



DATA PROCESSING ADDENDUM

This DATA PROCESSING ADDENDUM (“**DPA**”) forms part of and is incorporated into the Terms of Service or other written or electronic terms of service or subscription agreement (“**Agreement**”) entered into by Clumio, Inc., a Delaware corporation, headquartered at 4555 Great America Parkway, Suite 240, Santa Clara, CA 95054 USA (“**Clumio**”), and the legal entity defined as Customer thereunder (“**Customer**”). Clumio and Customer may be referred to in this DPA individually as a “party” and collectively as the “parties.” By entering into the Agreement, Customer and Clumio agree to be bound by the terms of this DPA.

1. **Definitions.** Capitalized terms not specifically defined in this DPA will have the meanings given to them in the Agreement.

1.1. “**BAA**” means a business associate agreement as made available by Clumio at <https://clumio.com/legal/baa/> and executed by the parties, if applicable.

1.2. “**CCPA**” means the California Consumer Privacy Act of 2018, as amended by the California Privacy Rights Act of 2020 (Cal. Civil Code § 1798.100 et seq.), as may be amended, superseded or replaced from time to time.

1.3. “**Data Controller**” means an entity that determines the purposes and means of the Processing of Personal Data, and includes the term “business” as defined under the CCPA.

1.4. “**Data Processor**” means an entity that Processes Personal Data on behalf of a Data Controller, and includes the term “service provider” as defined under the CCPA.

1.5. “**Data Protection Laws**” means all privacy or data protection laws applicable to the Processing of Personal Data under the Agreement, including, where applicable, European Data Protection Laws, the CCPA, and other US state privacy laws that are similar to or based on the CCPA.

1.6. “**Data Subject**” means the identified or identifiable natural person to whom Personal Data relates.

1.7. “**EEA**” means the European Economic Area.

1.8. “**European Data Protection Laws**” means (i) the European Union General Data Protection Regulation (“**GDPR**”) and Member State laws implementing or supplementing the GDPR; (ii) the GDPR as saved into UK law by virtue of section 3 of the European Union (Withdrawal) Act 2018 (“**UK GDPR**”); and (iii) the Swiss Federal Act on Data Protection and its ordinance (“**Swiss FADP**”); in each case as may be amended, superseded or replaced from time to time.

1.9. “**Personal Data**” means any Customer Data relating to an identified or identifiable natural person that Clumio Processes as a Data Processor in performing the Services.

1.10. “**Process**” means any operation or set of operations performed on Personal Data, including collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, transmission, dissemination, combination, or deletion. The terms “Processing”, “Processes” and “Processed” will be construed accordingly.

1.11. “**Security Breach**” means a breach of security of the Services leading to accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data stored or otherwise Processed by Clumio or its Sub-Processors.

1.12. “**Services**” means the services provided by Clumio as set forth in the Agreement. Services may include Clumio’s software-as-a-service offerings which Customer may purchase as a subscription for a defined term (“**SaaS Service**”) and/or Clumio’s generally available support services.

1.13. “**Standard Contractual Clauses**” or “**SCCs**” means the standard contractual clauses annexed to the European Commission's Implementing Decision 2021/914 of 4 June 2021, as made available by the [Publications Office of the European Union](#).

1.14. “**Sub-Processor**” means any third-party Data Processor engaged by Clumio or its Affiliates to Process Personal Data.

1.15. “**UK**” means the United Kingdom.

1.16. The terms “**business**,” “**business purposes**,” “**sale**,” “**service provider**,” “**share**,” and “**supervisory authority**” will have the meanings given to those terms under applicable Data Protection Laws.

2. **Scope and Applicability of this DPA.** This DPA applies where and to the extent that Clumio Processes Personal Data on behalf of Customer as a Data Processor in the course of providing the Services. The subject-matter of the Processing covered by this DPA is the provision of the Services. [Schedule 1](#) of this DPA describes the nature and purpose of the Processing, types of Personal Data, categories of Data Subjects, and other details of Processing. It is the parties’ intent that any ambiguity under this



DPA will be interpreted consistently with the intent to comply with applicable laws, including without limitation, Data Protection Laws.

3. **Roles of the Parties.** As between the parties, Clumio acts as a Data Processor and Customer acts as a Data Controller or Data Processor of Personal Data. Clumio will process Personal Data only as a Data Processor on behalf of Customer. To the extent that Customer is a Data Processor acting on behalf of a third-party Data Controller, Customer warrants that its instructions and appointment of Clumio have been authorized by the Data Controller and Customer will act as sole point of contact for any information or assistance that Clumio provides as a Data Processor in connection with this DPA.

