DATA PROCESSING ADDENDUM

1. Scope

1.1. This Data Processing Addendum shall apply with the framework the provision of support, trade-in and video production management services (the "services") to be provided by EVS Broadcast Equipment SA or any of its affiliates ("EVS") to you ("Customer") based on existing contractual provisions (the "Principal Agreement") in accordance with the Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation – hereinafter the "GDPR"). This Data Processing Addendum supersedes any other terms and conditions of Customer relating to a similar subject matter, even if these have not been specifically rejected by EVS. The provisions of the Principal Agreement that are not expressly modified by this Addendum shall remain unchanged and in force for the duration of the Principal Agreement.

2. Definitions

2.1. Except when expressly specified otherwise in this Addendum, the capitalized terms shall have the meaning set forth in the Principal Agreement.

3. Modifications of the Principal Agreement

It is hereby agreed to add the following provisions to the Principal Agreement in a new Clause related to data protection and privacy:

" *Data Protection and Privacy*

1 Definitions

For the purposes of this Clause 1, the following capitalized terms shall have the meaning specified below:

(a) "Data Protection Law" shall mean (i) any and all applicable laws implementing the 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 (as may be modified or replaced), including but not limited to the Belgian law of 8 December 1992 on the protection of individuals regarding the processing of personal data as amended, any directly applicable EU regulations (including but not limited to Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation – "GDPR") which is applicable as from 25 May 2018) as well as any delegated act in relation to the GDPR, Belgian laws and decrees executing the GDPR and (ii) any similar applicable legislations from countries outside of the European Union.

(b) "Instructions" means the documented instructions from the Customer to EVS as attached to this Addendum in Annex 1;

(c) "Purposes" shall mean the limited, specific and legitimate purposes of the Processing, namely the performance of the services;

(d) "Subprocessor" shall mean any person (excluding an employee of EVS) appointed by or on behalf of EVS to process Personal Data on behalf of Customer in connection with the Principal Agreement;

(e) The terms, "Controller", "Data Subject", "Personal Data", "Personal Data Breach", "Processing", "Processor" and "Supervisory Authority" shall have the same meaning as in the GDPR.

2 Qualification

For the avoidance of doubt, the Parties acknowledge that where Data Protection Law applies, Customer acts as the Controller and EVS as the Processor of Personal Data to be processed. Accordingly, Customer remains solely responsible for determining the means and the purposes of the EVS' Processing of Personal Data under this Addendum.

3 Processing of Personal Data

Any Processing of Personal Data by EVS in respect of which EVS acts as processor on behalf of Customer shall be carried out in accordance with the Data Protection Law and the provisions of this Clause 3.

Customer agrees to comply with the requirements of the Data Protection Law with respect to the Processing of Personal Data.

Customer warrants that it owns or has obtained all necessary rights and/or consents and provided all necessary notices to Data Subjects as required by applicable Data Protection Law, with respect to any Personal Data and to the extent necessary for the Parties to Process such Personal, and that EVS' use of any EVS Personal Data in accordance with the Principal Agreement will not violate any applicable law, rule or regulation. Furthermore, Customer warrants that: (i) EVS' Processing of any Personal Data in accordance with any Customer instruction shall be in compliance with applicable Data Protection Law; and (ii) prior to transmitting Personal Data to EVS, Customer shall inform EVS of any applicable requirements pertaining to the transmitted Personal Data. Customer shall be responsible for all liability and shall indemnify and hold EVS harmless from and against all claims and damages, due to a breach of the foregoing warranties.

Without prejudice to the independence of the Parties, the Personal Data shall only be processed in accordance with the instructions of Customer and solely for the Purposes, to the exclusion of any other purposes. Customer hereby generally instructs EVS to process Personal Data for the Purposes and to the extent necessary to provide the Services in compliance with EVS' obligations under this Addendum.

