# DATA PROCESSING ADDENDUM

### Effective Date: August 2021

**THIS ADDENDUM** is made on the same date as the Agreement

**BETWEEN:**

(1) **Customer** and

(2) **KIVUTO SOLUTIONS INC.** a corporation incorporated pursuant to the laws of Ontario, Canada, with its registered address at 126 York St., Suite 200, Ottawa, Ontario, Canada K1N 5T5 ("**Kivuto**")

(each a "**Party**" and together the "**Parties**").

**WHEREAS:**

(A) The Customer and Kivuto have entered into a services agreement (the "**Agreement**").

(B) In the course of providing services under the Agreement, Kivuto processes personal data on behalf of the Customer.

(C) The Parties wish to add to the Agreement the terms set out in this Addendum, which is supplemental to the Agreement, with effect from the date of the Agreement (the "**Effective Date**").

**NOW IT IS AGREED AS FOLLOWS:**

1. **Supplemental Terms**

1.1 With effect from the Effective Date, the following terms shall form part of the Agreement:

    **1.**     **Data Protection**

    1.1     For the purposes of this clause:

        "**Data Protection Law**" means all applicable data protection law, including the General Data Protection Regulation (Regulation (EU) 2016/679) and any legislation which amends, extends, consolidates, re-enacts or replaces same, including any statutory instruments and regulations that may be made pursuant thereto from time to time.

        The terms '**controller**', '**personal data**', '**personal data breach**', '**processor'** and '**process'** shall have the meanings given to them under Data Protection Law.

    1.2     Kivuto acknowledges that in performing its obligations under the Agreement Kivuto processes personal data on behalf of the Customer. In such circumstances, Kivuto acknowledges that the Customer is the controller or a processor acting on behalf of the controller and Kivuto is a processor or sub-processor, as each term is defined in Data Protection Law.

    1.3     Kivuto shall process the categories of personal data set out in the Appendix to this Addendum in the context of performing its obligations under, and for the duration of, the Agreement. The obligations and rights of the Customer shall be as set out in this Addendum.

    1.4     In respect of the personal data referred to in Clause 1.3:

(a)     Kivuto shall process such personal data only in accordance with the documented instructions of the Customer, including as set out in the Agreement and including with regard to transfers of personal data to a third country and solely as necessary for the performance of its obligations under the Agreement, unless required to do so by EU or EU Member State law to which Kivuto is subject, in which case Kivuto shall inform the Customer of that legal requirement before processing (unless that law prohibits such information on important grounds of public interest).  It is acknowledged and agreed that such personal data may be transferred (i) to Kivuto and to Kivuto's sub-processors in Canada provided that any such transfers are within the scope of an adequacy decision by the European Commission in respect of Canada which is in force for the purpose of Article 45 of the GDPR and (ii) to any sub-processor in any other third country provided that the transfer is conducted in accordance with applicable requirements under Chapter V of the GDPR, which may include ensuring that it is governed by standard contractual clauses approved for this purpose by the European Commission;

(b)     Kivuto shall ensure that the persons authorised by Kivuto to process such personal data are bound by appropriate confidentiality obligations;

(c)     Kivuto shall implement such technical and organisational security measures as are required to comply with the data security obligations under Data Protection Law, which may include, as appropriate:

   (i)     the pseudonymisation and encryption of personal data;

   (ii)    the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;

   (iii)   the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;

   (iv)    a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;

(d)     Kivuto is authorised to engage sub-processors to undertake processing on its behalf. Kivuto shall, upon Customer's request, provide the Customer with prior written notice before engaging any new sub-processor, inform the Customer of any intended changes concerning the addition or replacement of such sub-processors and provide the Customer with a reasonable opportunity to object to such changes;

(e)     where any sub-processor engaged by Kivuto will be processing such personal data, Kivuto shall ensure that a written contract exists between Kivuto and the sub-processor containing clauses equivalent to those imposed on Kivuto in this clause. In the event that any sub-processor fails to meet its data protection obligations, Kivuto shall remain fully liable to the Customer for the performance of the sub-processor's obligations;

