

Addendum
Standard Contractual Clauses
(processors)

June 2020

Contour Data Solutions

4259 West Swamp Road, Suite 301

Doylestown, PA 18902

These Standard Contractual Clauses are subject to and part of the Security, Privacy, and Data Processing Addendum to the Contour Master Cloud and Managed Services Agreement (the “Agreement”) between Contour Data Solutions LLC (“Contour”) and Customer. Any capitalized terms that are not defined in this Addendum shall have the meanings set forth in the Agreement.

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection

Name of the data exporting organization: The entity or entities identified as Customer in the Agreement.

Address: Customer’s address specified in the Agreement.

Tel.: Customer’s telephone number specified in the Agreement; **fax:** Customer’s fax number specified in the Agreement; **e-mail:** Customer’s email address specified in the Agreement

Other information needed to identify the organization: Customer’s jurisdiction of formation specified in the Agreement

(the **data exporter**)

And

Name of the data importing organization: Contour Data Solutions, LLC

Address: 4259 West Swamp Road, Suite 301, Doylestown, PA 18902, U.S.A.

Tel.: Customer’s telephone number specified in the Agreement; **fax:** Customer’s fax number specified in the Agreement; **e-mail:** Customer’s email address specified in the Agreement

Other information needed to identify the organization: Pennsylvania limited liability company

(the **data importer**)

each a ‘party’; together ‘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**.

Clause 1

Definitions

For the purposes of the Clauses:

Term	Definitions
Personal Data Special Categories of Data Process/Processing Controller Processor Data Subject Supervisory Authority	<p>'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;</p>
The Data Exporter	<p>'the data exporter' means the controller who transfers the personal data;</p>
The Data Importer	<p>'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;</p>
The Sub Processor	<p>'the sub processor' means any processor engaged by the data importer or by any other sub processor of the data importer who agrees to receive from the data importer or from any other sub processor 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;</p>
The Applicable Data Protection Law	<p>'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;</p>
Technical and Organizational Security Measures	<p>'technical and organizational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.</p>

Clause 2
Details of the Transfer

- a. The details of the transfer and the special categories of personal data where applicable are specified in **Appendix 1** which forms an integral part of the Clauses.

Clause 3
Third-party Beneficiary Clause

- a. 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.
- b. 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.
- c. The data subject can enforce against the sub processor 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 sub processor shall be limited to its own processing operations under the Clauses.
- d. 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.

Clause 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 organizational 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, unauthorized 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 sub processor 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 sub processing 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 sub processing, the processing activity is carried out in accordance with **Clause 11** by a sub processor 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)**.

Clause 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 organizational security measures specified in **Appendix 2** before processing the personal data transferred;

d. That it will promptly notify the data exporter about:

(1) 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,

(2) any accidental or unauthorized access, and

(3) any request received directly from the data subjects without responding to that request,

- unless it has been otherwise authorized 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 sub processing, 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 sub processing, it has previously informed the data exporter and obtained its prior written consent;
 - i.** that the processing services by the sub processor will be carried out in accordance with **Clause 11**;
 - j.** to send promptly a copy of any sub processor agreement it concludes under the Clauses to the data exporter.

Clause 6 **Liability**

- a.** 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 sub processor is entitled to receive compensation from the data exporter for the damage suffered.
- b.** 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 sub processor 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.
- c.** The data importer may not rely on a breach by a sub processor of its obligations to avoid its own liabilities.
- d.** 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 sub processor 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 sub processor agrees that the data subject may issue a claim against the data sub processor 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 sub processor shall be limited to its own processing operations under the Clauses.

Clause 7

Mediation and Jurisdiction

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

Clause 8

Cooperation with Supervisory Authorities

- a. 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.
- b. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any sub processor, 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.
- c. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any sub processor preventing the conduct of an audit of the data importer, or any sub processor, pursuant to **paragraph 2**. In such a case the data exporter shall be entitled to take the measures foreseen in **Clause 5 (b)**.

Clause 9

Governing Law

- a. The Clauses shall be governed by the law of the Member State in which the data exporter is established, namely the laws of the Member States of all data exporters.

Clause 10

Variation of the Contract

- a. 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 if they do not contradict the Clause.

Clause 11

Sub processing

- a. 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 sub processor which imposes the same obligations on the sub processor as are imposed on the data importer under the Clauses. Where the sub processor 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 sub processor's obligations under such agreement.

b. The prior written contract between the data importer and the sub processor 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 sub processor shall be limited to its own processing operations under the Clauses.

c. The provisions relating to data protection aspects for sub processing 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, namely the laws of the Member States of all data exporters.

d. The data exporter shall keep a list of sub processing 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.

Clause 12

Obligation after the termination of personal data processing services

a. The parties agree that on the termination of the provision of data processing services, the data importer and the sub processor 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.

b. The data importer and the sub processor 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**.

[Signature page to Standard Contractual Clauses (processors)]

On behalf of the data exporter:

Data Exporter Name (written out in full): [*Full legal name*]

Address: [*address*]

Fax: [*fax #*]

e-mail: [*email address where it can receive notices under these clauses*]

Signature: _____

Name: _____

Title: _____

Date: _____

On behalf of the data importer:

Data Importer Name (written out in full): Contour Data Solutions, LLC

Address: 4259 West Swamp Road, Suite 301, Doylestown, PA 18902, U.S.A.

Fax: [*fax #*]

e-mail: [*email address where Contour can receive notices under these clauses*]

Signature: _____

Name: _____

Title: _____

Date: _____

Appendix 1
to the Standard Contractual Clauses

See Exhibit A of the Security, Privacy, and Data Processing Addendum to the Agreement.

DATA EXPORTER

Name: _____

Authorized Signature _____

DATA IMPORTER

Name: _____

Authorized Signature _____

Appendix 2
to the Standard Contractual Clauses

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

Description of the technical and organizational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

See Exhibit B of the Security, Privacy, and Data Processing Addendum to the Agreement.

Revision History

Contour Data Solutions Public Information					
Type	Title	Date	Version	Description of Changes	Author
Addendum	Standard Contractual Clauses	05/05/2020	1.0	Initial Draft	Rocco Guerriero
Addendum	Standard Contractual Clauses	06/03/2020	1.0	Final Release	Rocco Guerriero
Addendum	Standard Contractual Clauses	06/08/2020	2.0	Complete review	Rocco Guerriero
Addendum	Standard Contractual Clauses	06/08/2020	2.0	Organizational Format / Layout Changes	Rocco Guerriero