

SETMORE

DATA PROCESSING ADDENDUM

This Data Processing Addendum is entered into by User (including its affiliates partners, customers, and users) and Setmore (this “DPA”), and supplements and adds to the Setmore Terms of Use (the “Agreement”). This DPA shall apply solely to the Processing of Personal Data that is regulated under Data Protection Laws and Regulations (see definitions set forth in Section 1 below).

1. **Definitions.** The terms used in this DPA shall have the following meaning:

a. **“Data Protection Laws and Regulations”** means the laws and regulations of the European Union, the European Economic Area and their member states, Switzerland and the United Kingdom, applicable to the Processing of Personal Data under the Agreement, *including* without limitation the General Data Protection Regulation (“**GDPR**”) (Regulation (EU) 2016/679).

b. **“Data Subject”** means an individual who is the subject of Personal Data.

c. **“Personal Data”** means any information provided or made available by or on behalf of User to Setmore and relating to an identified or identifiable natural person that resides in the European Economic Area or Switzerland. An identifiable natural person is one who can be identified, directly or indirectly, including without limitation by reference to an identifier.

d. **“Process”** or **“Processing”** means any operation or set of operations performed upon Privacy Data or sets of Privacy Data, whether or not by automated 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.

e. Any capitalized terms not defined in this DPA shall have the respective meanings given to them in the Agreement.

2. **Processing of Personal Data.**

a. **Roles of the Parties.** The parties agree that User is the controller solely responsible for determining the purposes and means of the processing of Personal Data, and Setmore is User’s processor responsible for Processing Personal Data on behalf of the controller. Anyone interacting with the Site either as an affiliate or partner of User will be considered operating as controller with respect to providing instructions to Processor. As further discussed in this DPA, Setmore shall only take action pursuant to instructions of User with regards to Processing Personal Data and transferring Personal Data to the United States or any other non-EU country. Setmore may engage sub-processors to Process Personal Data pursuant to the requirements set forth in Section e “Sub-Processors” below.

b. **User’s Obligations.** User is solely responsible for its compliance with the Data Protection Laws and Regulations, including without limitation the lawfulness of any transfer of Personal Data to Setmore and the Processing of Personal Data by Setmore as set forth in the Agreement, including without limitation User’s instructions to Setmore to permit User’s affiliates, partners and users to Process Personal Data as provided for

under the Agreement. User shall have sole responsibility for (i) the accuracy, quality, and legality of Personal Data provided to Setmore; (ii) the means by which User acquired Personal Data, including providing any required notices to, and obtaining any necessary acknowledgements, authorizations or consents from, Data Subjects; (iii) the legality of transfers of User data or customer data, including without limitation data from User's affiliates, partners and users, to the Site; and (iv) transfers of User data or customer data from the Site to User and User's affiliates, partners and users who are using the Site as provided for in the Agreement. User takes full responsibility to keep the amount of Personal Data provided to Setmore to the minimum necessary for the utilization of the Site. User shall be solely responsible for establishing and maintaining any data processing registers or overview (including without limitation any records of processing, any records of consents, or any other required documentation) as may be required by any applicable law, including but not limited to the Data Protection Laws and Regulations,.

c. **User's Right to Issue Instructions.** Except as necessary to comply with an applicable law or regulation, court order, subpoena, or other legal process, Setmore shall only Process Personal Data in accordance with User's instructions. For the avoidance of doubt, but not by way of limitation, User's instructions for the Processing of Personal Data must comply with Data Protection Laws and Regulations. User's initial instructions for the Processing of Personal Data are defined by the Agreement including without limitation this DPA, Schedule 1 to this DPA, and any applicable order form, statement of work, or similar agreement regarding the Site. Subject to the terms of this DPA and with mutual agreement of the parties, User may issue additional written instructions concerning the type, extent and procedure of Processing. Any changes of the subject matter of Processing and of procedures shall be agreed upon by the parties in writing prior to becoming effective. User is responsible for ensuring that all individuals who provide written instructions to Setmore are authorized by User to issue instructions to Setmore. Setmore will inform User of any instruction that it deems to be in violation of Data Protection Laws and Regulations, and Setmore will not execute such instructions until the instruction has been confirmed or modified by User to ensure compliance. If Setmore Processes Personal Data without User's instructions, Setmore shall promptly inform User to the extent permitted as required by law, regulation, court order, subpoena or other legal process.

