

**Gilson, Inc.**  
**Customer EU Data Processing Addendum**

**Last Updated: May 4, 2021**

This Data Processing Addendum ("**DPA**") is incorporated into and forms part of the Gilson Terms of Service between Gilson, Inc. ("**Gilson**") and you and any institution or company that you represent (together, "**Customer**").

This DPA is effective on the date Customer accepts the Gilson Terms of Service ("**Effective Date**"). All capitalized terms not defined in this DPA shall have the meanings set forth in the Agreement.

**The parties agree that where you have clicked to accept the Gilson Terms of Service electronically, that acceptance will constitute execution of the entirety of this DPA by both parties. If you are accepting on behalf of an institution or company, you warrant that you have read and understand this DPA, that you have full legal authority to bind that institution or company to this DPA, and that you agree, on behalf of that institution or company, to this DPA.**

**1. Definitions**

"**Affiliate**" means an entity that directly or indirectly Controls, is Controlled by or is under common Control with an entity.

"**Agreement**" means the Gilson Terms of Service, which govern the provision of the Services to Customer. Such terms may be updated by Gilson from time to time.

"**Control**" means an ownership, voting or similar interest representing fifty percent (50%) or more of the total interests then outstanding of the entity in question. The term "**Controlled**" shall be construed accordingly.

"**Customer Data**" means any Personal Data that Gilson processes on behalf of Customer as a Data Processor in the course of providing Services, as more particularly described in this DPA.

"**Data Protection Laws**" means all data protection and privacy laws applicable to the processing of Personal Data under the Agreement, including, where applicable, EU Data Protection Law.

"**Data Controller**" means an entity that determines the purposes and means of the processing of Personal Data.

"**Data Processor**" means an entity that processes Personal Data on behalf of a Data Controller.

"**EU Data Protection Law**" means (i) Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data (General Data Protection Regulation) ("**GDPR**"); and (ii) Directive 2002/58/EC concerning the processing of Personal Data and the protection of privacy in the electronic communications sector and applicable national implementations of it (as may be amended, superseded or replaced).

"**EEA**" means, for the purposes of this DPA, the European Economic Area, United Kingdom and Switzerland.

"**Group**" means any and all Affiliates that are part of an entity's corporate group.

**"Model Clauses"** means the Standard Contractual Clauses for Processors as approved by the European Commission in the form set out in Annex C.

**"Personal Data"** means any information relating to an identified or identifiable natural person.

**"Processing"** has the meaning given to it in the GDPR and **"process"**, **"processes"** and **"processed"** shall be interpreted accordingly.

**"Security Incident"** means any unauthorized or unlawful breach of security that leads to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of or access to Customer Data.

**"Services"** means any product or service provided by Gilson to Customer pursuant to the Agreement, which may include data sharing with a third party platform if requested by Customer.

**"Sub-processor"** means any Data Processor engaged by Gilson or its Affiliates to assist in fulfilling its obligations with respect to providing the Services pursuant to the Agreement or this DPA. Sub-processors may include third parties or members of the Gilson Group.

## **2. Relationship with the Agreement**

2.1 The parties agree that DPA shall replace any existing DPA (including the Model Clauses (as applicable) the parties may have previously entered into in connection with the Services.

2.2 Except for the changes made by this DPA, the Agreement remains unchanged and in full force and effect. If there is any conflict between this DPA and the Agreement, this DPA shall prevail to the extent of that conflict.

2.3 Any claims brought under or in connection with this DPA shall be subject to the terms and conditions, including but not limited to, the exclusions and limitations set forth in the Agreement.

2.4 Any claims against Gilson or its Affiliates under this DPA shall be brought solely against the entity that is a party to the Agreement. In no event shall any party limit its liability with respect to any individual's data protection rights under this DPA or otherwise. Customer further agrees that any regulatory penalties incurred by Gilson in relation to the Customer Data that arise as a result of, or in connection with, Customer's failure to comply with its obligations under this DPA or any applicable Data Protection Laws shall count toward and reduce Gilson's liability under the Agreement as if it were liability to the Customer under the Agreement.

2.5 No one other than a party to this DPA, its successors and permitted assignees shall have any right to enforce any of its terms.

2.6 This DPA shall be governed by and construed in accordance with governing law and jurisdiction provisions in the Agreement, unless required otherwise by applicable Data Protection Laws.

2.7 This DPA and the Model Clauses shall terminate simultaneously and automatically with the termination or expiration of the Agreement.

