

# G F O R C E S

## Addendum Standard Contractual Clauses

- A. GForces Web Management Limited ("GForces") and Customer entered into an agreement for the provision of GForces' software products and services (the "Agreement"). The Terms and Conditions of the Agreement state that GForces reserves the right to make changes to the data processing provisions of the Agreement if, in its reasonable discretion, it determines that changes are required in order to comply with data protection legislation.
- B. As a result of Brexit, GForces is now based outside the EEA. This means that Customer's Personal Data (as defined in the Agreement) may only be transferred to GForces if the conditions laid down in Chapter 5 of the General Data Protection Regulation ((EU) 2016/679) ("GDPR") are complied with. One way of complying with those conditions is the adoption of the Standard Contractual Clauses (Processors) 2010 approved by the EU Commission under Directive 95/46/EC of 24 October 1995 ("SCC 2010").
- C. This Addendum ("SCC Addendum") has been introduced in order to implement the SCC 2010 between GForces and Customer so that Customer's Personal Data may be transferred to GForces in accordance with the GDPR.

### 1. INTERPRETATION

- 1.1 The rules of interpretation of the Agreement shall apply to this SCC Addendum as if set out in this SCC Addendum save that references in those rules to "this Agreement" shall be construed as references to this SCC Addendum.
- 1.2 Unless the context otherwise requires, references in the Agreement to "this Agreement" shall be to the Agreement as amended by this SCC Addendum.
- 1.3 In this SCC Addendum any reference to a "Schedule" is, unless the context otherwise requires, a reference to a paragraph or Schedule of this SCC Addendum.
- 1.4 The provisions of the Agreement shall, save as amended by this SCC Addendum, continue in full force and effect.
- 1.5 Where the Agreement pre-dates October 2018, references in this SCC Addendum to the Agreement shall include the Data Protection Addendum that amended the Agreement prior to the GDPR coming into force.

### 2. AMENDMENTS TO THE AGREEMENT

- 2.1 With effect from 1 January 2021, the Agreement shall be amended on the terms set out herein.
- 2.2 In order to meet requirements under the GDPR, the parties hereby agree on the SCC 2010 in the Schedule which shall supersede any conflicting terms in the Agreement and the remaining parts of this SCC Addendum if and to the extent Data Subjects assert rights as third party beneficiaries regarding their Personal Data.
- 2.3 GForces assumes all rights and obligations as 'data importer' under the SCC 2010 and Customer assumes all rights and obligations as 'data exporter'.
- 2.4 For the purposes of Clause 9 and Clause 11(3) of the SCC 2010, the governing law of such clauses is the member state of the European Union or the jurisdiction of the United Kingdom (as applicable) in which Customer is established.
- 2.5 The limitations on liability set out in the Agreement shall apply to any liability of GForces (whether in contract, tort, misrepresentation, restitution or otherwise) under or in connection with the provisions of the SCC 2010 and/or this SCC Addendum to the fullest extent permissible under applicable law (including the Data Protection Legislation).
- 2.6 The parties hereby agree that to the extent of any conflict the SCC 2010 shall supersede any conflicting terms in this Agreement if and to the extent Data Subjects assert rights as third party beneficiaries regarding their Personal Data.
- 2.7 Unless the SCC 2010 are expressly referred to and expressly amended, the parties do not intend that any other agreement entered into by the parties, before or after the date the SCC 2010 are entered into, will amend the terms or the effects of the SCC 2010, or limit any liability under the SCC 2010 where not permitted thereunder, and no term of any such other agreement should be read or interpreted as having that effect.