d. **Details of Processing.** User acknowledges and consents that certain business operations necessary for the fulfillment of the Site hereunder may be transferred in the future to one or more dedicated Setmore affiliates or contractors. For sake of clarity, Personnel Data as defined in the Terms of Use is not subject to this DPA, and Setmore may use User's employees' and other personnel's name and work contact information, including without limitation work email, phone, fax or other form of work communication, and other Personal Data for administrating the contractual relationship in accordance with Setmore's privacy policy. For performing the work under the Agreement, the initial nature and purpose of the Processing, duration of the Processing, categories of Data Subjects, and types of Personal Data are set forth on Schedule 1.

e. **Data Breach.** Setmore shall investigate potential data breaches, and Setmore shall notify User without undue delay but no less than seventy two (72) hours after becoming aware of a reportable data breach. Setmore shall use commercially reasonable steps to stop any further data breach once becoming aware of a potential breach. Setmore shall conduct an investigation as to the cause of the incident and shall develop commercially reasonable measures to address the security incident.

f. **Return or Deletion of User Personal Data.** Unless otherwise required by applicable Data Protection Laws and Regulations, Setmore will destroy or return to User its Personal Data at User's request and choice upon termination or expiration of the relevant provisions of the Agreement.

3. **Sub-Processors.**

a. **Use of Sub-processors.** User agrees that Setmore may engage sub-processors who in turn may engage sub-processors to Process Personal Data in accordance with the DPA. A list of sub-processors including their addresses is available upon request. When engaging sub-processors, Setmore shall enter into agreements with the sub-processors to bind them to obligations which are substantially similar or more stringent than those set out in this DPA. To the extent required, User explicitly mandates Setmore to sign such agreements directly with the sub-processors. User will not directly communicate with Setmore's sub-processors about the Site, unless agreed to by Setmore in Setmore's sole discretion.

b. **Setmore Sub-processors Added After Effective Date.** Setmore will notify User in advance of any changes to sub-processors through an update to our Privacy Policy. If User reasonably objects to the addition of a new sub-processors (e.g., such change causes User to be noncompliant with applicable with Data Protection Laws and Regulations), User shall notify Setmore in writing of its specific objections within ten (10) days of receiving such notification. If User does not object within such period, the addition of the new sub-processor and, if applicable, the accession to this DPA shall be considered accepted. If User does object to the addition of a new sub-processor and Setmore cannot accommodate User's objection, User may terminate its relationship with Setmore and the use of the Site and the services provided thereby in writing within sixty (60) days of receiving Setmore's notification.

4. **Representations and Warranties.** User represents, warrants, and covenants the following:

a. The Personal Data has been collected and transferred to Setmore in accordance with the Data Protection Laws and Regulations, and User has documented its lawful basis in its public notification to Data Subjects for Processing of Personal Data, including without limitation Setmore's affiliates' and partners' Processing of Personal Data in accordance with the Agreement.

b. User will respond to inquiries from Data Subjects and from applicable regulatory authorities concerning the Processing of the Personal Data in accordance with Data Protection Laws and Regulations, and will promptly alert Setmore of any inquiries from Data Subjects or from applicable regulatory authorities that relate to Setmore's Processing of the Personal Data.

c. User will make available a copy of the Agreement and this DPA to any Data Subject or regulatory authorities as required by the Data Protection Laws and Regulations.

d. User shall be solely responsible and liable for its compliance with the Data Protection Laws and Regulations.

5. **Rights of Data Subjects.** Setmore shall, to the extent legally permitted, promptly notify User if it receives a request from a Data Subject for access to, correction, amendment or

deletion of such Data Subject's Personal Data and, to the extent applicable, Setmore shall provide User with commercially reasonable cooperation and assistance in relation to any complaint, notice, or communication from a Data Subject. User shall respond to and resolve promptly all requests from Data Subjects which Setmore provides to User. If Data Protection Laws and Regulations require Setmore to comply with the rights of data subjects or otherwise take any corrective actions without the involvement of User, Setmore shall take such corrective actions and inform User. To the extent legally permitted, User shall be responsible for any costs arising from Setmore's provision of such assistance.

6. **Setmore Personnel.**

a. **Confidentiality.** Setmore shall train personnel engaged in the Processing of Personal Data of the confidential nature of the Personal Data and provide appropriate training based on their responsibilities. Setmore shall execute written agreements with its personnel to maintain the confidentiality of Personal Data, including post the termination of the personnel engagement.

b. **Limitation of Access.** Setmore shall use commercially reasonable efforts to limit access to Personal Data to personnel who require such access to perform the Agreement.

c. **Data Protection Officer.** If required by Data Protection Laws and Regulations, Setmore shall appoint a data protection officer. Upon request, Setmore will provide the contact details of the appointed person.