Without prejudice to the independence of the Parties, EVS represents and warrants that EVS and any person acting under the authority of or on behalf of EVS and having access to the Personal Data shall only process the Personal Data in accordance with the instructions of Customer, except in case of a legal obligation, and in accordance with the Data Protection Law. To this end, EVS shall inform all persons acting under its authority and having access to the Personal Data about the provisions of Data Protection Law.

If the Data Protection Laws apply to the Processing of Personal Data, and Customer is itself a processor, Customer warrants to EVS that Customer's instructions with respect to Personal Data have been authorized by the applicable controller, including the appointment of EVS as another processor or Subprocessor.

4 Subprocessing – Onward transfer of Personal Data

Customer agrees that EVS may use Subprocessors to fulfill its contractual obligations under this DPA or to provide certain services on its behalf, such as providing storage services. The EVS website lists Subprocessors that are currently engaged by EVS to carry out processing activities on Personal Data on behalf of Customer. Where EVS engages a Subprocessor for carrying out specific processing activities on behalf of Customer, the same data protection obligations as set out in this Clause 4 shall be imposed on that Subprocessor by way of a written agreement, in particular providing sufficient guarantees to implement appropriate technical and organisational measures.

With respect to each Subprocessor, EVS shall:

(i) carry out adequate due diligence to ensure that the Subprocessor is capable of providing the level of protection for Personal Data required by this Addendum;

(ii) ensure that the EU Standard Contractual Clauses regarding the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection (hereinafter the "EU Standard Contractual Clauses" - the current template of EU Standard Contractual Clauses is attached to this Addendum as Annex 2) are at all relevant times signed between Customer and the Subprocessor, as an attachment to the agreement between EVS and the Subprocessor, if the engagement of such Subprocessor involves a transfer to a country located outside of the European Economic Area which does not ensure an adequate level of data protection and where no appropriate safeguard exists (hereinafter the "Restricted Transfer").

If the Customer reasonably objects to the Processing of Personal Data by one or more Subprocessors, then the Customer shall notify EVS in writing (including e-mail) within 90 (ninety) calendar days after the publication of the use of such Subprocessor on EVS website.

In the event Customer objects to a Subprocessor, EVS will use reasonable efforts to change the affected services or to recommend another commercially reasonable change to the Customer's use of the affected services to avoid the Processing of Personal Data by the Subprocessor concerned. If EVS is unable to make available or propose such change within (60) calendar days, the Customer may terminate the relevant part of the Principal Agreement regarding those services which cannot be provided by EVS without the use of the Subprocessor concerned. To that end, the Customer shall provide written notice of termination taking into account a notice period of 6 months and providing a reasonable motivation for non-approval.

EVS shall not communicate, disclose or transfer, either free of charge or in return for payment, the Personal Data to any other legal person or individual, except where such communication, disclosure or transfer: (i) is necessary to perform the Services or for the Purposes, subject to the limitations set forth in the present Addendum; or (ii) is required by any applicable law, regulation, or governmental authority in which case EVS will, wherever possible, notify Customer promptly in writing prior to complying with any such request for communication, disclosure or transfer and shall comply with all reasonable directions of Customer with respect to such communication, disclosure or transfer.

5 Security

EVS shall ensure – having regard to the state of technological development and the cost of implementing any such measures as well as the sensitive nature of the Personal Data to be processed – that appropriate technical and organizational measures are taken against accidental or unauthorized destruction, accidental loss, as well as against alteration of, access to and any other unauthorized processing of the Personal Data. Without limitation to the foregoing and without prejudice to those obligations contained in the applicable policies (if any) which may be communicated from time to time to EVS, EVS shall, in particular, take adequate technical and organizational measures to:

i. ensure that access to the Personal Data is only granted to persons acting under its authority and strictly on a need-to-know basis;

DATA PROCESSING ADDENDUM

ii. *prevent the use of data processing systems by unauthorized persons ;*

iii. *ensure that the Personal Data cannot be read, copied, modified or removed without authorization EVS during electronic transfer or during transport or storage on data media and that it is possible to check and determine to whom communication of the Personal Data is made through data transfer facilities;*

iv. *ensure that the Personal Data is only processed in accordance with Customer's instructions;*

v. *ensure the reliability of any employee, agent or contractor of Customer or any Subprocessor and that they are subject to confidentiality obligations;*

vi. *ensure that the Personal Data is protected against accidental destruction or loss.*

EVS shall adapt such measures systematically to the development of regulations, technology and other aspects and supplemented with the applicable technical and organizational measures of Subprocessors, as the case may be.