- 2.8 Where there is a conflict between the definitions set out in the Agreement and the definitions set out in the SCC 2010, for the purposes of interpreting the SCC 2010 only, the definitions in the SCC 2010 shall take priority.
- 2.9 In respect of the requirement under clause 5(j) of the SCC 2010, the Parties have agreed to a practical interpretation, as set out in this clause 2.9. This interpretation clarifies how the parties should implement that provision in practice.
- 2.9.1 The parties acknowledge the obligation of the data importer to send promptly a copy of any onward sub-processor agreement it concludes under the SCC 2010 to the data exporter.
- 2.9.2 Accordingly, the parties agree that upon the request of data exporter, data importer shall provide all relevant information evidencing compliance with clause 5 of the SCC 2010. Should the information provided by data importer be insufficient to demonstrate data importer's compliance with clause 5 of the SCC 2010 then data importer may provide a version of the agreement with commercially sensitive and/or confidential information removed.
- 2.9.3 The parties agree that any onward subprocessor agreement or information related thereto that data importer provides to data exporter shall constitute data importer's confidential information and shall not be disclosed by data exporter to any third party without data importer's prior agreement.
- 2.10 In the event that the SCC 2010 are deemed inadequate to enable data transfers in compliance with the Data Protection Legislation, the Customer shall comply with such additional measures as GForces may reasonably require to achieve compliance (including by entering into any revised Standard Contractual Clauses approved by the EU Commission) . If Customer unreasonably fails to comply with such measures, provided that in the case of such failure Customer is provided with fifteen (15) business days to cure such failure to comply, or if Customer's compliance with the Data Protection Legislation can no longer be achieved, GForces shall have the right to terminate the Agreement upon written notice without liability to the Customer.
- 2.11 The definition of Data Protection Legislation in the Agreement shall be deleted and replaced with the following:
- "the General Data Protection Regulation ((EU) 2016/679) ("GDPR"), any national implementing laws, regulations and secondary legislation in the member state in which the Customer is incorporated, as amended or updated from time to time."
- 2.12 Where the relevant Service Data Summaries state that Personal Data is transferred to countries outside the EEA, that shall be deemed to mean countries outside the United Kingdom or EEA, and Customer hereby consents to such transfers.

### 3. GOVERNING LAW

This SCC Addendum and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. The parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this SCC Addendum or its subject matter or formation (including non-contractual disputes or claims).

Signed by    
 .....2661C8854FD941E.....  
 Simon Upton  
 Director  
 for and on behalf of G Forces Web Management Limited

Date: 17/12/2020  
 Date: .....

**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

Name of the data exporting organisation: Customer (as defined in the Agreement)  
Address: The address given in the Order Confirmation Form  
Tel/email: The Primary Contact telephone no. and email in the Order Confirmation Form  
Other information needed to identify the organization: N/A  
(the data exporter)

And

Name of the data importing organisation: G Forces Web Management Limited  
Address: Corbin Business Park, Caring Lane, Bearsted, Kent ME14 4NJ  
Tel/email 0845 055 9040; dpo@gforces.co.uk.  
Other information needed to identify the organisation: N/A  
(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:

- (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 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;
- (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 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.
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 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 organisational security measures specified in Appendix 2 before processing the personal data transferred;
  - (d) that it will promptly notify the data exporter about:
    - (i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;
    - (ii) any accidental or unauthorised access; and
    - (iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;
  - (e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;
  - (f) at the request of the data exporter to submit its data-processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;
  - (g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for 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**

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 sub-processor 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 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. The data importer may not rely on a breach by a sub-processor 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 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**

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 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.
3. 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**

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

#### *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*

##### **Sub-processing**

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the 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.
2. 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.
3. 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.
4. 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**

1. 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.
2. 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.

### Appendix 1 to the Standard Contractual Clauses

This Appendix forms part of the Clauses and must be completed and signed by the parties  
The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix

**Data exporter**

The data exporter is (please specify briefly your activities relevant to the transfer):

An automotive retailer.

**Data importer**

The data importer is (please specify briefly activities relevant to the transfer):

A provider of web solutions on a software-as-a-service basis.

**Data subjects**

The personal data transferred concern the following categories of data subjects (please specify):

Please see the service data summaries at <https://www.gforces.co.uk/wp-content/uploads/2018/12/09.11.18-GForces-Service-Data-Summaries.pdf> for details.

**Categories of data**

The personal data transferred concern the following categories of data (please specify):

Please see the service data summaries at <https://www.gforces.co.uk/wp-content/uploads/2018/12/09.11.18-GForces-Service-Data-Summaries.pdf> for details.

**Special categories of data (if appropriate)**

The personal data transferred concern the following special categories of data (please specify):

N/A

**Processing operations**

The personal data transferred will be subject to the following basic processing activities (please specify):

Please see the service data summaries at <https://www.gforces.co.uk/wp-content/uploads/2018/12/09.11.18-GForces-Service-Data-Summaries.pdf> for details.

### 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 organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):**

GForces operates and maintains an Information Security Management System (ISMS) that conforms to the international standard ISO/IEC 27001:2013.

Using ISO/IEC 27001:2013 and ISO/IEC 27002:2013 as a guide, as well as other industry best practice standards such as ITIL, GForces has implemented a number of security controls, policies and procedures to ensure the confidentiality, integrity and availability of its own and clients' data, systems and infrastructure.

All data is encrypted in both transit and at rest. During transit, GForces uses SSL/TLS as a minimum standard, and whilst the data is at rest, GForces uses AES-256bit encryption as a minimum standard (except where national legislation requires otherwise). In addition, GForces adopts various industry standard best practices to ensure maximum security of data, for example least privileged first.