

(Effective Date: May 25, 2018)

1. Scope and application

This Addendum will apply, on and from 25 May 2018, if required by Data Protection Legislation (as defined below) and only to the extent that, in providing any Fly My Cloud Services (including Middleware Platform and Bots) to You, Fly My Cloud processes as a processor personal data contained in or generated in relation to Your Member Content (the “**Data**”).

This Addendum forms part of your general TERMS AND CONDITIONS of using our website www.flymycloud.com (including any services such as Middleware Platform). In the event and to the extent of a conflict between the other terms of the service agreements including its Addenda or any other agreements between You and Fly My Cloud regarding the Data and this Addendum, this Addendum will prevail.

2. Definitions

In this Addendum:

“**controller**”, “**data subject**”, “**personal data**”, “**process**”, “**processor**” and “**supervisory authority**” each has the meaning given in the GDPR.

“**Data Protection Legislation**” means, as applicable: (i) EU Directive 95/46/EC (ii) GDPR, and in each case, any related national laws, legislation, rules or regulations, related to privacy and data protection (including legislation made under or in relation to (i) and (ii)). For clarity, a reference to Data Protection Legislation, includes a reference to Data Protection Legislation as amended, modified, extended, re-enacted, consolidated or replaced from time to time.

“**GDPR**” means Regulation (EU) 2016/679.

“**Standard Contractual Clauses**” means the standard contractual clauses approved by European Commission Decision 2010/87/EU (or any subsequent decisions) or as referred to in Article 46 GDPR.

“**The Agreement**”: This may refer to Fly My Cloud’s Middleware Platform License, Bot License or Profiler License

3. Description of processing

For the purposes of this Addendum, You (the controller or processor) appoint Fly My Cloud as Your processor to process the Data, for the duration of the Membership Agreement, for the purpose of providing the Fly My Cloud Services to You (the “**Permitted Purpose**”).

4. Data processing

In processing the Data under this Agreement, Fly My Cloud shall:

(a) only process the Data on Your documented instructions unless required otherwise by applicable law;

(b) ensure that all personnel authorised by Fly My Cloud to process the Data are subject to suitable confidentiality obligations;

(c) implement and maintain appropriate technical and organisational measures designed to protect the Data processed by Fly My Cloud against a personal data breach affecting such Data arising from a breach of Fly My Cloud's security (a "Security Incident"). Fly My Cloud may change those measures from time to time, but not so as to reduce the level of protection for Data. In the event of a confirmed Security Incident, Fly My Cloud shall notify You without undue delay and shall provide reasonable information and cooperation to You so that You can fulfil any data breach reporting obligations You may have under (and in accordance with the timescales required by) applicable Data Protection Legislation. Fly My Cloud shall further take any reasonably necessary measures and reasonably necessary actions to remedy or mitigate the effects of the Security Incident, and shall keep You informed of all material developments in connection with the Security Incident;

(d) be generally authorised to engage third party subcontractors to process the Data for the Permitted Purpose, provided that Fly My Cloud (i) shall remain fully liable for any of its subcontractors; (ii) shall maintain an up-to-date list which You can request by email compliance@flymycloud.com; and (iii) shall only work with a subcontractor it appoints to process any Data, that require it to protect such Data to at least the standard required by applicable Data Protection Legislation. You may object to Fly My Cloud's appointment or replacement of such a subcontractor before its appointment or replacement, provided such objection is based on reasonable grounds relating to data protection. In such event, Fly My Cloud will either not appoint or replace the relevant subcontractor or, if this is not possible, You may terminate the relevant Service and this Addendum to the extent it applies to that Service, but without prejudice to any fees or costs incurred by You for that Service before that termination and without prejudice to the any agreement (with Fly My Cloud), any other Services provided to You, and any fees or costs in relation to those other Services;

(e) assist You to respond to data subjects' requests to exercise their rights regarding any Data under applicable Data Protection Legislation by providing You with technical measures to enable You, to the extent consistent with the functionality of the Fly My Cloud Services and Fly My Cloud's role as a processor, to access, rectify, erase, restrict or export Data (and You agree that, taking into account the nature of the processing, this paragraph reflects the extent to which it is possible for Fly My Cloud to provide You with such assistance taking into account the nature of the processing). If a data subject, supervisory authority or any other party directly approaches Fly My Cloud with

any request, query or complaint regarding any Data, Fly My Cloud shall, promptly notify You accordingly or notify that person that they should approach You instead;

(f) If Fly My Cloud believes or becomes aware that its processing of the Data is likely to result in a high risk to the data protection rights and freedoms of data subjects, promptly inform You and provide reasonable cooperation to You (at Your expense) in connection with any data protection impact assessment that You may be required under applicable Data Protection Legislation to undertake for Your use of Fly My Cloud Services; and

(g) at Your choice, delete all Data in Fly My Cloud's possession or control following the termination of the Agreement. This requirement shall not apply to the extent that Fly My Cloud is required or permitted by applicable law to retain some or all of the Data, or Data archived on back-up systems, in which event Fly My Cloud shall securely isolate and protect such Data from any further processing except to the extent required by such law until deletion is possible.