## **3. Scope and Applicability of this DPA**

3.1 This DPA applies where and only to the extent that Gilson processes Customer Data that originates from the EEA and/or that is otherwise subject to EU Data Protection Law on behalf of Customer as Data Processor in the course of providing Services pursuant to the Agreement.

#### 4. Roles and Scope of Processing

4.1 **Role of the Parties.** As between Gilson and Customer, Customer is the Data Controller of Customer Data, and Gilson shall process Customer Data only as a Data Processor acting on behalf of Customer.

4.2 **Customer Processing of Customer Data.** Customer agrees that (i) it shall comply with its obligations as a Data Controller under Data Protection Laws in respect of its processing of Customer Data and any processing instructions it issues to Gilson; and (ii) it has provided notice and obtained (or shall obtain) all consents and rights necessary under Data Protection Laws for Gilson to process Customer Data and provide the Services pursuant to the Agreement and this DPA.

4.3 **Gilson Processing of Customer Data.** Gilson shall process Customer Data only for the purposes described in this DPA and only in accordance with Customer's documented lawful instructions. The parties agree that this DPA and the Agreement set out the Customer's complete and final instructions to Gilson in relation to the processing of Customer Data and processing outside the scope of these instructions (if any) shall require prior written agreement between Customer and Gilson.

#### 4.4 Details of Data Processing

- (a) Subject matter: The subject matter of the data processing under this DPA is the Customer Data.
- (b) Duration: As between Gilson and Customer, the duration of the data processing under this DPA is until the termination of the Agreement in accordance with its terms.
- (c) Purpose: The purpose of the data processing under this DPA is the provision of the Services to the Customer and the performance of Gilson's obligations under the Agreement (including this DPA) or as otherwise agreed by the parties. Customer Data may be combined with data for which Gilson is the data controller as contemplated by Gilson's [Privacy Policy](#). Gilson may also process data under this DPA to pseudonymize or otherwise anonymize data to develop new products and share such pseudonymized or anonymized with third parties to develop data platforms for laboratory collaboration.
- (d) Nature of the processing: Gilson makes available to its customers (i) e-commerce websites and (ii) certain online services and related mobile applications that are designed with the mission of enabling verifiable science and making lab life easier for researchers, as described in the Agreement. Gilson may transfer Customer Data to third party platforms as directed by Customer as part of the Services. Gilson may collaborate with third parties that license their own proprietary data platforms to allow for integration between Gilson's Services and those of the third party, provided such collaboration will only include Customer Data if requested by Customer as part of the Services. Otherwise any such collaboration may only consist of pseudonymized data or anonymized data.
- (e) Categories of data subjects: Any individual accessing and/or using the Services through the Customer's account ("Users"); and any individual whose information is stored on or collected via the Services.
- (f) Types of Customer Data: Identification and contact data (name, address, title, contact details, username, telephone number); employment and laboratory details (employer, job title, geographic location, area of responsibility, professional life data, device ID data,

sensor data); geographic location information; data collected by social media platform features; and User-generated content.

4.5 Notwithstanding anything to the contrary in the Agreement (including this DPA), Customer acknowledges that Gilson shall have a right to use and disclose data relating to the operation, support and/or use of the Services for its legitimate business purposes, such as billing, account management, technical support, product development and sales and marketing.

## 5. Subprocessing

5.1 **Authorized Sub-processors.** Customer agrees that Gilson may engage Sub-processors to process Customer Data on Customer's behalf. The Sub-processors currently engaged by Gilson and authorized by Customer are listed in **Annex A**.

5.2 **Sub-processor Obligations.** Gilson shall: (i) enter into a written agreement with the Sub-processor imposing data protection terms that require the Sub-processor to protect the Customer Data to the standard required by Data Protection Laws; and (ii) remain responsible for its compliance with the obligations of this DPA and for any acts or omissions of the Sub-processor that cause Gilson to breach any of its obligations under this DPA.

5.3 **Changes to Sub-processors.** Gilson shall notify Customer (for which email shall suffice) if it adds or removes Sub-processors at least 10 days prior to any such changes.

5.4 **Objection to Sub-processors.** Customer may object in writing to Gilson's appointment of a new Sub-processor on reasonable grounds relating to data protection (e.g. if making Customer Data available to the Sub-processor may violate applicable Data Protection Law or weaken the protections for such Customer Data) by notifying Gilson promptly in writing within five (5) calendar days of receipt of Gilson's notice in accordance with Section 5.3 Such notice shall explain the reasonable grounds for the objection. In such event, the parties shall discuss such concerns in good faith with a view to achieving commercially reasonable resolution.

