

## OCTOLAN DATA PROTECTION ADDENDUM

This Data Protection Addendum ("**Addendum**") forms a part of the Master Terms (the "**Principal Agreement**") available at <https://octolan-tech.com/legal-docs/> by and between: (i) Octolan Technology, Inc. and its Affiliates (collectively, "**Company**") and (ii) Client and its respective Affiliates (collectively, "**Client**").

The terms used in this Addendum shall have the meanings set forth in this Addendum. Capitalized terms not otherwise defined herein shall have the meaning given to them in the Principal Agreement. Except as modified below, the terms of the Principal Agreement shall remain in full force and effect.

In consideration of the mutual obligations set out herein, the Parties hereby agree that the terms and conditions set out below shall be added as an Addendum to the Principal Agreement. Except where the context requires otherwise, references in this Addendum to the Principal Agreement are to the Principal Agreement as amended by, and including, this Addendum.

### 1. Definitions

- 1.1 In this Addendum, the following terms shall have the meanings set out below and cognate terms shall be construed accordingly:
  - 1.1.1 "**Applicable Laws**" means, insofar as any Party is subject thereto, any (a) US Data Protection Laws relating to any Shared Personal Data; (b) EU Data Protection Laws with respect to any Shared Personal Data; (c) the UK General Data Protection Regulation (UK GDPR) and the UK Data Protection Act 2018; and (d) any Data Protection Laws or other applicable law relating to any Shared Personal Data; all as amended, replaced, or superseded from time to time;
  - 1.1.2 "**Affiliate**" means, with respect to a Party, any entity that directly or indirectly controls, is controlled by, or is under common control with such Party, whereby "control" (including, with correlative meaning, the terms "controlled by" and "under common control") means the possession, directly or indirectly, of the power to direct, or cause the direction of the management and policies of such person, whether through the ownership of voting securities, by contract, or otherwise;
  - 1.1.3 "**Business Day**" means a day, other than a Saturday, Sunday, or public holiday, on which clearing banks are open for non-automated commercial business in City of Minneapolis, Minnesota;
  - 1.1.4 "**Contracted Processor**" means any Processor (excluding employees of Company) appointed by Company to Process Shared Personal Data in connection with this Addendum or the Principal Agreement;
  - 1.1.5 "**Data Protection Laws**" means US Data Protection Laws, EU Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;
  - 1.1.6 "**EEA**" means the European Economic Area;
  - 1.1.7 "**US Data Protection Laws**" means:

- 1.1.7.1 The California Consumer Privacy Act (“CCPA”), including any regulations promulgated thereunder, and any amendments, replacements, or successors thereto; and
- 1.1.7.2 Any other applicable US federal or state data protection or privacy laws and any amendments, replacements, or successors thereto.
- 1.1.8 **“EU Data Protection Laws”** means:
  - 1.1.8.1 The EU General Data Protection Regulation 2016/679 (“GDPR”), as transposed into domestic legislation of each Member State and any amendments, replacements, or successors thereto; and
  - 1.1.8.2 Any other applicable EU or Member State data protection or privacy laws and any amendments, replacements, or successors thereto.
- 1.1.9 **“Party”** and/or **“Parties”** means the Parties to this Addendum, namely Company and Client.
- 1.1.10 **“Shared Personal Data”** means any Personal Data or Personal Information shared between the Parties pursuant this Addendum, or in connection with the Principal Agreement.
- 1.2 The terms **“Business Purpose”**, **“Commission”**, **“Contractor”**, **“Controller”**, **“Data Subject”**, **“Member State”**, **“Personal Data”**, **“Personal Information”**, **“Personal Data Breach”**, **“Processor”**, **“Processing”**, **“Service Provider”** and **“Supervisory Authority”** shall have the same meaning as in the Applicable Laws, and their cognate terms shall be construed accordingly.
- 1.3 The word **“include”** shall be construed to mean include without limitation, and cognate terms shall be construed accordingly.

## 2. **Data Sharing and Processing**

- 2.1 This Addendum sets out the exclusive framework for the sharing and Processing of Personal Data between the Parties, and defines the principles and procedures that the Parties shall adhere to, the rights of the Parties, and the responsibilities the Parties owe to each other.
- 2.2 Client hereby designates Company as a Service Provider and Processor for processing Shared Personal Data under Applicable Laws.

## 3. **Permitted Recipients**

- 3.1 The Shared Personal Data may be accessed by the Parties to this Addendum, employees and agents of each Party, the Data Subject to which the Shared Personal Data pertains, and any Contracted Processor in connection with this Addendum, subject to the other provisions of this Addendum.
- 3.2 Client authorizes Company (and authorizes Company to instruct each Contracted Processor) to Process Shared Personal Data solely for the purposes of the Principal

Agreement, and to transfer Shared Personal Data to any country or territory, as reasonably necessary for the provision of the services under the Principal Agreement.