4. **Customer Instructions.** Clumio will process Personal Data solely to provide the Services in accordance with Customer's documented instructions as set out in the Agreement (including this DPA), as required by applicable law, or as otherwise agreed by the parties in writing. Customer will ensure that its Processing instructions are lawful and that the Processing of Personal Data in accordance with such instructions will not violate Data Protection Laws. For the purposes of this DPA, Customer instructs Clumio to Process Personal Data to provide and support the Services as documented in the Agreement (including this DPA). The parties agree that the Agreement (including this DPA) sets out Customer's complete and final instructions to Clumio for the Processing of Personal Data, unless otherwise agreed by the parties in writing. If Clumio is required by applicable law or any supervisory authority to Process Personal Data other than in accordance with Customer's instructions, Clumio will inform Customer of that legal requirement prior to such Processing, unless prohibited by applicable law.

5. **Customer's Processing Obligations.** Customer agrees that it: (i) will comply with its obligations under Data Protection Laws with respect to its Processing of Personal Data; (ii) will make appropriate use of the Services to ensure a level of security appropriate to the nature of the Personal Data; and (iii) has provided all notices and obtained all consents, permissions, and rights necessary under Data Protection Laws for Clumio to lawfully Process Personal Data on Customer's behalf in accordance with the Agreement (including this DPA). As between Customer and Clumio, Customer will be responsible for the means by which Customer collected or acquired Personal Data, and for the accuracy, quality, and legality of the Personal Data provided to Clumio by or on behalf of Customer.

6. **Confidentiality.** Clumio will ensure that any employees or personnel it authorizes to Process Personal Data are subject to an appropriate duty of confidentiality.

7. **Authorized Sub-Processors.**

7.1. **Authorization.** Customer agrees that Clumio may use Sub-Processors to Process Personal Data for the purpose of providing the Services to Customer. Customer specifically authorizes the engagement of those Sub-Processors listed at <https://clumio.com/legal/subprocessors/> ("**Sub-Processor Page**") and provides general written authorization to Clumio to engage further Sub-Processors as necessary to perform the Services. Clumio will enter into a written agreement with each Sub-Processor imposing on the Sub-Processor data protection obligations comparable to those imposed on Clumio under this DPA with respect to the protection of Personal Data. If a Sub-Processors fails to fulfil its obligations under such written agreement with Clumio, Clumio will remain liable to Customer for the performance of the Sub-Processor's obligations under such agreement.

7.2. **Changes to Sub-Processors.** Clumio will notify Customer of any new Sub-Processors in writing (in accordance with the notification requirements under the Agreement) at least thirty (30) days before such new Sub-Processor Processes Personal Data. Customer may object to Clumio's appointment of the new Sub-Processor within ten (10) days of Clumio's notice thereof, provided that such objection is in writing and is based on reasonable grounds relating to data protection for such objection. If Customer can reasonably demonstrate that the new Sub-Processor is unable to Process Personal Data in compliance with the terms of this DPA, and Clumio cannot provide an alternative Sub-Processor, or the parties are not otherwise able to achieve resolution, Customer, as its sole and exclusive remedy, may terminate the applicable Order(s) only with respect to those portions of the Services which cannot be provided by Clumio without the use of the new Sub-Processor by providing written notice to Clumio. In such event, Customer will (i) pay all amounts due for the Service up to the effective date of such termination; and/or (ii) receive a prorated refund of amounts pre-paid to Clumio for Customer's use of the affected portions of the Service for the remainder of the Subscription Term. If Customer does not object to the engagement of a new Sub-Processor in accordance with this Section 7.2, Customer will be deemed to have authorized such Sub-processor for the purposes of this DPA and Clumio will post an updated list of Sub-Processors on the Sub-Processor Page.

8. **Security.**

8.1. **Security Measures.** Taking into account the state of the art, the costs of implementation, and the nature, scope, context and purposes of Processing, Clumio will implement reasonable technical and organizational safeguards designed to protect



Personal Data in its possession or under its control against unauthorized loss, destruction, alteration, access, or disclosure, in accordance with the Clumio Security Policy made available at <https://clumio.com/legal/security-policy/> (“**Security Policy**”). Clumio may modify such safeguards from time to time by posting an updated Security Policy at the forgoing URL (or a successor URL provided by Clumio to Customer), provided that such modifications will not materially reduce the overall level of protection of Personal Data.