7. **Security.** Setmore will implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk posed by the Processing of Personal Data, taking into account the costs of implementation; the nature, scope, context, and purposes of the Processing; and the risk of varying likelihood and severity of harm to the data subjects. In assessing the appropriate level of security, Setmore shall weigh the risks presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to personal data transmitted, stored or otherwise Processed.

8. **Audit Rights.**

a. **Audit Requests.** Subject to Section 8.c, upon User's written request, Setmore will provide User with the most recent summary audit report(s) concerning the compliance and undertakings in this Agreement. Setmore's policy is to share methodology, and executive summary information, but not raw data or private information, other individuals Personal Data or information not applicable to the Site and the services provided pursuant to the Agreement and this DPA. Setmore will reasonably cooperate with User by providing available additional information to help User better understand such compliance and undertakings. To the extent it is not possible to otherwise satisfy an audit obligation mandated by applicable Data Protection Laws and Regulations and subject to Section 8.c only the legally mandated entity (such as a governmental regulatory agency having oversight of User's operations), a third party auditor mutually agreed to by the parties (as well as a sub-processor subject to a confidentiality agreement, if applicable to the information or facilities being audited), or legally mandated functions within User (such as the internal controls function), also subject to a confidentiality agreement, may conduct an onsite visit of the facilities used to produce the Site and the services provided thereby. Unless mandated by Data

Protection Laws and Regulations or otherwise mandated by law or court order, no audits are allowed within a data center for security and compliance reasons. After conducting an audit under this Section 8 or after receiving a Setmore report under this Section 8, User must notify Setmore of the specific manner, if any, in which Setmore does not comply with any of the security, confidentiality, or data protection obligations in this DPA, if applicable. Any such information will be deemed confidential information of Setmore. Setmore shall in no circumstances provide User with the ability to audit any portion of the Site which would be reasonably expected to compromise the confidentiality of the information or Personal Data Setmore Processes for its other customers.

b. **Sub-Processors**. User may not audit Setmore's sub-processors unless required by Data Protection Laws and Regulations. If an audit is required, User agrees its requests to audit sub-processors may be satisfied by Setmore or Setmore's sub-processors presenting up-to-date attestations, reports or extracts from independent bodies, including without limitation external or internal auditors, Setmore's data protection officer, the IT security department, data protection or quality auditors or other mutually agreed to third parties, or certification by way of an IT security or data protection audit.

c. **Audit Process**. Unless required by Data Protection Laws and Regulations, User may request a summary audit report(s) or audit Setmore no more than once annually. User must provide at least fourteen (14) days prior written notice to Setmore of a request for summary audit report(s) or request to audit. The scope of any audit will be limited to Setmore's policies, procedures and controls relevant to the protection of User's Personal Data as defined in Schedule 1 of this Agreement. Any audit performed under this DPA will be conducted during normal business hours, at Setmore's principal place of business or other Setmore location(s) where Personal Data is accessed, processed or administered, and will not unreasonably interfere with Setmore's day-to-day operations. An audit will be conducted at User's sole cost and by a mutually agreed upon third party, and such party must enter into a non-disclosure agreement containing confidentiality provisions substantially similar to those set forth in the Agreement, obligating it to maintain the confidentiality of all Setmore's confidential information and all audit findings. Before the commencement of any such on-site audit, Setmore and User shall mutually agree upon the timing, and duration of the audit. Setmore will reasonably cooperate with the audit, including providing auditor the right to review but not to copy Setmore security information or materials during normal business hours. User shall, at no charge, provide to Setmore a full copy of all findings of the audit.

9. **Transfers of Personal Data**. User acknowledges and agrees that Processing of Personal Data by Setmore may occur in the European Economic Area, or outside the European Economic Area where the laws and regulations applicable to Personal Data may not be deemed adequate by the European Commission. Setmore shall either (1) execute with User the standard contractual clauses for the transfer of personal data between controllers and processors as provided for in the European Commission decision of February 5, 2010 (C (2010) 593) (hereafter the "Standard Contractual Clauses"), which are set forth in Exhibit A to this DPA and are hereby incorporated into this DPA by reference; OR (2) self-certify to the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks (the "Frameworks"), as administered by the US Department of Commerce for all Personal Data processed under this Agreement. If Setmore self-certifies to the Frameworks, the Standard Contractual Clauses shall not apply. If the Frameworks are no longer approved by the European Commission, Swiss Administration or the U.S. Department of Commerce or if Setmore does not maintain its self-certification and compliance with the Frameworks, Setmore agrees to the Standard Contractual Clauses