#### **4. Data Quality**

- 4.1 Client shall ensure that Shared Personal Data provided to Company is accurate and current. Where Client becomes aware of inaccuracies in Shared Personal Data, Client shall promptly notify Company in writing of such inaccuracies.

#### **5. Security**

- 5.1 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing, as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the Parties shall in relation to the Shared Personal Data implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, and protect against accidental loss, destruction, alteration or damage to the Shared Personal Data. In assessing the appropriate level of security, Client and Company shall take account in the risks that are presented by Processing, and in particular risks of a Personal Data Breach.
- 5.2 The Parties shall take reasonable steps to ensure the reliability of any employee, agent, or contractor of any Contracted Processor who may have access to the Shared Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know or access the relevant Shared Personal Data, as necessary for the purposes of the Principal Agreement, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.
- 5.3 Company shall make available, on request, to Client information necessary to demonstrate compliance with this Addendum. Company shall cooperate in legally required audit efforts by Client, at Client's sole expense and upon commercially reasonable notice by Client, at least once every twelve (12) months (including, but not limited to, ongoing manual reviews, automated scans, regular assessments, audits, or other technical and operational testing). Client may take reasonable and appropriate steps to stop and remediate unauthorised use of personal information.

#### **6. Data Subject Rights**

- 6.1 The Parties agree that the responsibility for responding to a request from a Data Subject regarding Shared Personal Data under any Data Protection Law falls to Client.
- 6.2 Taking into account the nature of the Processing, Company shall assist Client by implementing appropriate technical and organizational measures, insofar as this is reasonably possible, to enable the fulfillment of Client's obligations, as reasonably understood by Client, to respond to requests to exercise Data Subject rights under the Data Protection Laws.
- 6.3 Company shall:

- 6.3.1 notify Client within ten (10) Business Days if Company receives a request from a Data Subject, either directly or from a Contracted Processor, under any Data Protection Law regarding Shared Personal Data; and
- 6.3.2 not respond to any such Data Subject request except as required by Applicable Laws to which the Company is subject, in which case Company shall to the extent permitted by Applicable Laws inform Client of that legal requirement before responding to the request.

**7. Personal Data Breach**

- 7.1 The Parties agree that the responsibility for notifying the relevant Supervisory Authority of any Personal Data Breach falls to Client.
- 7.2 Company shall notify Client without undue delay upon Company becoming aware of a Personal Data Breach affecting Shared Personal Data, and at that time shall provide Client with information to allow Client to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the Data Protection Laws. Such notification shall:
  - 7.2.1 describe the nature of the Personal Data Breach, the categories and numbers of Data Subjects concerned, and the categories and numbers of Personal Data records concerned;
  - 7.2.2 communicate the name and contact details of Company's data protection officer or other relevant contact from whom more information may be obtained;
  - 7.2.3 describe the likely consequences of the Personal Data Breach; and
  - 7.2.4 describe the measures taken or proposed to be taken to address the Personal Data Breach;

provided that, (without prejudice to the above obligations) if Company cannot provide all these details within the timeframes set out in this Section 7.2, it shall (before the end of such timeframes) provide Client with the reasons for the delay, and when it expects to be able to provide the relevant details (which may be provided in phases), and give Client regular updates on these matters.

- 7.3 Client agrees to notify Company without undue delay upon Client becoming aware of a Personal Data Breach affecting Shared Personal Data, and provide Company with sufficient information to allow Company to meet any obligations under the Data Protection Laws or this Addendum.
- 7.4 The Parties agree to provide reasonable assistance as is necessary to each other to facilitate the handling of any Personal Data Breach in an expeditious and compliant manner.

## **8. Resolution of Disputes with Data Subjects or the Supervisory Authority**

8.1 The Parties shall provide one another with full cooperation and assistance as reasonably requested by either Party in relation to any complaint, communication, or lawful request made in relation to the Processing of the Shared Personal Data.

## **9. Indemnification**

9.1 Client shall defend, indemnify, and hold Company harmless against all damages finally awarded or paid in settlement of a third party claim brought against Company arising out of any breach by Client of the Data Protection Laws, or Client's obligations under this Addendum.

9.2 Company shall defend, indemnify, and hold Client harmless against all damages finally awarded or paid in settlement of a third party claim brought against Client arising out of any breach by Company of the Data Protection Laws, or Company's obligations under this Addendum.

9.3 In no event shall Company's aggregate liability arising out of or related to this Addendum, whether in contract, tort, or under any other theory of liability, exceed the amounts actually paid by or due from Client for the Services under the Principal Agreement over the twelve (12) months prior to the event giving rise to liability. In no event shall Company have any liability for any lost profits, loss of data, loss of use, or for any indirect, special, incidental, punitive, or consequential damages however caused, and, whether in contract, tort, or under any other theory of liability, whether or not Client has been advised of the possibility of such damage.