8.2. **Security Breach.** If Clumio discovers that a Security Breach has occurred, Clumio will notify Customer promptly unless otherwise prohibited by law or otherwise instructed by law enforcement or a supervisory authority. Such notification will provide information about the nature and likely consequences of the Security Breach and how to request additional information if required. In addition to providing such notification, Clumio will promptly take reasonable steps to stop and remediate the effects of the Security Breach. Clumio's obligation to notify a Security Breach under this Section 8.2 will not be construed as an acknowledgement by Clumio of any fault or liability with respect to the Security Breach.

9. **Data Transfers.**

9.1. **Transfers Generally.** Clumio will not transfer or Process Personal Data in geographic locations except in accordance with the Agreement and the safeguards provided in this Section 9. Notwithstanding Clumio's hosting commitments in the Agreement, Customer acknowledges and agrees that Clumio may access and Process Personal Data on a global basis as necessary to provide the Services, and in particular that Personal Data may be accessed and Processed by Clumio, Inc. in the United States and other jurisdictions where Clumio Affiliates and Sub-Processors have Processing operations. If Clumio transfers Personal Data to a jurisdiction that has not been found to provide an adequate level of protection under applicable Data Protection Laws, Clumio will ensure that appropriate safeguards have been implemented for the transfer of Personal Data in accordance with Data Protection Laws. Clumio does not control or limit the geographic locations where Customer (or Customer's Users) may access or transfer Personal Data.

9.2. **Transfer Mechanisms.** To the extent that Clumio Processes Personal Data that originates from the EEA, UK, or Switzerland in a country that does not provide adequate protection for such data (as determined by applicable Data Protection Laws), the parties hereby enter into the Standard Contractual Clauses as follows:

9.2.1. **EEA Transfers.** For transfers of Personal Data originating from the EEA:

- 9.2.1.1. **Identity of the parties:** The data exporter is Customer and the data importer is Clumio, Inc.;
- 9.2.1.2. **Module:** Module Two (controller to processor) applies where Customer is a Data Controller and Module Three (processor to processor) applies where Customer is a Data Processor of Personal Data;
- 9.2.1.3. **Annexes:** Annex I shall be deemed completed with the information set out in Schedule 1 to this DPA and Annex B shall be deemed completed with the information set out in Schedule 2 to this DPA, subject to Section 8.1.
- 9.2.1.4. **Specific Provisions:**
 - a) In Clause 7, the parties do not select the docking clause.
 - b) In Clause 9, the parties select Option 2 (“general authorization”) and the time period for notice of Sub-processor changes is set out in Section 7.2 of the DPA.
 - c) In Clause 11, the parties do not select the independent dispute resolution clause.
 - d) In Clauses 17 and 18(b), the parties agree that the jurisdiction is the EU Member State in which Customer is established or, if Customer is not established in an EU Member State, the Republic of Ireland.
- 9.2.1.5. **Conflicts:** In the event of any conflict or inconsistency between this DPA and the SCCs, the SCCs will prevail.

9.2.2. **UK Transfers.** For transfers of Personal Data originating from the UK, the SCCs as implemented under Section 9.2.1 above shall apply with the following modifications:

- 9.2.2.1. **UK Addendum:** The SCCs shall be modified and interpreted in accordance with Part 2 of the UK International Data Transfer Addendum (“**UK Addendum**”), which shall be deemed incorporated into and form an integral part of the DPA;



9.2.2.2. *Tables:* Tables 1, 2, and 3 in Part 1 of the UK Addendum shall be deemed completed with the information set out in this DPA, and Table 4 in Part 1 of the UK Addendum shall be deemed completed by selecting "neither party";

9.2.2.3. *Conflicts:* Any conflict between the terms of the SCCs and the UK Addendum will be resolved in accordance with Section 10 and Section 11 of the UK Addendum.

9.2.3. *Swiss Transfers.* For transfers of Personal Data originating from Switzerland, the SCCs as implemented under Section 9.2.1 above shall apply but references in the SCCs shall be interpreted to include applicable terminology for Switzerland (e.g., "Member State" shall be interpreted to mean "Switzerland").