for the portion of the Frameworks which are no longer available. If Setmore self-certifies to the Frameworks, Setmore agrees to comply with and maintain its self-certification for the term of the Agreement, including without limitation Setmore agrees to comply with the Frameworks' requirements for all onward transfers of Personal Data from the EU and Switzerland. Notwithstanding the foregoing, User shall be solely responsible for ensuring that Setmore may transfer Personal Data to any affiliate, partner or user provided with access to the Site.

10. **Limitation of Liability; Third Party Beneficiaries.** Each party's and all of its affiliates' liability, taken together in the aggregate, arising out of or related to this DPA, 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 this DPA. For the avoidance of doubt, Setmore's and its affiliates' total liability for all claims from the User arising out of or related to the Agreement and each DPA shall apply in the aggregate for all claims under both the Agreement and this DPA. Subject to Section 9, affiliates, partners and users of User are not third party beneficiaries under this Agreement.
11. **Data Protection Impact Assessment and Prior Consultation.** Setmore shall provide commercially reasonable assistance about its Processing of Personal Data to User as necessary for User to comply under the Data Protection Laws and Regulations with conducting any data protection impact assessments or engaging in required prior consultations with Supervising Authorities (as such term is defined in GDPR).
12. **Governing Law.** The parties agree that (1) governing law of this DPA, and (2) the forum for all disputes in respect of this DPA, shall be the same as set out in the Agreement, unless otherwise required by applicable Data Protection Laws and Regulations.

Schedule 1 to Setmore Data Processing Addendum Processing Details

Nature and Purpose of Processing

Setmore will Process Personal Data as necessary to perform under the Agreement as amended by the DPA and as further instructed by User in its use of the website and services.

Duration of Processing

Setmore will Process Personal Data for the duration of the Agreement, unless otherwise agreed upon in writing. Setmore will retain Personal Data as set forth in the Agreement and Setmore's Privacy Policy. User may use the Site in the manner intended to remove Personal Data from being Processed by Setmore.

Categories of Data Subjects

Data exporter may submit Personal Data to Setmore, 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 Personal Data relating to the following categories of data subjects: the data exporter's representatives and end-users including employees, contractors, business partners, collaborators, and customers of the data exporter.

Type of Personal Data

Data exporter may submit Personal Data to Setmore, 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: First and last name; Title; Position; Employer; Personal Contact information (email, phone, physical address); Login Credentials; Connection data; Localization data; and other data in an electronic form used by Customer in the context of the services.

Exhibit A to DPA

Standard Contractual Clauses

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 organization: User
Address:
Tel/fax/e-mail:
(the 'data **exporter**')

And

Name of the data importing organization: Setmore, Inc., an Oregon corporation
Address: 1033 SE Main Street, Ste. 5, Portland, Oregon 97214
Tel/fax/e-mail: privacy@setmore.com
(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 of the Clauses.

Clause 1 **Definitions**

For the purposes of the Clauses:

- (a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in 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 sub-processor' means any processor engaged by the data importer or by any other sub-processor of the data importer who agrees to receive from the data importer or from any other sub-processor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

- (e) 'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the European Economic Area member state, Switzerland, or the United Kingdom (as applicable, the "Member State") in which the data exporter is established;
- (f) 'technical and organizational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2

Details of the transfer

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

Clause 3

Third-party beneficiary clause

- (g) 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.
- (h) 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.
- (i) 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.
- (j) 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:

- (k) 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 Member State;

- (l) 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;
- (m) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to the Clauses;
- (n) 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;
- (o) that it will ensure compliance with the security measures;
- (p) 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;
- (q) 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;
- (r) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2 to the Clauses, 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;
- (s) that, in the event of sub-processing, the processing activity is carried out in accordance with Clause 11 of the Clauses 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
- (t) that it will ensure compliance with Clause 4(a) to (i).

Clause 5

Obligations of the data importer

The data importer agrees and warrants:

- (u) 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;

- (v) 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;
- (w) that it has implemented the technical and organisational security measures specified in Appendix 2 of the Clauses before processing the personal data transferred;
- (x) 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;
- (y) 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;
- (z) 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;
- (aa) 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 of the Clauses 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;
- (bb) that, in the event of sub-processing, it has previously informed the data exporter and obtained its prior written consent;
- (cc) that the processing services by the sub-processor will be carried out in accordance with Clause 11 of the Clauses;
- (dd) to send promptly a copy of any sub-processor agreement it concludes under the Clauses to the data exporter.