## 6. Security

6.1 **Security Measures.** Gilson shall implement and maintain appropriate technical and organizational security measures to protect Customer Data from Security Incidents and to preserve the security and confidentiality of the Customer Data, in accordance with Gilson's security standards described in Annex B ("**Security Measures**").

6.2 **Updates to Security Measures.** Customer is responsible for reviewing the information made available by Gilson relating to data security and making an independent determination as to whether the Services meet Customer's requirements and legal obligations under Data Protection Laws. Customer acknowledges that the Security Measures are subject to technical progress and development and that Gilson may update or modify the Security Measures from time to time provided that such updates and modifications do not result in the degradation of the overall security of the Services purchased by the Customer.

6.3 **Confidentiality of processing.** Gilson shall ensure that any person who is authorized by Gilson to process Customer Data (including its staff, agents and subcontractors) shall be under an appropriate obligation of confidentiality (whether a contractual or statutory duty). Gilson is not responsible for the security measures of third party platforms to whom Customer directs Gilson to share Customer Data. Gilson is not responsible for any such third party platform.

6.4 **Security Incident Response.** Upon becoming aware of a Security Incident, Gilson shall notify Customer without undue delay and shall provide timely information relating to the Security Incident as it becomes known or as is reasonably requested by Customer.

6.5 **Customer Responsibilities.** Notwithstanding the above, Customer agrees that except as

provided by this DPA, Customer is responsible for its secure use of the Services, including securing its account authentication credentials, protecting the security of Customer Data when in transit to and from the Services and taking any appropriate steps to securely encrypt or backup any Customer Data uploaded to the Services.

## 7. Security Reports and Audits

7.1 Gilson shall maintain records of its security standards. Gilson shall provide written responses (on a confidential basis) to all reasonable requests for information made by Customer, including responses to information security and audit questionnaires that are necessary to confirm Gilson's compliance with this DPA, provided that Customer shall not exercise this right more than once per year.

## 8. International Transfers

8.1 **Data Center locations.** Gilson may transfer and process Customer Data anywhere in the world where Gilson, its Affiliates or its Sub-processors maintain data processing operations. Gilson shall at all times provide an adequate level of protection for the Customer Data processed, in accordance with the requirements of Data Protection Laws.

8.2 **Model Clauses:** To the extent that Gilson processes any Customer Data protected by EU Data Protection Law under the Agreement and/or that originates from the EEA, in a country that has not been designated by the European Commission or Swiss Federal Data Protection Authority (as applicable) as providing an adequate level of protection for Personal Data, the parties acknowledge that Gilson shall be deemed to provide adequate protection (within the meaning of EU Data Protection Law) for any such Customer Data by complying with the Model Clauses. Gilson agrees that it is a "data importer" and Customer is the "data exporter" under the Model Clauses (notwithstanding that Customer is an entity located outside of the EEA).

8.3 **Alternative Transfer Mechanism.** The parties agree that the data export solution identified in Section 8.2 shall not apply if and to the extent that Gilson adopts an alternative data export solution for the lawful transfer of Personal Data (as recognized under EU Data Protection Laws) outside of the EEA ("**Alternative Transfer Mechanism**"), in which event, the Alternative Transfer Mechanism shall apply instead (but only to the extent such Alternative Transfer Mechanism extends to the territories to which Personal Data is transferred).

## 9. Return or Deletion of Data

9.1 Upon termination or expiration of the Agreement, Gilson shall (at Customer's election) delete or return to Customer all Customer Data (including copies) in its possession or control, save that this requirement shall not apply to the extent Gilson is required by applicable law to retain some or all of the Customer Data, or to Customer Data it has archived on back-up systems, which Customer Data Gilson shall securely isolate and protect from any further processing, except to the extent required by applicable law.

## 10. Rights of Data Subjects and Cooperation

10.1 **Data Subject Request.** To the extent that Customer is unable to independently access the relevant Customer Data within the Services, Gilson shall (at Customer's expense) provide reasonable cooperation to assist Customer to respond to any requests from individuals or applicable data protection authorities relating to the processing of Personal Data under the Agreement. In the event that any such request is made directly to Gilson, Gilson shall not respond to such communication directly without Customer's prior authorization, unless legally compelled to do so. If Gilson is required to respond to such a request, Gilson shall promptly notify Customer and provide it with a copy of the request unless legally prohibited from doing so.