6 Cooperation

EVS shall provide in a prompt manner such co-operation as is reasonably necessary to enable Customer to ensure compliance with the Data Protection Law and to the extent the necessary information is solely in the possession of EVS or its Subprocessors, including but not limited to providing co-operation where Customer must respond to requests for exercising the Data Subject's rights granted by Data Protection Law. In particular, EVS shall:

i. *without undue delay notify Customer if EVS or any Subprocessor receives a request from a Data Subject under any Data Protection Law in respect of Personal Data; and*

ii. *ensure that EVS and/or any Subprocessor only responds to such request upon express written instructions of Customer or as required by applicable laws to which EVS and/or the Subprocessor is subject.*

EVS shall conform to any time-scales set out in the Data Protection Law for Data Processor and, if applicable, correct or delete any inaccuracies in Personal Data, as directed by Customer

7 Personal Data Breach

In case of any Personal Data Breach, EVS shall promptly notify Customer of such breach. The notification must, at least, describe the nature of the Personal Data Breach including where possible, the categories and approximate number of Data Subjects concerned and the categories and approximate number of Personal Data records concerned, describe the likely consequences of the Personal Data Breach, describe the measures taken or proposed to be taken to address the Personal Data Breach, including, where appropriate, measures to mitigate its possible adverse effects.

EVS shall co-operate with Customer and take such steps as are directed by Customer to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

8 Audit and inspection

EVS shall, at the request of Customer, no more frequently than once annually, make available to Customer information reasonably requested by Customer to demonstrate EVS' compliance with its obligations relating to the Processing of Customer's Personal Data. Such audit shall be performed by Customer or a third party (selected by Customer and reasonably acceptable to EVS) to act on its behalf, at Customer's expense, at EVS' offices or at another mutually agreed location during normal business hours upon thirty (30) days prior written notice and shall make reasonable endeavors to avoid causing any damage, injury, or disruption in EVS' premises, equipment, personnel and business while its personal are on those premises in the course of such an audit or inspection. Audit reports shall only include detail sufficient to verify EVS' compliance with its obligations under this Clause 8.

For the performance of the audit or inspection, Customer will give a list of authorized person(s) ("Authorized Person"). EVS undertakes to give access to its premises to the Authorized Person provided that such Authorized Person:

(i) *produces reasonable evidence of identity;*

(ii) *works during normal business hours of EVS unless the audit needs to be conducted on an emergency basis.*

9 Data Protection Impact Assessment

EVS shall reasonably assist Customer with any relevant data protection impact assessment and prior consultations with Supervisory Authorities or other competent data privacy authorities that would be required under Articles 35 or 36 of the GDPR, subject to terms and conditions and fees to be agreed upon on a case-by-case basis.

10 Deletion or return of Personal Data

EVS shall ensure that any copies of Personal Data in the possession of EVS are promptly, and in any event within one month of the date of potential cessation of any services, returned to Customer or destroyed (at

EVS' option) upon Customer's request and/or when they are no longer required for the performance of EVS' obligations under the Principal Agreement, whichever occurs first, and EVS shall delete existing copies unless Data Protection Law requires storage of the Personal Data.

11 Liability

EVS shall be liable for the Processing of the Personal Data which is consigned to it by Customer. EVS undertakes to indemnify and hold harmless Customer, its directors and employees against any and all costs, charges, damages, expenses and losses (including costs incurred in recovering same), that are incurred by Customer as a result of any breach by EVS of any representation or warranty in this Clause 11 or the failure to comply with any of its obligations under this Clause 11. EVS shall remain in any event fully liable to Customer for the performance of such Subprocessor's obligations. In any event, the aggregate maximum liability of EVS as Processor of Personal Data under the present Addendum shall be limited to the lower of (i) the price paid by the Customer to EVS under the Principal Agreement in the 12-month period immediately preceding the earliest event giving rise to the liability, or (ii) EUR 10,000.

