the Service Agreement, shall remain in full force and effect.

2. For the purpose of interpreting this Addendum, the following terms shall have the meanings set out below:
    1. "Applicable Laws" means all laws applicable to the Processing of Client Personal Data, including EU Data Protection Laws, other laws of the European Union or any Member State thereof, and the laws of any other country to which the Client or the Client Personal Data is subject;
    2. "Client" means the party, as indicated in the opening paragraph of this Addendum, that has entered into the Service Agreement with Keap, including all affiliates of that other party that are also bound by the Service Agreement, if any;
    3. "Client Personal Data" means any Personal Data Processed by Keap or a Subprocessor on behalf of the Client pursuant to or in connection with the Service Agreement;
    4. "Contracted Processor" means Keap, a Subprocessor, or both collectively;
    5. "EU Data Protection Laws" means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced, or superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR;
    6. "GDPR" means 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);
    7. "Restricted Transfer" means any transfer of Client Personal Data that would be prohibited by Applicable Laws (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Applicable Laws) in the absence of the execution of the Standard Contractual Clauses or another lawful data transfer mechanism, as set out in Section 12 below;
    8. "Services" means the "Keap Service" and the "Services", as applicable, as defined in the Service Agreement; and
    9. "Subprocessor" means any person (including any third party, but excluding an employee of Keap or an employee of any of its sub-contractors) appointed by or on behalf of Keap to Process Client Personal Data on behalf of the Client in connection with the Service Agreement.
3. The terms "Controller", "Data Subject", "Member State", "Personal Data", "Personal Data Breach", "Processing", "Processor", "Rights of the Data Subject(s)", "Supervisory Authority", and "Third Country", whether capitalized or not, shall have the same meaning as in the GDPR, and their cognate terms shall be construed accordingly.

2. **Applicability.**
    1. This Addendum will not apply to the Processing of Client Personal Data, where such Processing is not regulated by Applicable Laws. The Parties to this Addendum hereby agree that the terms and conditions set out herein shall be added as an addendum to the Service Agreement. Except where the context requires otherwise, references in this Addendum to the Service Agreement are to

the Service Agreement as amended or supplemented by, and including, this Addendum.

2. The Terms of this Addendum shall take effect on the later of the Addendum Date, or May 25, 2018 (the "Effective Date"), and continue on concurrently for the term of the Service Agreement.

3. This Addendum supersedes, replaces, and takes precedence over any other Data Processing Addendum(s), executed by the same Parties hereto, in their entirety, as of the Addendum Date.

3. **Processing of Client Personal Data.**

   1. In the context of this Addendum, the Client acts as a data Controller and Keap acts as a data Processor with regard to the Processing of Client Personal Data.

   2. Keap warrants that it will:
      1. comply with all EU Data Protection Laws in the Processing of Client Personal Data;
      2. not Process Client Personal Data other than on the Client's relevant documented instructions, including with regard to transfers of Personal Data to a Third Country or an international organization, unless such Processing is required by Applicable Laws to which the relevant Contracted Processor is subject, in which case Keap shall, to the extent permitted by Applicable Laws, inform the Client of that legal requirement before the respective act of Processing of that Personal Data; and
      3. only conduct transfers of Client Personal Data, where such transfer would be prohibited by Applicable Laws (and no exemption or derogation applies), in compliance with all applicable conditions, as laid down in the EU Data Protection Laws.

   3. The Client must provide all applicable information requested in the form located in your Privacy and Compliance settings within your application. The Client warrants that it will promptly update, when necessary, all such information, and keep all such information complete and up to date.

   4. The Client instructs Keap (and authorizes Keap to instruct each Subprocessor) to Process Client Personal Data, and in particular, transfer Client Personal Data to any country or territory, as reasonably necessary for the provision of the Services and consistent with the Service Agreement and this Addendum. In the event that in Keap's opinion a Processing instruction given by the Client infringes Applicable Laws, Keap shall immediately inform the Client.