10.2 **Subpoenas and Court Orders.** If a law enforcement agency sends Gilson a demand for

Customer Data (for example, through a subpoena or court order), Gilson shall attempt to redirect the law enforcement agency to request that data directly from Customer. As part of this effort, Gilson may provide Customer's basic contact information to the law enforcement agency. If compelled to disclose Customer Data to a law enforcement agency, then Gilson shall give Customer reasonable notice of the demand to allow Customer to seek a protective order or other appropriate remedy unless Gilson is legally prohibited from doing so.

- 10.3 **Data Protection Impact Assessment.** To the extent Gilson is required under EU Data Protection Law, Gilson shall (at Customer's expense) provide reasonably requested information regarding the Services to enable the Customer to carry out data protection impact assessments or prior consultations with data protection authorities as required by law.

## 11. **Limitation of Liability**

- 11.1 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 limitations and exclusions of liability in the Agreement, and any reference in provisions to the liability of a party means the aggregate liability of that party and all of its Affiliates under the Agreement and all DPAs together.

- 11.2 For the avoidance of doubt, Gilson and its Affiliates' total liability for all claims from the Customer and all of its Affiliates arising out of or related to the Agreement and each DPA shall apply in the aggregate for all claims under both the Agreement and all DPAs established under the Agreement, including by Customer and all its Affiliates, and, in particular, shall not be understood to apply individually and severally to Customer and/or to any Customer Affiliate that is a contractual party to any such DPA.

IN WITNESS WHEREOF, the parties have caused this DPA to be executed by their authorized representative:

**Gilson, Inc.**

**Customer**

By: *Robert Olson*

By: \_\_\_\_\_

Name: Robert Olson

Name: \_\_\_\_\_

Title: Sr VP / CFO

Title: \_\_\_\_\_

Date: August 27, 2018

Date: \_\_\_\_\_

## **Annex A – List of Gilson Sub-processors**

Sub-processors:  
Microsoft / Azure  
Google / Analytics and Ads  
Salesforce / Pardot  
Own Backup  
Validity Inc  
Adobe / Magento  
Cloudinary  
CloudFlare  
Survey Monkey  
Crazy Egg  
New Relic

## **Annex B – Security Measures**

Gilson has implemented:

- Controls to specify authorized individuals permitted to access personnel data;
- Access control processes to prevent unauthorized access to the company's premises;
- Controls to ensure that all systems processing personal data are password protected;
- Controls to prevent unauthorized persons from accessing personal data;
- Dedicated user IDs for every individual;
- Processes to assign each individual user a password for authentication;
- Processes to prohibit sharing of passwords and requiring periodic change;
- Processes to deactivate user accounts when the user leaves the company or particular function;
- Processes to restrict access to files and programs on a "need-to-know" basis;
- Processes to store physical media containing personal data in secured areas;
- Processes to grant access only to authorized personnel, and only with such access as might be required in the circumstances;
- Controls to permit only authorized personnel to modify personal data within the scope of their function;
- Processes to create and protect back-up copies;
- Controls to prevent removal of personal data from computers and/or premises without authorization;
- Processes for secure disposal of documents or data carriers containing personal data;
- Network firewalls to prevent unauthorized access to systems and services; and
- Processes to ensure that each system used to process personal data runs an up to date antivirus solution.



## Annex C – Model Clauses

### Standard Contractual Clauses (processors)

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.

#### 1. Definitions

For the purposes of the Clauses:

**'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;

**'the data exporter'** means the controller who transfers the personal data;

**'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;

**'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;

**'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;

**'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.

#### 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.

#### 3. Third-party beneficiary 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.

- 3.2 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.
- 3.3 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.
- 3.4 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.

#### **4. Obligations of the data exporter**

The data exporter agrees and warrants:

- (a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;
- (b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;
- (c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;
- (d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, 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;
- (e) that it will ensure compliance with the security measures;
- (f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

- (g) to forward any notification received from the data importer or any 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;
- (h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for 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;
- (i) 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
- (j) that it will ensure compliance with Clause 4(a) to (i).

## **5. Obligations of the data importer**

The data importer agrees and warrants:

- (a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- (b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- (c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;
- (d) that it will promptly notify the data exporter about:
  - (i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,
  - (ii) any accidental or 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;
- (e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;
- (f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of

the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

- (g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for 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;
- (h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;
- (i) that the processing services by the subprocessor will be carried out in accordance with Clause 11;
- (j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

## **6. Liability**

- 6.1 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.
- 6.2 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 or by operation of law, in which case the data subject can enforce its rights against such entity.
- 6.3 The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.
- 6.4 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.