9.4 The provisions of this Section 9 shall survive any termination of this Addendum.

## **10. Warranties**

10.1 Each Party warrants and undertakes to the other Party that:

10.1.1 it has the right, power and authority to enter into this Addendum and to perform its obligations under this Addendum;

10.1.2 to its knowledge there are no threatened or pending or actual court or regulatory actions, suits, or proceedings against or affecting that Party which might affect the ability of that Party to meet and carry out its obligations under this Addendum;

10.1.3 it is financially solvent and able to perform all of its obligations under this Addendum; and

10.1.4 entering this Addendum will not cause that Party to be in breach of any other contract to which it is a Party or to be in breach of any statutory or other legal requirement.

10.2 Client further warrants that:

10.2.1 the Shared Personal Data has been, and will continue to be collected, processed, and transferred in accordance with the Data Protection Laws as applicable to that Shared Personal Data;

10.2.2 where Client or Company seek to rely on the consent of a Data Subject in order to Process the Shared Personal Data, such consents have been recorded

accurately, and evidence of such consents, and the applicable privacy notice and fair Processing information, have been provided to the Company together with the Shared Personal Data; and

10.2.3 where the Shared Personal Data includes Personal Data that has been received by Client from a third party, or has been Processed by a third party on behalf of Client, it has in place arrangements with those third parties which are adequate to permit Client to share the Shared Personal Data with the Company, and for the Company to Process such data for the purposes of the Principal Agreement, and otherwise in accordance with this Addendum.

10.3 Company further warrants that it will:

10.3.1 process the Shared Personal Data in accordance with the Data Protection laws as applicable to that Shared Personal Data;

10.3.2 not retain, use, or disclose Shared Personal Data for any purpose other than for the limited and specific Business Purpose of performing the services specified in the Principal Agreement, or as otherwise permitted or required by Applicable Laws;

10.3.3 not combine Shared Personal Data received from or on behalf of Client with Personal Data received or collected in other contexts in any manner that does not comply with Applicable Laws;

10.3.4 notify Client if it can no longer meet its obligations under the CCPA.

10.3.5 notify Client of such engagement, and implement procedures so that any third party it authorizes to have access to the Shared Personal Data, including Contracted Processors, will respect and maintain the confidentiality and security of the Shared Personal Data, including complying with the same restrictions placed on Company under the CCPA. Any person acting under the authority of the Company, including a Contracted Processor, shall be obligated to process the Shared Personal Data only on instructions from Company. This provision does not apply to persons authorized or required by law or regulation to have access to the Shared Personal Data;

10.3.6 use its reasonable efforts to provide requested assistance to Client regarding compliance efforts as required under the Data Protection Laws; and

10.3.7 process the Shared Personal Data solely consistent with the Principal Agreement.

10.4 If Company is acting as a Contractor as defined under the CCPA, Company certifies that it understands the restrictions required under the CCPA and will comply with them.

## **11. General Terms**

### *Governing Law and Jurisdiction*

11.1 The Parties to this Addendum hereby submit to the choice of jurisdiction stipulated in the Principal Agreement with respect to any disputes or claims howsoever arising under this Addendum, including disputes regarding its existence, validity or termination or the consequences of its nullity.

11.2 This Addendum and all non-contractual or other obligations arising out of or in connection with it are governed by the laws of the country or territory stipulated for this purpose in the Principal Agreement.

*Order of Precedence*

- 11.3 In the event of inconsistencies between the provisions of this Addendum and any other agreements between the Parties, including the Principal Agreement and including (except where explicitly agreed otherwise in writing signed on behalf of the Parties) agreements entered into or purported to be entered into after the date last signed by the Parties, the provisions of this Addendum shall prevail.

*Changes in Data Protection Laws, etc.*

- 11.4 A Party may provide notice to the other Party of any variations to this Addendum which a Party reasonably considers to be necessary to address the requirements of any Data Protection Law.
- 11.5 If a Party gives notice under Section 11.4, the Parties shall promptly discuss the proposed variations and negotiate in good faith with a view to agreeing and implementing those or alternative variations designed to address the requirements identified in the proposing Party's notice as soon as is reasonably practicable.

*Severance*

- 11.6 Should any provision of this Addendum be invalid or unenforceable, then the remainder of this Addendum shall remain valid and in force. The invalid or unenforceable provision shall be either (i) amended as necessary to ensure its validity and enforceability, while preserving the Parties' intentions as closely as possible or, if this is not possible, (ii) construed in a manner as if the invalid or unenforceable part had never been contained therein.

This Addendum is entered into and becomes a binding part of the Principal Agreement with effect from the date first set out above, thereafter terminating upon the cessation of Processing under the Principal Agreement.