5. Your responsibilities

You agree:

(a) To comply with your obligations under all applicable Data Protection Legislation in relation to Your use of Fly My Cloud Services for processing any personal data comprised within the Data.

(b) That this Addendum, the Agreement, Your other applicable agreements with Fly My Cloud and Your configuration and use of the Fly My Cloud Services will together comprise Your complete and final documented instructions to Fly My Cloud on the processing of Data.

(c) That You shall not give Fly My Cloud as Your processor any instructions, nor shall You use the Fly My Cloud Services in any way, that in any such case could infringe any Applicable Data Protection Legislation or could cause Fly My Cloud or any of its affiliates to infringe any Applicable Data Protection Legislation.

6. International transfers

If the processing of Data involves transfers out of the EEA, Fly My Cloud will take such measures as are necessary to ensure the transfer is in compliance with applicable Data Protection Legislation. Such measures may include (without limitation) transferring the Data to a recipient in a country that the European Commission has decided provides adequate protection for personal data, to a recipient that has achieved binding corporate rules authorisation in accordance with applicable Data Protection Legislation, to a recipient in the United States of America that maintains a valid and up-to-date EU-US Privacy Shield certification, or to a recipient that has executed Standard Contractual Clauses.

If You are a processor of any Data, you enter into the Standard Contractual Clauses on behalf of the controller of such Data and you warrant that you have the controller's authority to do so on its behalf.

7. Miscellaneous

(a) For clarity, the total aggregate liability of Fly My Cloud and all its affiliates, employees, agents, affiliates, representatives or anyone acting on its behalf together, arising from or in connection with the Agreement, this Addendum and/or the Standard Contractual Clauses or any matter arising therefrom shall not exceed the maximum liability of Fly My Cloud as limited by the Agreement.

(b) Fly My Cloud may modify the terms of this Addendum, for example to comply with applicable law or to implement any standard contractual clauses adopted by the European Commission or a supervisory authority under Article 28 of the GDPR, but it will not do so in a way that would reduce the protections required to be afforded to You under Article 28 of the GDPR. If it does so, it an amended and restated version on the Fly My Cloud Platform, providing at least 15 days prior written notice of any material amendments to the Addendum to You (which may be posted on the Fly My Cloud website or displayed in your Fly My Cloud client account). By continuing to use the relevant products or services after the receipt of written notification of such changes by Fly My Cloud, you agree to be bound by the amended and restated Addendum.

Annex – Standard Contractual Clauses (Processors)

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 You (the "data exporter") and Fly My Cloud Limited (the "data importer"), each a "party", together "the parties", have upon 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:

(a) '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;

(b) 'the data exporter' means the controller who transfers the personal data;

(c) '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;

(d) '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;

(e) '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;

(f) '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.

Clause 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.

Clause 3

Third-party beneficiary clause

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.
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. 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.
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.

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 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).

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 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 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.

Clause

6

Liability

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.
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.

The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3. 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.

Clause

7

Mediation and jurisdiction

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.
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.

Clause

8

Cooperation with supervisory authorities

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.
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.

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).

Clause 9
Governing Law

The Clauses shall be governed by the law of the England and Wales.

Clause 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.

Clause 11
Subprocessing

1. The data exporter allows the data importer to 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 provided the data importer ensures that the subcontractor complies with data protection as specified in this document, as the data exporter knows the list of subcontractors the data importer works with. 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.
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.

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.
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.

Clause

12

Obligation after the termination of personal data processing services

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, 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 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.
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

Data exporter

You are the data exporter.

Data importer

Fly My Cloud Limited is the data importer.

Data subjects

The data subjects may include Your customers, employees, supplier and end-users.

Categories of data

Capitalised terms not defined herein will have the meaning given in the Agreement with Fly My Cloud.

The personal data includes any information, content, material and data in electronic format as may be contained in or generated in relation to Member Content.

Processing operations

The personal data will be processed for the purposes of providing You with the Services and as otherwise set out in the Agreement.

Appendix 2 to the Standard Contractual Clauses

The data exporter has implemented and shall maintain appropriate technical and organisational measures to protect personal data from against accidental loss, destruction, or alteration; unauthorized disclosure or access; or unlawful destruction.

Fly My Cloud will maintain administrative, physical, and technical measures for protection of the security, confidentiality and integrity of personal data uploaded to the Fly My Cloud Services. Fly My Cloud may change those measures from time to time, but not so as to reduce the level of protection for Data.

The details of the Middleware Platform can be found at <https://middleware.flymycloud.com/mw-quick-start.pdf>. More details can be obtained by emailing compliance@flymycloud.com