

## DATA PROCESSING ADDENDUM

This Data Processing Addendum (including its Exhibits) (“**Addendum**”) forms part of and is subject to the terms and conditions of the [insert name of agreement] (the “**Agreement**”) by and between [insert Moloco entity] (“**Moloco**”) and [insert Service Provider] (“**Service Provider**”).

### **1. Subject Matter and Duration.**

- 1.1. Subject Matter.** This Addendum reflects the parties’ commitment to abide by Data Protection Laws concerning the Processing of Moloco Personal Data in connection with Service Provider’s execution of the Agreement. All capitalized terms that are not expressly defined in this Addendum will have the meanings given to them in the Agreement. If and to the extent language in this Addendum or any of its Exhibits conflicts with the Agreement, this Addendum shall control.
- 1.2. Duration and Survival.** This Addendum will become legally binding upon the effective date of the Agreement or upon the date that the parties sign this Addendum if it is completed after the effective date of the Agreement. Service Provider will Process Moloco Personal Data until the relationship terminates as specified in the Agreement. Service Provider’s obligations and Moloco’s rights under this Addendum will continue in effect so long as Service Provider Processes Moloco Personal Data.

### **2. Definitions.** For the purposes of this Addendum, the following terms and those defined within the body of this Addendum apply.

- 2.1. “Data Protection Laws”** means all applicable data privacy, data protection, and cybersecurity laws, rules and regulations to which the Moloco Personal Data are subject. “Data Protection Laws” may include, but are not limited to, the California Consumer Privacy Act of 2018 (as amended by the California Privacy Rights Act) (“**CCPA**”); the EU General Data Protection Regulation 2016/679 (“**GDPR**”) and its respective national implementing legislations; the Swiss Federal Act on Data Protection; the United Kingdom General Data Protection Regulation; the United Kingdom Data Protection Act 2018; and the Virginia Consumer Data Protection Act (in each case, as amended, adopted, or superseded from time to time).
- 2.2. “Moloco Personal Data”** means Personal Data Processed by Service Provider on behalf of Moloco.
- 2.3. “Personal Data”** has the meaning assigned to the terms “personal data” or “personal information” under applicable Data Protection Laws, and will, at a minimum, mean any information relating to an identified or identifiable natural person.
- 2.4. “Process” or “Processing”** means any operation or set of operations which is performed on Personal Data or sets of Personal 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.
- 2.5. “Security Incident(s)”** means the breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Moloco Personal Data.
- 2.6. “Services”** means any and all services that Service Provider performs under the Agreement.
- 2.7. “Subprocessor(s)”** means Service Provider’s vendors and third party service providers that Process Moloco Personal Data.

### **3. Processing Terms for Moloco Personal Data.**

- 3.1. Documented Instructions.** Service Provider shall Process Moloco Personal Data solely for the purpose of providing the Services to Moloco, and solely to the extent necessary to provide the Services to Moloco, in each case, in accordance with the Agreement, this Addendum and Data Protection Laws. Service Provider will, unless legally prohibited from doing so, inform Moloco in writing if it reasonably believes that there is a conflict between Moloco’s instructions and applicable law or otherwise seeks to Process Moloco Personal Data in a manner that is inconsistent with Moloco’s instructions.
- 3.2. Authorization to Use Subprocessors.** To the extent necessary to fulfill Service Provider’s contractual obligations under the Agreement, Moloco hereby authorizes Service Provider to engage Subprocessors. Moloco acknowledges that Subprocessors may further engage subcontractors.
- 3.3. Service Provider and Subprocessor Compliance.** Service Provider shall (i) enter into a written agreement with Subprocessors regarding such Subprocessors’ Processing of Moloco Personal Data that imposes on such Subprocessors data protection and information security requirements for Moloco Personal Data that are at least as protective as the obligations in this Addendum; and (ii) remain fully liable to Moloco for Service Provider’s Subprocessors’ failure to perform their obligations with respect to the Processing of Moloco Personal Data.
- 3.4. Right to Object to Subprocessors.** Service Provider will notify Moloco via email prior to engaging any new Subprocessors that Process Moloco Personal Data and allow Moloco thirty (30) days to object. If Moloco has objections to the appointment of any new Subprocessor, the parties will work together in good faith to resolve the grounds for the objection for no less than

thirty (30) days, and failing any such resolution, Moloco may terminate the part of the Service performed under the Agreement that cannot be performed by Service Provider without use of the objectionable Subprocessor. Service Provider shall refund any pre-paid, unused fees to Moloco in respect of the terminated part of the Services.