4. **Keap Personnel.**

   1. Keap shall take reasonable steps to ensure the reliability of any employee, agent, or contractor of any Contracted Processor who may have access to the Client Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know or access the relevant Client Personal Data, as strictly necessary for the purposes of the Service Agreement, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to formal confidentiality undertakings or professional or statutory obligations of confidentiality.

5. **Security of Processing.**

1. Taking into account the state of the art, the costs of implementation and the nature, scope, context, and purposes of Processing as well as the risk of varying likelihood and severity to the rights and freedoms of natural persons, Keap shall, with regard to Client Personal Data, implement and maintain appropriate technical and organizational security measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.
2. In assessing the appropriate level of security, Keap shall take account, in particular, of the risks that are presented by the nature of such Processing activities, and particularly those related to possible Personal Data Breaches.

6. **Subprocessing.**
   1. The Client authorizes Keap to appoint (and to permit each Subprocessor appointed in accordance with this Section 6 to appoint) Subprocessors in accordance with this Section 6 and any possible further restrictions, as set out in the Service Agreement.
   2. Keap may continue to use those Subprocessors already engaged by Keap as of the Addendum Date, subject to Keap meeting the obligations set out in Section 6.4 of this Addendum. The list of Keap Subprocessors is located at: https://www.Keap.com/subprocessors
   3. Keap shall give the Client prior written notice of the appointment of any new Subprocessor, by way of updating the list of Keap Subprocessors, as indicated in Section 6.2. If within 7 days of posting of each such update, the Client does not explicitly notify Keap in writing of any objections (on reasonable grounds) to the proposed appointment, it shall be deemed that the Client has consented to the proposed appointment.
   4. With respect to each Subprocessor, Keap shall:
      1. before the Subprocessor first Processes Client Personal Data (or, where relevant, in accordance with Section 6.2), carry out adequate due diligence to ensure that the Subprocessor is capable of providing the level of protection for Client Personal Data required by this Addendum, the Service Agreement, and Applicable Laws; and
      2. ensure that the arrangement between Keap and any prospective Subprocessor or between the relevant intermediate Subprocessor and any prospective Subprocessor, as applicable, is governed by a written contract including terms which offer at least the same level of protection for Client Personal Data as those set out in this Addendum, and that such terms meet the requirements of Article 28(3) of the GDPR.

7. **Rights of the Data Subjects.**
   1. Taking into account the nature of the Processing, Keap shall assist the Client by implementing appropriate technical and organizational measures, insofar as reasonably possible, for the fulfilment of the Client's obligations, as reasonably understood by the Client, to respond to requests to exercise Rights of the Data Subjects under the Applicable Laws.
   2. With regard to Rights of the Data Subjects within the scope of this Section 7, Keap shall:

1. promptly notify the Client if any Contracted Processor receives a request from a Data Subject under any Data Protection Law in respect of Client Personal Data; and
2. ensure that the Contracted Processor does not respond to that request except on the documented instructions of the Client, or as required by Applicable Laws to which the Contracted Processor is subject, in which case Keap shall, to the extent permitted by Applicable Laws, inform the Client of that legal requirement before the Contracted Processor responds to the request.

8. **Personal Data Breach.**
   1. Keap shall notify the Client without undue delay upon Keap or any Subprocessor becoming aware of a Personal Data Breach affecting Client Personal Data, providing the Client with sufficient information to allow the Client to meet any obligations pursuant to the Applicable Laws to report to the Supervisory Authorities or any other competent authorities, and/or inform the Data Subjects of the Personal Data Breach.
   2. Keap shall cooperate with the Client and take all reasonable commercial steps to assist the Client in the investigation, mitigation, and remediation of each such Personal Data Breach.
   3. Keap's notification of or response to a Personal Data Breach under this Section 8 will not be construed as an acknowledgement by Keap of any fault or liability with respect to the Personal Data Breach.