Clause 6

Liability

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

- (b) If a data subject is not able to bring a claim for compensation in accordance with Clause 6 paragraph (a) 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 of the Clauses, 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.

- (c) If a data subject is not able to bring a claim against the data exporter or the data importer referred to in Clause 6 paragraphs (a) and (b), arising out of a breach by the sub-processor of any of their obligations referred to in Clause 3 or in Clause 11 of the Clauses because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the sub-processor agrees that the data subject may issue a claim against the data sub-processor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the sub-processor shall be limited to its own processing operations under the Clauses.

Clause 7

Mediation and jurisdiction

- (d) 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:
 - (i) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;
 - (ii) to refer the dispute to the courts in the Member State in which the data exporter is established.
- (e) 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

- (f) 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.
- (g) 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.
- (h) 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 Clause 8 paragraph (b). In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 paragraph (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 **Sub-processing**

- (i) The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the sub-processor which imposes the same obligations on the sub-processor as are imposed on the data importer under the Clauses. Where the sub-processor fails to fulfill its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the sub-processor's obligations under such agreement.
- (j) 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 of the Clauses for cases where the data subject is not able to bring the claim for compensation referred to in Clause 6 paragraph (a) 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.
- (k) The provisions relating to data protection aspects for sub-processing of the contract referred to in Clause 11 paragraph (a) shall be governed by the law of the Member State in which the data exporter is established.
- (l) 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 paragraph (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 11 **Obligation after the termination of personal data-processing services**

- (m) 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.

- (n) 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 Clause 12 paragraph (a).

On behalf of the data exporter:

<p>Full Name: Company Name: Position: Address:</p> <p>Other Information necessary in order for the contract to be binding (if any):</p>	<hr/> <p>Signature</p>
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On behalf of the data importer:

<p>Name: Kristen A. Eberlin Position: COO Address: 1033 SE Main Street, Ste. 5 Portland, Oregon 97214 USA</p>	 <hr/> <p>Signature</p>
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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 (please specify briefly your activities relevant to the transfer):
User (as defined in the Agreement).

Data importer

The data importer is Setmore, Inc., an Oregon corporation, a global provider of a platform that facilitates appointment scheduling and management and processes Personal Data upon the instruction of the data exporter in accordance with the terms of the Agreement and the DPA.

Data subjects

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

Data exporter may submit Personal Data to Setmore, 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 Personal Data relating to the following categories of data subjects: the data exporter's representatives and end-users including employees, contractors, business partners, collaborators, and customers of the data exporter.

Categories of data

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

Data exporter may submit Personal Data to Setmore, 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: First and last name; Title; Position; Employer; Personal Contact information (email, phone, physical address); login credentials; Connection data; Localization data; and other data in an electronic form used by Customer in the context of the services.

Special categories of data (if appropriate)

The personal data transferred concern the following special categories of data (please specify):
Not applicable.

Processing operations

The personal data transferred will be subject to the following basic processing activities: (please specify):

The objective of the processing of personal data by data importer is the performance of the contractual services related to the Agreement with the data exporter, including any instructions of the Controller.

The processes may include collection, storage, retrieval, consultation, use, erasure or destruction, disclosure by transmission, dissemination or otherwise making available data

exporter's data as necessary to provide the services in accordance with the data exporter's instructions, including related internal purposes (such as quality control, customer service, troubleshooting, product development, etc.).

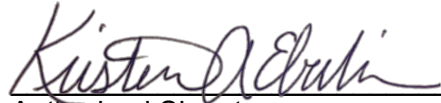
DATA EXPORTER

Name:

Authorized Signature

DATA IMPORTER

Name: Kristen A. Eberlin



Authorized Signature

**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 organizational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached): Setmore will reasonably maintain administrative, physical, and technical safeguards for protection of the security, integrity, and confidentiality of personal data transferred to Processor as described in the Agreement and as detailed in the privacy policy which is available at <https://www.setmore.com/privacy> and in Setmore's Privacy and Data Security Documentation which Setmore will make available at User's reasonable request..

DATA EXPORTER

Name:

Authorized Signature

DATA IMPORTER

Name: Kristen A. Eberlin



Name

Authorized Signature