- 3.5. Confidentiality.** Any person authorized to Process Moloco Personal Data must be subject to a duty of confidentiality, contractually agree to maintain the confidentiality of such information, or be under an appropriate statutory obligation of confidentiality.
- 3.6. Personal Data Inquiries and Requests.** Service Provider agrees to provide reasonable assistance and comply with all reasonable instructions from Moloco related to any requests from individuals exercising their rights in Moloco Personal Data granted to them under Data Protection Laws (e.g., access, deletion, etc.). If a request is sent directly to Service Provider, Service Provider shall promptly notify Moloco within five (5) days of receiving such request and shall not respond to the request unless Moloco has authorized Service Provider to do so.
- 3.7. Data Protection Assessment, Data Protection Impact Assessment and Prior Consultation.** Service Provider agrees to provide reasonable information and assistance to Moloco where, in Moloco's judgement, the type of Processing performed by Service Provider requires a data protection assessment, data protection impact assessment, and/or prior consultation with the relevant data protection authorities.
- 3.8. Demonstrable Compliance.** Service Provider agrees to provide information reasonably necessary to demonstrate compliance with this Addendum upon Moloco's reasonable request.
- 3.9. California Specific Terms.** To the extent that Moloco Personal Data is subject to the CCPA, this Section shall also apply. Moloco discloses or otherwise makes available Moloco Personal Data to Service Provider for the limited and specific purpose of Service Provider providing the Services to Moloco. Service Provider shall: (i) comply with all applicable obligations under the CCPA; (ii) provide the same level of protection as required of a "Business" under the CCPA; (iii) notify Moloco if it can no longer meet its obligations under the CCPA; (iv) not "sell" or "share" (as such terms are defined by the CCPA) Moloco Personal Data; (v) not retain, use, or disclose Moloco Personal Data for any purpose (including, but not limited to, any commercial purpose) other than to provide the Services under the Agreement; (vi) not retain, use, or disclose Moloco Personal Data outside of the direct business relationship between Moloco and Service Provider; and (vii) not combine Moloco Personal Data with Personal Data that Service Provider (1) receives from, or on behalf of, another person or (2) collects from its own, independent consumer interaction. Moloco may: (a) take reasonable and appropriate steps to help ensure that Service Provider Processes Moloco Personal Data in a manner consistent with the Moloco's CCPA obligations; and (b) upon notice, take reasonable and appropriate steps to stop and remediate unauthorized Processing of Moloco Personal Data by Service Provider.
- 4. Information Security Program.** Service Provider shall implement and maintain reasonable administrative, technical, and physical safeguards that protect Moloco Personal Data (the "**Information Security Program**"). At a minimum, such safeguards shall include:

  - 4.1.** Pseudonymisation of Moloco Personal Data where appropriate, and encryption of Moloco Personal Data in transit and at rest;
  - 4.2.** The ability to ensure the ongoing confidentiality, integrity, availability of Service Provider's Processing and Moloco Personal Data;
  - 4.3.** The ability to restore the availability and access to Moloco Personal Data in the event of a physical or technical incident;
  - 4.4.** A process for regularly testing, assessing and evaluating the effectiveness of the Service Provider's Information Security Program to ensure the security of its Processing and Moloco Personal Data.
- 5. Security Incidents.**

  - 5.1. Security Incident Procedure.** Service Provider will deploy and follow policies and procedures to detect, respond to, and otherwise address Security Incidents including procedures to (i) identify and respond to reasonably suspected or known Security Incidents, mitigate harmful effects of Security Incidents, document Security Incidents and their outcomes, and (ii) restore the availability or access to Moloco Personal Data in a timely manner.
  - 5.2. Notice.** Service Provider agrees to provide written notice without undue delay (but in no event longer than twenty-four (24) hours) to Moloco's Designated POC if it knows or reasonably suspects that a Security Incident has taken place. Such notice will include all available details required under Data Protection Laws for Moloco to comply with its own notification obligations to regulatory authorities or individuals affected by the Security Incident.