## **7. Mediation and jurisdiction**

- 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:

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

7.2 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.

## **8. Cooperation with supervisory authorities**

8.1 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.

8.2 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.

8.3 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).

## **9. Governing Law**

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

## **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.

## **11. Subprocessing**

11.1 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.

11.2 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.

11.3 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.

11.4 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.

## **12. Obligation after the termination of personal data processing services**

12.1 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.

12.2 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**

This Appendix forms part of the Clauses and must be completed by the parties.

Data exporter: The data exporter is the entity identified as the "Customer" in the Data Processing Addendum in place between data exporter and data importer and to which these Clauses are appended ("DPA").

Data importer: The data importer is the US headquartered company, Gilson, Inc. ("**Gilson**"). Gilson provides specialized analytical instrumentation for handling liquids in the fields of chemistry and biochemistry.

Description of Data Processing: Please see Section 4.4 (Details of Processing) of DPA for a description of the data subjects, categories of data, special categories of data and processing operations.

## **Appendix 2 to the Standard Contractual Clauses**

This Appendix forms part of the Clauses and must be completed by the parties.

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):

Please see Annex B of the DPA, which describes the technical and organisational security measures implemented by Gilson.

## **Appendix 3 to the Standard Contractual Clauses**

This Appendix forms part of the Clauses and must be completed by the parties.

This Appendix sets out the parties' interpretation of their respective obligations under specific Clauses identified below. Where a party complies with the interpretations set out in this Appendix, that party shall be deemed by the other party to have complied with its commitments under the Clauses.

### **Clause 4(h) and 8: Disclosure of these Clauses**

1. Data exporter agrees that these Clauses constitute data importer's Confidential Information as that term is defined in the Agreement and may not be disclosed by data exporter to any third party without data importer's prior written consent unless permitted pursuant to Agreement. This shall not prevent disclosure of these Clauses to a data subject pursuant to Clause 4(h) or a supervisory authority pursuant to Clause 8.

### **Clause 5(a): Suspension of data transfers and termination**

- The parties acknowledge that data importer may process the personal data only on behalf of the data exporter and in compliance with its instructions as provided by the data exporter and the Clauses.
2. The parties acknowledge that if data importer cannot provide such compliance for whatever reason, 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.

3. If the data exporter intends to suspend the transfer of personal data and/or terminate these Clauses, it shall endeavour to provide notice to the data importer and provide data importer with a reasonable period of time to cure the non-compliance (“**Cure Period**”).
4. If after the Cure Period the data importer has not or cannot cure the non-compliance then the data exporter may suspend or terminate the transfer of personal data immediately. The data exporter shall not be required to provide such notice in instance where it considers there is a material risk of harm to data subjects or their personal data.

#### **Clause 5(f): Audit**

3. Data exporter acknowledges and agrees that it exercises its audit right under Clause 5(f) by instructing data importer to comply with the audit measures described in Section 7 (Security Reports and Audits) of the DPA.

#### **Clause 5(i): Disclosure of subprocessor agreements**

1. The parties acknowledge the obligation of the data importer to send promptly a copy of any onward subprocessor agreement it concludes under the Clauses to the data exporter.
2. The parties further acknowledge that, pursuant to subprocessor confidentiality restrictions, data importer may be restricted from disclosing onward subprocessor agreements to data exporter. Notwithstanding this, data importer shall use reasonable efforts to require any subprocessor it appoints to permit it to disclose the subprocessor agreement to data exporter.
3. Even where data importer cannot disclose a subprocessor agreement to data exporter, the parties agree that, upon the request of data exporter, data importer shall (on a confidential basis) provide all information it reasonably in connection with such subprocessing agreement to data exporter.

#### **Clause 6: Liability**

1. Any claims brought under the Clauses shall be subject to the terms and conditions, including but not limited to, the exclusions and limitations set forth in the Agreement. In no event shall any party limit its liability with respect to any data subject rights under these Clauses.

#### **Clause 11: Onward subprocessing**

4. The parties acknowledge that, pursuant to FAQ II.1 in Article 29 Working Party Paper WP 176 entitled "*FAQs in order to address some issues raised by the entry into force of the EU Commission Decision 2010/87/EU of 5 February 2010 on standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC*" the data exporter may provide a general consent to onward subprocessing by the data importer.
5. Accordingly, data exporter provides a general consent to data importer, pursuant to Clause 11 of these Clauses, to engage onward subprocessors. Such consent is conditional on data importer's compliance with the requirements set out in Section 5 (Sub-processing) of the DPA.