9.2.4. *Alternative Transfer Mechanism.* In the event that Clumio adopts an alternative transfer mechanism to the SCCs, such alternative transfer mechanism will apply instead of the SCCs described in Section 9.2 of this DPA but only to the extent such alternative transfer mechanism complies with applicable Data Protection Laws and extends to the territories to which Personal Data is transferred.

10. **Data Protection Impact Assessments.** Where required under applicable Data Protection Laws, Clumio will provide reasonable assistance to Customer with data protection impact assessments and prior consultations with supervisory authorities, in each case solely in relation to the Processing of Personal Data by Clumio and taking into account the nature of the Processing and information available to Clumio.

11. **Requirements for CCPA.** For the purposes of the CCPA, Clumio will not retain, use, or disclose Personal Data for any purpose other than for the specific purpose of providing the Service, or as otherwise permitted by the CCPA. Clumio acknowledges and agrees that it will not retain, use, or disclose Personal Data for a commercial purpose other than providing the Services and will not (i) "sell" or "share" any Personal Data within the meaning of the CCPA; (ii) combine Personal Data with information received from another source; or (iii) use Personal Data outside of the direct relationship between Customer and Clumio, except with Customer's prior written consent or as necessary to provide the Service or comply with applicable law. Clumio will provide the same level of protection for Personal Data as required by the CCPA and promptly notify Customer if it cannot meet its obligations under the CCPA. To the extent required by the CCPA, Customer may take reasonable and appropriate steps to ensure that Clumio's Processing of Personal Data is consistent with Customer's obligations under the CCPA and, if necessary, stop and remediate any unauthorized use of Personal Data. Section 11 of this DPA only applies to the Processing of Personal Data that is subject to the CCPA.

12. **Audits.** Clumio uses external auditors to verify the adequacy of its security measures, including the security of the physical facilities from which Clumio provides the SaaS Services. This audit: (i) will be performed at least annually; (ii) will be performed according to ISO 27001 and/or SSAE 18 standards or substantially equivalent alternative standards; (iii) will be performed by independent third-party security professionals at Clumio's selection and expense; and (iv) will result in the generation of a SOC 2 audit report ("**Audit Report**"), which will be Clumio's Confidential Information. At Customer's written request, and provided that the parties have applicable confidentiality terms in place, Clumio will provide Customer with a copy of the Audit Report so that Customer can verify Clumio's compliance with its obligations under this DPA. Customer agrees that the Audit Report, together with any third-party certification (e.g., ISO 27001) maintained by Clumio, will be used to satisfy any audit or inspection requests by or on behalf of Customer and to demonstrate compliance with this DPA (including the SCCs, where applicable).

13. **Data Subject Requests.** To the extent legally permitted, Clumio will promptly notify Customer if Clumio receives a request from a Data Subject that identifies Customer and seeks to exercise the Data Subject's rights under Data Protection Laws ("**Data Subject Request**"). Clumio shall, at Customer's request, where possible and taking into account the nature of the Processing applicable to the Data Subject Request, reasonably assist Customer in complying with Customer's obligation to respond to such Data Subject Request provided that (i) Customer is itself unable to respond without Clumio's assistance; and (ii) Clumio is able to do so in accordance with applicable laws, rules, and regulations. Customer shall be responsible for any costs and expenses arising from such assistance provided by Clumio. Customer also understands that the SaaS Services provide Customer with a number of controls that Customer may use to assist it in responding to Data Subject Requests, and that Clumio likely does not have access to Personal Data sufficient to respond to Data Subject Requests.

14. **Term and Termination.** This DPA will become effective upon the effective date of the Agreement and expire on the earlier of (i) an authorized termination in accordance with this DPA; (ii) the natural expiration or termination of the Agreement; or (iii) the execution of an updated DPA that supersedes this DPA.