**5.3. Remediation.** Service Provider shall remediate any Security Incident to Moloco’s reasonable satisfaction and shall provide Moloco with full cooperation and assistance in connection therewith. Without limiting the foregoing, Service Provider shall: (i) help Moloco investigate, remediate and take any other action Moloco deems necessary regarding the Security Incident and any dispute, inquiry, investigation or claim concerning the Security Incident; and (ii) provide Moloco with assurance satisfactory to Moloco that such Security Incident will not recur. In the event of a Security Incident, Moloco has the right to control the breach notification process. Service Provider will be liable for any costs and expenses incurred by Moloco in connection with the Security Incident, including: (1) the cost of preparing and delivering notices to affected individuals; (2) the cost of providing credit monitoring services or other credits or benefits extended to affected individuals; (3) reasonable attorneys’ fees associated with investigation, remediation and response; (4) liability to third parties that Moloco incurs in connection with the Security Incidents (such as amounts paid or for which Moloco is liable to third parties in tort or arising out of contracts); and (5) labor and subcontractor costs, including employee time spent and additional costs incurred in connection with call center support.

## **6. Cross-Border Transfers of Moloco Personal Data.**

**6.1. Cross-Border Transfers of Moloco Personal Data.** Moloco authorizes Service Provider to transfer Moloco Personal Data across international borders, including from the European Economic Area, Switzerland, and/or the United Kingdom to the United States, provided that such transfer complies with Data Protection Laws.

**6.2. EEA, Swiss, and UK Standard Contractual Clauses.** If Service Provider or its Subprocessors Process Moloco Personal Data originating in the European Economic Area, Switzerland, and/or the United Kingdom in a country that has not been found to provide an adequate level of protection under applicable Data Protection Laws, the parties agree that the [Annex to the Commission Implementing Decision \(EU\) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation \(EU\) 2016/679 of the European Parliament and of the Council \(“Standard Contractual Clauses”\)](#) as supplemented by **Exhibit A** attached hereto shall apply, the terms of which are incorporated herein by reference. Where the Standard Contractual Clauses are applicable and Moloco acts as a controller of Moloco Personal Data with Service Provider acting as a processor of Moloco Personal Data, each party shall comply with its obligations under Module Two of the Standard Contractual Clauses. Where the Standard Contractual Clauses are applicable and Moloco acts as a processor of Moloco Personal Data with Service Provider acting as a (sub)processor of Moloco Personal Data, each party shall comply with its obligations under Module Three of the Standard Contractual Clauses. Each party’s signature to this **[Addendum/Agreement]** shall be considered a signature to the Standard Contractual Clauses to the extent that the Standard Contractual Clauses apply hereunder.

## **7. Audits.**

**7.1. Moloco Audit.** Moloco (or its appointed representative) may carry out an audit, assessment, and/or inspection of Service Provider’s premises, architecture, systems, policies, procedures, and records relevant to the Processing of Moloco Personal Data. Any audit, assessment, or inspection must be: (i) conducted during Service Provider’s regular business hours; (ii) with reasonable advance notice to Service Provider; (iii) carried out in a manner that prevents unnecessary disruption to Service Provider’s operations; and (iv) subject to reasonable confidentiality procedures.

**7.2. Third-Party Audit.** Further, Service Provider may, with Moloco’s consent, arrange for a qualified and independent auditor or assessor to conduct, at least annually and at Service Provider’s expense, an audit or assessment of Service Provider’s policies and technical and organizational measures in support of the obligations under Data Protection Laws and this Addendum using an appropriate and accepted control standard or framework and audit/assessment procedure for such audits or assessments, as applicable. Service Provider shall provide a report of the audit or assessment to Moloco upon request.

**7.3. Remediation.** Following an audit, assessment, or inspection, Service Provider shall make any necessary changes to ensure compliance with its obligations under this Addendum at its own expense and without unreasonable delay and shall notify Moloco when such changes are complete.

## **8. Moloco Personal Data Storage and Deletion.**

**8.1. Storage.** Service Provider will not store or retain any Moloco Personal Data except as necessary to perform the Services under the Agreement.

**8.2. Deletion.** Service Provider will abide by the following with respect to deletion of Moloco Personal Data:

**8.2.1.** Within thirty (30) calendar days of the Agreement’s expiration or termination, or sooner if requested by Moloco,



Service Provider will securely destroy (per Section 8.2.3 below) all copies of Moloco Personal Data (including automatically created archival copies).