12 Modifications of the applicable Data Protection Law

EVS may, by providing at least thirty (30) calendar days' written notice to the Customer, make variations to or replace the template EU Standard Contractual Clauses included in __Annex 2__ and enter into amended or new EU Standard Contractual Clauses as per Clause 4, subsection (ii), where such variations or replacements are required as a result of any change in, or decision of a competent authority under, the Data Protection Law, to allow the Restricted Transfers referred to in Clause 4, subsection (ii), to be made (or continue to be made) in compliance with the Data Protection Law. Each Party may propose any variations to this Addendum where such Party reasonably considers to be necessary to address the requirements of any Data Protection Law.

ANNEX 1: Instructions

1. <u>Nature and purpose of the Processing</u>: *Personal Data will be Processed for the purposes of the performance of the services under the Principal Agreement including the following purposes:*

   a) *Provision of appropriate support services depending on the issue at stake*

   b) *Provision of video production management services*

   c) *Provision of appropriate trade-in services*

   d) *Management and follow-up of Customer's requests, history and equipment in this respect*

   e) *Work planning and organization*

   f) *Scientific studies and research*

   g) *Benchmarking operations*

   h) *Continuous improvement of the services*

   i) *Compliance with Data Protection Law, information security requirements and service level agreements*

   j) *Claims management with and between the Customer, EVS, the Data Subject(s) and/or third parties, including beyond termination of the Agreement for any reason whatsoever*

   k) *Any other purpose of Processing of Personal Data agreed upon between Parties in the relevant statement of work or any other document of the Principal Agreement.*

2. <u>Type of Personal Data</u>: *The Personal Data transferred concerns all relevant information that is required to deliver the requested services, which may include (a subset of) the following categories of data:*

   a) *Personal details such as name, birth date, etc.*

   b) *Contact details such as address, e-mail address, telephone number, etc.*

   c) *Authentication Credentials to use the Services, such as username, IP address, PC Name, etc.*

   d) *Activities performed by Customer users in their use of the Services.*

   e) *If applicable, video content and images.*

   f) *Any other category of Personal Data agreed upon between Parties in the relevant statement of work or any other document of the Principal Agreement.*

3. <u>Categories of Data Subject</u>: *employees and consultant of the Customer and if applicable, persons identified or identifiable through Customer's video content and images.*

4. <u>Duration of the Processing</u>: *The duration during which the Processing of Personal Data by EVS is allowed corresponds the duration of the Principal Agreement.*

5. <u>Permitted purposes</u>: *All the Processing strictly necessary with regard to the nature and purpose of the Processing, as set forth in section 1 of the present Annex 1 including: data consultation, storage, etc.*

DATA PROCESSING ADDENDUM

ANNEX 2: EU STANDARD CONTRACTUAL CLAUSES

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

This Controller-Processor Agreement is entered into by and between the Customer, hereinafter referred as the "**data exporter**", and EVS, hereinafter referred as the "**data importer**",

The data exporter and the data importer are hereinafter individually referred to as a "**Party**" and collectively as 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 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 categories of personal data where applicable are specified in Annex 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;

(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-, 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 necessary technical and organisational security measures -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

DATA PROCESSING ADDENDUM

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 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 of 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.

4. The parties agree that if one party is held liable for a violation of the clauses committed by the other party, the latter will, to the extent to which it is liable, indemnify the first party for any cost, charge, damages, expenses or loss it has incurred.

Indemnification is contingent upon:

(a) the data exporter promptly notifying the data importer of a claim; and

(b) the data importer being given the possibility to cooperate with the data exporter in the defence and settlement of the claim.

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 Member State in which the data exporter is established or has appointed its legal representative if established outside of the European Economic Area territory.

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 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 subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. 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, 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 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.