15. **Return or Destruction.** Upon termination or expiration of the Agreement for any reason (i) Customer may retrieve or delete all Personal Data, as may be further described in the Agreement, and (ii) Clumio will delete all Personal Data as described in the Agreement, unless otherwise required by applicable law.
16. **Limitation of Liability.** **The total liability of each of Customer and Clumio (and their respective employees, directors, officers, affiliates, successors, and assigns), arising out of or related to this DPA, whether in contract, tort, or other theory of liability, when taken together in the aggregate, shall be subject to the exclusions and limitations of liability set forth in the Agreement.**
17. **General Terms.** The parties agree that this DPA will replace and supersede any existing data processing agreement that the parties may have previously entered into in connection with the Services. Except as provided by this DPA, the Agreement remains unchanged and in full force and effect. Except as updated by Clumio for the purpose of addressing changes to Data Protection Laws, this DPA may only be amended in a writing signed by duly authorized representatives of the parties. If any provision of this DPA is held to be invalid or unenforceable, that provision will be limited to the minimum extent necessary so that this DPA will otherwise remain in effect. Any waiver or failure to enforce any provision of this DPA on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. This DPA may be executed in the original or other electronic means. This DPA will be governed by and construed in accordance with governing law and jurisdiction provisions in the Agreement. Nothing in this DPA is intended to create an agency relationship between the parties.
18. **Priority of Terms.** To the extent there is a conflict between the Agreement and the terms of this DPA, the terms of this DPA will prevail in connection with the Processing of Personal Data. Notwithstanding the foregoing, and solely to the extent applicable to any Personal Data comprised of patient, medical, or other protected health information regulated by the Health Insurance Portability and Accountability Act (“**HIPAA**”) or any similar U.S. federal or state health care laws, rules, or regulations (“**HIPAA Data**”), if there is any conflict between this DPA and the BAA, then the BAA will prevail solely with respect to such HIPAA Data.



**SCHEDULE I
DATA PROCESSING APPENDIX**

A. Parties

Customer	Shall be the entity identified in the Agreement
Role of Customer	For purposes of the Agreement and this DPA, Customer is either a Data Controller or Data Processor. To the extent of any cross-border data transfers described in Section 9 of the DPA, Customer is the data exporter under the Standard Contractual Clauses.
Address	The Customer's address, as set out in the Agreement or the applicable ordering document executed pursuant to the Agreement (" Order Form ") (as applicable).
Contact Person's Name, Position, and Contact Details	The Customer's contact details, as set out in the Order Form or Agreement (as applicable).

Clumio	Clumio, Inc.
Role of Clumio	For purposes of the Agreement and this DPA, Clumio is a Data Processor. To the extent of any cross-border data transfers described in Section 9 of the DPA, Clumio is the data importer under the Standard Contractual Clauses.
Address	4555 Great America Parkway, Suite 240, Santa Clara, CA 95054, USA
Contact Person's Name, Position, and Contact Details	Glenn Mulvaney, Vice President of Cloud Operations and Security, privacy-requests@clumio.com

B. Description of Processing and Transfer

Categories of Data Subjects	<p>Customer may submit Personal Data to the Service, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of Data Subjects:</p> <ul style="list-style-type: none"> ● Prospects, customers, business partners, and vendors of Customer (who are natural persons) ● Employees or contact persons of Customer's prospects, customers, business partners, and vendors ● Employees, agents, advisors, freelancers of Customer (who are natural persons) ● Customer's Users authorized by Customer to use the Service
Categories of Personal Data	<p>Customer may submit Personal Data to the Service, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:</p> <ul style="list-style-type: none"> ● Any Personal Data provided by the Customer to the Service ● Login information and any other Personal Data Provided by Customer to Clumio
Categories of sensitive data	Customer may submit Personal Data to the Service, the extent of which is determined and controlled by Customer in its sole discretion, and which may include sensitive data.
Frequency of the transfer	Continuous
Nature of the Processing and transfer	The Processing and transfer is necessary to enable Clumio to comply with its obligations and exercise its rights under the Agreement, and may include the 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 of Personal Data.
Purpose of the Processing and transfer	Clumio agrees to process Personal Data for limited and specified purposes described in the Agreement, or as otherwise directed by authorized personnel of Customer in writing (email acceptable).



Duration of the Processing	Clumio agrees to process Personal Data solely as instructed in the Agreement for the duration of the provision of the Services to Customer, and the longer of such additional period as (i) is specified in any provisions of the Agreement regarding data retention; and (ii) is required for compliance with applicable laws, rules, and regulations.
Sub-processor transfers	Transfers to Sub-processors will occur where necessary for the provision of the Services in accordance with the Agreement.
Competent Supervisory Authority	EEA Data Subjects: Irish Data Protection Commissioner UK Data Subjects: UK Information Protection Commissioner Swiss Data Subjects: Swiss Federal Data Protection Information Commissioner
Consideration in exchange for Processing	The parties acknowledge and agree that Clumio receives no monetary or other valuable consideration in exchange for Personal Data.



SCHEDULE 2

TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.

Clumio's technical and organizational security measures shall be as set forth in the Security Policy.