**8.2.2.** Upon Moloco’s request, Service Provider will promptly return to Moloco a copy of all Moloco Personal Data within thirty (30) days and, following such return, will also delete all Moloco Personal Data as set forth above.

**8.2.3.** Moloco Personal Data shall be disposed of in a method that prevents any recovery of the data in accordance with industry best practices for shredding of physical documents and wiping of electronic media (e.g., NIST SP 800-88).

**8.2.4.** Upon Moloco’s request, Service Provider will provide a “Certificate of Deletion” certifying that Service Provider has deleted all Moloco Personal Data. Service Provider will provide the “Certificate of Deletion” within thirty (30) days of Moloco’s request.

**9. Indemnification.** Service Provider shall indemnify, defend, and hold harmless Moloco and its officers, directors, employees and agents from and against any claims, disputes, demands, liabilities, damages, losses, fines, and costs and expenses, including, without limitation, reasonable attorneys’ fees arising out of or relating to: (i) a Security Incident; (ii) Service Provider’s negligence or willful misconduct related to Moloco Personal Data; and/or (iii) Service Provider’s breach of this Addendum. Service Provider’s obligations under, and liability arising out of, this Addendum shall not be subject to any limitation or exclusion of liability provision in the Agreement. This Section 9 shall survive termination of the Agreement.

**10. Processing Details.**

**10.1. Subject Matter.** The subject matter of the Processing is the Services pursuant to the Agreement.

**10.2. Duration.** The Processing will continue until the expiration or termination of the Agreement.

**10.3. Categories of Data Subjects.** Data subjects whose Moloco Personal Data will be Processed pursuant to the Agreement.

**10.4. Nature and Purpose of the Processing.** The purpose of the Processing of Moloco Personal Data by Service Provider is the performance of the Services.

**10.5. Types of Moloco Personal Data.** Moloco Personal Data that is Processed pursuant to the Agreement.

**11. Contact Information.** Moloco and Service Provider agree to designate a point of contact for urgent privacy and security issues (a “Designated POC”). The Designated POC for both parties are:

- Moloco Designated POC: \_\_\_\_\_
- Service Provider Designated POC: \_\_\_\_\_

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Addendum effective as of the last date signed below.

**[Insert Moloco entity]**

**[Insert Service Provider]**

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## EXHIBIT A TO THE DATA PROCESSING ADDENDUM

This Exhibit A forms part of the Addendum and supplements the Standard Contractual Clauses. Capitalized terms not defined in this Exhibit A have the meaning set forth in the Addendum.

The parties agree that the following terms shall supplement the Standard Contractual Clauses:

- 1. Supplemental Terms.** The parties agree that: (i) a new Clause 1(e) is added to the Standard Contractual Clauses which shall read: "To the extent applicable hereunder, these Clauses also apply mutatis mutandis to the Parties' processing of personal data that is subject to the Swiss Federal Act on Data Protection. Where applicable, references to EU Member State law or EU supervisory authorities shall be modified to include the appropriate reference under Swiss law as it relates to transfers of personal data that are subject to the Swiss Federal Act on Data Protection."; (ii) a new Clause 1(f) is added to the Standard Contractual Clauses which shall read: "To the extent applicable hereunder, these Clauses, as supplemented by Annex III, also apply mutatis mutandis to the Parties' processing of personal data that is subject to UK Data Protection Laws (as defined in Annex III)."; (iii) the optional text in Clause 7 is deleted; (iv) Option 1 in Clause 9 is struck and Option 2 is kept, and data importer must provide notice of any new subprocessor in accordance with Section 3.4 of the Addendum; (v) the optional text in Clause 11 is deleted; and (vi) in Clauses 17 and 18, the governing law and the competent courts are those of Ireland (for EEA transfers), Switzerland (for Swiss transfers), or England and Wales (for UK transfers).
- 2. Annex I.** Annex I to the Standard Contractual Clauses shall read as follows:

### **A. List of Parties**

**Data Exporter:** Moloco.

**Address:** As set forth in the Notices section of the Agreement.

**Contact person's name, position, and contact details:** Moloco's Designated POC.

**Activities relevant to the data transferred under these Clauses:** The Services.

**Role:** Controller (Module Two); Processor (Module Three).

**Data Importer:** Service Provider.

**Address:** As set forth in the Notices section of the Agreement.

**Contact person's name, position, and contact details:** Service Provider's Designated POC.

**Activities relevant to the data transferred under these Clauses:** The Services.

**Role:** Processor.

### **B. Description of the Transfer:**

Categories of data subjects whose personal data is transferred: The categories of data subjects whose personal data is transferred under the Clauses including, but not limited to, [insert specific examples].