(f)     Kivuto shall assist the Customer by implementing appropriate technical and organisational measures, insofar as this is practicable, to allow the Customer to comply with requests from data subjects to exercise their rights under Data Protection Law;

(g)    Kivuto shall, at the cost and expense of the Customer, assist the Customer in ensuring compliance with applicable obligations in respect of security of personal data, data protection impact assessments, and prior consultation requirements under Data Protection Law;

(h)    Kivuto shall: (i) at the choice of the Customer, delete or return all such personal data to the Customer when Kivuto ceases to provide services relating to data processing; and (ii) delete all existing copies of such personal data unless any applicable law require storage of the personal data;

(i)    Kivuto shall: (i) make available to the Customer all information reasonably necessary to demonstrate compliance with the obligations laid down in this clause; and (ii) allow for and assist with audits, including inspections, conducted by the Customer or another party mandated by the Customer, in order to ensure compliance with the obligations laid down in this clause, including its data security obligations under Data Protection Law, subject to any person conducting such audits or inspections being bound by appropriate confidentiality obligations.  The Customer shall take into account adherence by Kivuto to an approved code of conduct or an approved certification mechanism to aid demonstration by Kivuto that it is compliant with the provisions of this clause;

(j)    Kivuto shall inform the Customer immediately if, in its opinion, it receives an instruction from the Customer in connection with clause 1.4(i) which infringes Data Protection Law; and

(k)    Kivuto shall notify the Customer without undue delay after becoming aware of any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, such personal data and shall provide the Customer with such co-operation and assistance as may be reasonably required to comply with any notification or reporting obligations which may apply in respect of, any such personal data breach.

2.    **Miscellaneous**

2.1    Capitalised terms not otherwise defined in this Addendum shall have the meanings set forth in the Agreement.

2.2    Save to the extent explicitly amended by this Addendum, the Agreement shall continue in full force and effect.  To the extent that there is a conflict or inconsistency between the terms of this Addendum and the Agreement, such conflict or inconsistency shall be resolved by giving precedence to this Addendum.

2.3    This Addendum and the Agreement shall together constitute the entire agreement between the Parties with respect to their subject matter, supersede all previous drafts, arrangements, understandings or agreements between the Parties with respect to their subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.  Each of the Parties acknowledges and agrees that in entering into this Addendum it does not rely on and shall have no remedies in respect of, any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Addendum or not) relating to the subject matter of this Addendum, other than as expressly set out in this Addendum.

2.4    This Addendum may be executed in any number of counterparts, each of which when executed and delivered by one or more of the Parties to this Addendum is an original, but all the counterparts together constitute the same document provided that this Addendum shall not be effective until each

party has executed and delivered at least one counterpart. The Parties agree that this Addendum may be executed electronically. Transmission of an executed counterpart of this Addendum (but for the avoidance of doubt not just a signature page) by (a) fax or (b) email (in PDF, JPEG or other agreed format) shall also constitute delivery of an executed counterpart of the Addendum.

2.5     This Addendum shall be governed by and construed in accordance with the laws of the governing law of the Agreement.

# APPENDIX

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| **Appendix – Details of Data Processing Subject matter, nature and purpose of the processing** | Subject matter of processing: personal data, as defined under Data Protection Law.<br><br>Nature of Processing: the scope, nature and purpose of the processing is the provision of services by Kivuto to Customer as set forth in the Agreement. |
| **Duration** | Duration of the Agreement. |
| **Categories of data subjects** | Customer's customers; end users of Customer's customers. |

| **Types of personal data i.e. any information relating to an identified or identifiable person.** | **Contact Details** | Full name; Personal/work email address Personal/work telephone number |
|---|---|---|
| | **Digital Identifiers** | IP Address |
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