9. **Data Protection Impact Assessment and Prior Consultation.**
   1. Keap shall provide the Client with relevant documentation, such as a PCI audit certification (upon written request and subject to obligations of confidentiality), with regard to any data protection impact assessments, and prior consultations with Supervisory Authorities or other competent data privacy authorities, when the Client reasonably considers that such data protection impact assessments or prior consultations are required pursuant to Article 35 or 36 of the GDPR or pursuant to the equivalent provisions of any other law, but in each such case solely with regard to Processing of Client Personal Data by, and taking into account the nature of the Processing and information available to, the respective Contracted Processors.

10. **Deletion or Return of Client Personal Data.**
    1. Keap shall provide the Client with the technical means, consistent with the manner in which the applicable Services are provided, to request the deletion of Client Personal Data within the term of this Addendum and the Service Agreement, unless Applicable Laws require or allow storage of any such Client Personal Data.
    2. Promptly following the date of cessation of Services involving the Processing of Client Personal Data, at the choice of the Client, Keap shall delete or return all Client Personal Data to the Client, as well as delete existing copies, unless Applicable Laws require or allow storage of any such Client Personal Data.

11. **Audit Rights.**
    1. Where the Client is entitled to and desires to review Keap's compliance with the EU Data Protection Laws, the Client may request, and Keap will provide (subject

to obligations of confidentiality) Keap's annual PCI audit certification, VeraSafe Privacy Program audit report, or other substantially similar audit report. If the Client, after having reviewed such audit report(s), still reasonably deems that it requires additional information, Keap shall further reasonably assist and make available to the Client, upon a written request and subject to obligations of confidentiality, all other information and/or documentation necessary to demonstrate compliance with this Addendum, and the obligations pursuant to Articles 32 to 36 of the GDPR in particular, and shall allow for and contribute to audits, including remote inspections of the Services, by the Client or an auditor mandated by the Client with regard to the Processing of the Client Personal Data by the Contracted Processors. Keap shall provide the assistance described in this Section 11, insofar as in Keap's reasonable opinion such audits, and the specific requests of the Client, do not interfere with Keap's business operations or cause Keap to breach any legal or contractual obligation to which it is subject.

2. The Client agrees to pay Keap, upon receipt of invoice, a reasonable fee based on the time spent, as well as to account for the materials expended, in relation to the Client exercising its rights under this Section 11.

12. **Restricted Transfers.**
    1. The Client (as "data exporter") and Keap (as "data importer") hereby enter into, as of the Addendum Date, the Standard Contractual Clauses (as set out in Exhibit B), which are incorporated by this reference and constitute an integral part of this Addendum. The Parties are deemed to have accepted and executed the Standard Contractual Clauses in their entirety, including the appendices.
    2. With regard to any Restricted Transfer from the Client to Keap within the scope of this Addendum, one of the following transfer mechanisms shall apply, in the following order of precedence:
        1. Keap's EU-U.S. and Swiss-U.S. Privacy Shield Framework self-certifications (if any);
        2. the Standard Contractual Clauses; or
        3. any other lawful basis, as laid down in Applicable Laws, as the case may be.
    3. In cases where the Standard Contractual Clauses apply, and there is a conflict between the terms of the Addendum and the terms of the Standard Contractual Clauses, the terms of the Standard Contractual Clauses shall control.

13. **General Terms.**
    1. All clauses of the Service Agreement, that are not explicitly amended or supplemented by the clauses of this Addendum, and as long as this does not contradict with compulsory requirements of Applicable Laws under this Addendum, remain in full force and effect and shall apply.
    2. Keap may amend the terms of this DPA upon notice to the Client by email to the primary contact on the account. Any such amendments will automatically become effective within 10 days as of Keap's transmission of such notice.
    3. Should any provision of this Addendum be found invalid or unenforceable pursuant to any applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches

the intent of the original provision and the remainder of the Addendum will continue in effect.

4. If Keap makes a determination that it can no longer meet its obligations in accordance with this Addendum, it shall promptly notify the Client of that determination, and cease the Processing or take other reasonable and appropriate steps to remediate.