Categories of personal data transferred: The categories of personal data transferred under the Clauses including, but not limited to, [insert specific examples].

Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures: [Insert response. E.g., "To the parties knowledge, no sensitive data is transferred."]

The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis): [Insert response. E.g., "Personal data is transferred in accordance with the standard functionality of the Services, or as otherwise agreed upon by the parties."]

Nature of the processing: The Services.

Purpose(s) of the data transfer and further processing: The Services.

The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period: Data importer will retain personal data in accordance with the Addendum.

For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing:

- [insert name of subprocessor, insert brief description of service provided.]
- [insert name of subprocessor, insert brief description of service provided.]
- [insert name of subprocessor, insert brief description of service provided.]
- [insert name of subprocessor, insert brief description of service provided.]

**C. Competent Supervisory Authority:** The supervisory authority mandated by Clause 13. If no supervisory authority is mandated by Clause 13, then the Irish Data Protection Commission (DPC), and if this is not possible, then as otherwise agreed by the parties consistent with the conditions set forth in Clause 13.

**D. Additional Data Transfer Impact Assessment Questions:**

What countries will personal data that is transferred under the Clauses be stored in or accessed from? If this varies by region, please specify each country for each region.

[Insert response. E.g., "United States."]

Will data importer process any personal data under the Clauses about a non-United States person that could reasonably be considered "foreign intelligence information" as defined by 50 U.S.C. § 1801(e)?

[Insert response. E.g., "Not to data importer's knowledge."]

Is data importer subject to any laws in a country outside of the European Economic Area, Switzerland, and/or the United Kingdom where personal data is stored or accessed from that would interfere with data importer fulfilling its obligations under the Clauses? For example, FISA Section 702. If yes, please list these laws:

[Insert response. E.g., "As of the effective date of the Addendum, no court has found data importer to be eligible to receive process issued under the laws contemplated by this question, including FISA Section 702, and no such court action is pending."]

Has data importer ever received a request from public authorities for information pursuant to the laws contemplated by the question above? If yes, please explain:

[Insert response. E.g., "No."]

Has data importer ever received a request from public authorities for personal data of individuals located in European Economic Area, Switzerland, and/or the United Kingdom? If yes, please explain:

[Insert response. E.g., "No."]

**E. Data Transfer Impact Assessment Outcome:** Taking into account the information and obligations set forth in the Addendum and, as may be the case for a party, such party's independent research, to the parties' knowledge, the personal data originating in the European Economic Area, Switzerland, and/or the United Kingdom that is transferred pursuant to the Clauses to a country that has not been found to provide an adequate level of protection under applicable data protection laws is afforded a level of protection that is essentially equivalent to that guaranteed by applicable data protection laws.

**3. Annex II.** Annex II of the Standard Contractual Clauses shall read as follows:

Data importer shall implement and maintain appropriate technical and organisational measures that protect personal data in accordance with the Addendum.

Pursuant to Clause 10(b), data importer will provide data exporter assistance with data subject requests in accordance with the Addendum.

**4. Annex III.** A new Annex III shall be added to the Standard Contractual Clauses and shall read as follows:

The [UK Information Commissioner's Office International Data Transfer Addendum to the EU Commission Standard Contractual Clauses](#) ("**UK Addendum**") is incorporated herein by reference.

**Table 1:** The start date in Table 1 is the effective date of the Addendum. All other information required by Table 1 is set forth in Annex I, Section A of the Clauses.

**Table 2:** The UK Addendum forms part of the version of the Approved EU SCCs which this UK Addendum is appended to including the Appendix Information, effective as of the effective date of the Addendum.

**Table 3:** The information required by Table 3 is set forth in Annex I and II to the Clauses.

**Table 4:** The parties agree that Exporter may end the UK Addendum as set out in Section 19.