

Appendix A (Supplementary Measures to the Standard Contractual Clauses) to Exhibit C – Jurisdiction Specific Terms

By this Appendix A (this “**Appendix**”), the Parties provide additional safeguards to and additional redress to the Data Subjects to whom Customer Personal Data relates. This Appendix supplements and is made part of, but is not in variation or modification of, the Standard Contractual Clauses that may be applicable to the Restricted Transfer.

1. Applicability of this Appendix.

1.1. This Appendix only applies with respect to Restricted Transfers where the terms of **Exhibit C** indicate it.

2. Applicability of surveillance laws to Cendyn.

2.1. US surveillance laws

- (a) “**FISA**” means U.S. Foreign Intelligence Surveillance Act.
- (b) Cendyn represents and warrants that, as of the date of the DPA, it has not received any national security orders of the type described in paragraphs 150-202 of the judgment of the European Court of Justice in Case C-311/18, Data Protection Commissioner v Facebook Ireland Limited and Maximilian Schrems.
- (c) Cendyn represents that it reasonably believes that it is not eligible to be required to provide information, facilities, or assistance of any type under FISA Section 702 because:
- (d) Cendyn does not believe that it qualifies as an “electronic communication service provider” within the meaning of 50 U.S.C. § 1881(b)(4) and is therefore ineligible to receive any process issued under FISA Section 702 for Services it provides to its customers;
- (e) No court has found the Data Importer to be an entity eligible to receive process issued under FISA Section 702: (i) an “electronic communication service provider” within the meaning of 50 U.S.C. § 1881(b)(4) or (ii) a member of any of the categories of entities described within that definition.
- (f) If Cendyn were to be found eligible for FISA Section 702, which it believes it is not, it is nevertheless also not the type of provider that is eligible to be subject to UPSTREAM collection pursuant to FISA Section 702, as described in paragraphs 62 and 179 of the Schrems II judgment.
- (g) Executive Order 12,333 does not provide the U.S. government the ability to order or demand Data Importer to provide assistance for the bulk collection of information and Data Importer shall take no action pursuant to U.S. Executive Order 12,333.

2.2. General provisions about surveillance laws applicable to Cendyn.

- (a) Customer warrants that it has no reason to believe that the laws and practices in the third country of destination of Customer Personal Data applicable to the Processing of Customer Personal Data by Service Provider, including any requirements to disclose Customer Personal Data or measures authorizing access by public authorities, prevent Service Provider from fulfilling its obligations under the 2010 EU Standard Contractual Clauses (where applicable).
- (b) Data Importer commits to provide upon request information about the laws and regulations in the destination countries of the transferred data applicable to Data Importer that would permit access by public authorities to the transferred Customer Personal Data, in particular in the areas of intelligence, law enforcement, administrative and regulatory supervision applicable to the transferred data. In the absence of laws governing the public authorities' access to data, Data Importer shall provide Data Exporter with information and statistics based on the experience of the Data Importer or reports from various sources (such as partners, open sources, national case law and decisions from oversight bodies) on access by public authorities to Personal Data in situations of the kind of the data transfer at hand. The Data Importer providing the information referred to in this Subsection may choose the means to provide the information.

2.3. Cendyn shall monitor any legal or policy developments that might lead to its inability to comply with its obligations under the Standard Contractual Clauses and this Appendix, and promptly inform the Data Exporter of any such changes and developments. When possible, the Data Importer shall inform the Data Exporter of any such changes and developments ahead of their implementation.

3. Cendyn's procedure to respond to orders for Compelled Disclosure of Customer Personal Data.

3.1. In the event Cendyn receives an order from any third party for compelled disclosure of any Customer Personal Data that has been transferred under the Standard Contractual Clauses, Cendyn shall:

- (a) promptly notify Customer, unless prohibited under the law applicable to the requesting third party, and, if prohibited from notifying Customer or the Data Subject, use all lawful efforts to obtain the right to waive the prohibition in order to communicate as much information to Customer and the Data Subject as soon as possible. This includes but it is not limited to informing the requesting public authority of the incompatibility of the order with the safeguards contained in Standard Contractual Clauses and the resulting conflict of obligations for Cendyn;
- (b) use all lawful efforts to challenge the order for disclosure on the basis of any legal deficiencies under the laws of the requesting party or any relevant conflicts with the law of the European Union or applicable Member State law. For purpose of this section, lawful efforts do not include actions that would result in civil or criminal penalty such as contempt of court under the laws of the relevant jurisdiction;
- (c) seek interim measures with a view to suspend the effects of the order until the competent court has decided on the merits;

- (d) not disclose the requested Customer Personal Data until required under the applicable procedural rules;
- (e) provide the minimum amount of information permissible when responding to the request, based on a reasonable interpretation of the request;
- (f) unless prohibited under the law applicable to the requesting third party, use every reasonable effort to redirect the third party requesting the disclosure of any Personal Data that has been transferred to Cendyn directly to Customer; and (g) document all the steps taken by Cendyn related to the order.

4. Information on requests of access or orders for completed disclosure to/of Customer Personal Data by public authorities

4.1. Cendyn commits to provide Customer with sufficiently detailed information on all requests of access to Customer Personal Data by public authorities which Cendyn has received over the last five (5) years (if any), in particular in the areas of intelligence, law enforcement, administrative and regulatory supervision applicable to the transferred data and comprising information about the requests received, the data requested, the requesting body and the legal basis for disclosure and to what extent Cendyn has disclosed the requested data. Cendyn may choose the means to provide this information.

5. Backdoors.

5.1. Cendyn certifies that:

- (a) it has not purposefully created back doors or similar programming that could be used to access Cendyn systems' and/or Customer Personal Data;
- (b) it has not purposefully created or changed its business processes in a manner that facilitates access to Customer Personal Data or systems, and
- (c) that national law or government policy does not require Cendyn to create or maintain back doors or to facilitate access to Customer Personal Data or systems or for Cendyn to be in possession or to hand over the encryption key.

6. Information about legal prohibitions.

6.1. Cendyn will provide Customer information about the legal prohibitions on Cendyn to provide information under this Appendix. Cendyn may choose the means to provide this information.

7. Other measures to prevent authorities from accessing Customer Personal Data.

7.1. Notwithstanding the application of the security measures set forth in **Exhibit D** of the Agreement, Cendyn will implement internal policies establishing that:

- (a) where Cendyn is prohibited by law from notifying Customer of an order from a public authority for Customer Personal Data, Cendyn shall take into account the laws of other jurisdictions and use best efforts to request that any confidentiality requirements be waived to enable it to notify the competent Supervisory Authorities;

- (b) Cendyn must require an official, signed document issued pursuant to the applicable laws of the requesting third party before it will consider a request for access to Customer Personal Data; and
- (c) Cendyn shall scrutinize every request for legal validity and, as part of that procedure, will reject any request Cendyn considers to be invalid; and
- (d) if Cendyn is legally required to comply with an order, it will respond as narrowly as possible to the specific request.

8. Inability to Comply with this Appendix.

- 8.1. Cendyn shall promptly inform Customer of its inability to comply with the Standard Contractual Clauses and this **Exhibit C**. If Cendyn determines that is no longer able to comply with its contractual commitments under this **Exhibit C**, Customer can swiftly suspend the transfer of data and/or terminate the Agreement. If Cendyn determines that is no longer able to comply with the Standard Contractual Clauses or this **Exhibit C**, Cendyn shall return or delete the Customer Personal Data received in reliance on the Standard Contractual Clauses. If returning or deleting the Customer Personal Data received is not possible, Cendyn must securely encrypt the data without waiting for Customer's instructions.
- 8.2. Cendyn shall provide Customer with sufficient indications to suspend the transfer and/or terminate the contract.

9. Termination.

- 9.1. This Appendix shall automatically terminate if the European Commission, a competent Member State Supervisory Authority, or an EEA or competent Member State court approves a different lawful transfer mechanism that would be applicable to the data transfers covered by the Standard Contractual Clauses (and if such mechanism applies only to some of the data transfers, this Appendix will terminate only with respect to those transfers) and that does not require the additional safeguards set forth in this Appendix.