Exhibit A

1. Pursuant to Article 28(3) of the GDPR, further details of the Processing, in addition to the ones laid down in the Service Agreement and this Addendum, include:
   1. The subject matter of the Processing of Client Personal Data is:
      1. The subject matter of the Processing of Client Personal Data pertains to the provision of Services, as requested by the Client.
   2. The duration of the Processing of Client Personal Data is:
      1. The duration of the Processing of Client Personal Data is generally determined by the Client and is subject to the term of this Addendum and the Service Agreement, respectively, in the context of the contractual relationship between Keap and the Client.
   3. The nature and purpose of the Processing of Client Personal Data is:
      1. The purpose of Processing of Client Personal Data pertains to the provision of Services, as requested by the Client. The nature of such Processing is related to these purposes and is elaborated on in this Addendum and the Service Agreement.
   4. The obligations and rights of the Client are:
      1. The rights and obligations of the Client are set out in the Service Agreement and this Addendum.

Exhibit B

Commission Decision C(2010)593

Standard Contractual Clauses (processors)

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

the Client, as defined in the Addendum (as "data exporter"),

and Keap, as defined in the Addendum (as "data importer")

each a "party"; together "the parties",

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

Clause 1

Definitions

For the purposes of the Clauses:

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;
2. *'the data exporter'* means the controller who transfers the personal data;
3. *'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;
4. *'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;
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 organisational security measures'* means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2

Details of the transfer

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

Clause 3

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.
2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.
3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4

Obligations of the data exporter

The data exporter agrees and warrants:

1. 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;
2. 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;
3. that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;
4. 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;
5. that it will ensure compliance with the security measures;

6. 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;
7. 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;
8. 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;
9. 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
10. that it will ensure compliance with Clause 4(a) to (i).

Clause 5

Obligations of the data importer

The data importer agrees and warrants:

1. 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;
2. 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;
3. that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;
4. that it will promptly notify the data exporter about:
    1. 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,
    2. any accidental or unauthorised access, and
    3. any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;
5. 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;
6. 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;

7. 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;

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

9. that the processing services by the subprocessor will be carried out in accordance with Clause 11;

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

Clause 6

Liability

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.

2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract of by operation of law, in which case the data subject can enforce its rights against such entity.

   The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

Clause 7

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:
    1. to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;
    2. to refer the dispute to the courts in the Member State in which the data exporter is established.
2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8

Cooperation with supervisory authorities

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.
2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.
3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

Clause 9

Governing Law

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

Clause 10

Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

Clause 11

Subprocessing

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data

exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.

2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses

3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.

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

Clause 12

Obligation after the termination of personal data processing services

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

APPENDIX 1 TO THE STANDARD CONTRACTUAL CLAUSES

By entering into the Standard Contractual Clauses, pursuant to Section 12.1 of the Addendum, the parties are deemed to have signed this Appendix 1.

Data exporter

The data exporter is the Client, as defined in the Addendum

Data importer

The data importer is Keap, as defined in the Addendum

Data subjects

The personal data transferred concern the categories of data subjects that are specified by the Client in the Privacy and Compliance settings of its instance of the Services.

Categories of data

The personal data transferred concern the categories of personal data that are specified by the Client in the Privacy and Compliance settings of its instance of the Services.

Processing operations

The personal data transferred will be subject to the processing activities that are specified by the Client in the Privacy and Compliance settings data protection settings of its instance of the Services.

APPENDIX 2 TO THE STANDARD CONTRACTUAL CLAUSES

By entering into the Standard Contractual Clauses, pursuant to Section 12.1 of the Addendum, the parties are deemed to have signed this Appendix 2.

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

Data importer has implemented and will maintain the technical and organizational security measures identified in the Keap Data Security Statement, which is posted to: http://www.Keap.com/legal/data-security These security measures are applicable to Client Personal Data processed in the Services.