



DATA PROCESSOR AGREEMENT

This Data Processor Addendum (the “*DPA*”) by and between customer as identified below (the “*Customer*”) and Filemail AS forms part of the agreement (the “*Agreement*”) between Customer and Filemail. It is entered into for compliance with the General Data Protection Regulation (EU) 2016/679 (the “*GDPR*”).

1. Definitions: Scope.

1.1 Definitions. Unless otherwise defined herein, capitalized terms in this DPA shall have the meanings ascribed to them in the Agreement. The terms “*controller*”, “*data subject*”, “*personal data*”, “*personal data breach*”, “*processing*” and “*processor*” shall have the same meaning as in the GDPR.

1.2 Scope. The provisions of this DPA prevail over the provisions of the Agreement with respect to personal data hosted by Filemail pursuant to the Agreement. If adjustments to this DPA are necessary to comply with legal requirements, the parties shall make such adjustments immediately. To the extent the laws of any jurisdiction within the EU are contrary to this DPA or require a modification to this DPA, Customer shall have the responsibility of informing Filemail.

1.3 Notice and Consent Regarding Transfer of Data. Use of the Filemail Solution requires that personal data be processed in Norway (NON-EU) and The Netherlands (EU). Core computing systems, resources and infrastructure necessary for those functions and, hence, for Customer’s exercise of its rights under the Agreement, are located in those jurisdictions. (Fileservers which only contains the files themselves are located in Norway, US, Germany, India, Australia, Spain, The Netherlands and Brazil.) Pursuant to Article 49 of the GDPR, Customer hereby expressly consents to the processing by, and transfer of, personal data to Filemail in Norway and the Netherlands for those purposes.

2. Roles and Responsibilities.

2.1 Roles & Responsibilities.

(a) Customer as Controller. Customer represents that it is the sole controller of the personal data for the purposes of the GDPR and applicable data protection laws and has all necessary rights, and has obtain all necessary consents to use the personal data with the Filemail Solution. Customer has the right to give instructions regarding the nature, scope and process of personal data pursuant to express terms in the GDPR. Filemail will comply and maintain records for all such instructions to the extent necessary for Filemail to: (i) comply with its processor obligations under the GDPR and applicable law; or (ii) assist Customer to comply with Customer’s obligations as a controller under the GDPR or applicable law relevant to Customer’s use of the Filemail Solution. Customer represents and warrants that it is responsible for the lawfulness of the processing of the personal data using the Filemail Solution and



Customer agrees that it will not use the Filemail Solution in conjunction with personal data to the extent that doing so would violate the GDPR or applicable data protection laws. Customer further represents and warrants that personal data used with the Filemail Solution will not subject Filemail to any obligations beyond those set forth in the Agreement, the DPA or any other written agreement between the parties.

(b) Filemail as Processor. Filemail is the processor and processes personal data solely for the purposes mentioned in the Agreement on behalf of Customer's instructions as embodied in the Agreement. Filemail shall not use the personal data for any other purpose. Filemail will monitor its compliance with data protection requirements and its contractual obligations as well as the documented and authorized instructions of Customer provided during the term of the Agreement. To the extent required by the GDPR or applicable law, Filemail will immediately inform Customer if, in its opinion, Customer's instructions violate the GDPR or applicable law, but Customer acknowledges and agrees that Filemail is not responsible for performing legal research and/or for providing legal advice to Customer. Filemail shall create records of all processing activities in its responsibility meeting at least the requirements of Article 30(2) and (3) of the GDPR.

2.2 Limitations. Customer acknowledges and agrees that software and services provided by Filemail give the Customer, not Filemail, control over access, additions, deletions, modifications and monitoring of personal data and that, accordingly: (i) the core activities of Filemail do not involve any monitoring of a data subject; and (ii) Filemail does not have actual knowledge of the types of personal data that Customer may host using the Filemail Solution. Hence, the provisions of Article 11 of the GDPR apply to the processing conducted by Filemail; and (iii) Filemail does not have to appoint a data protection officer as referenced in Article 37 of the GDPR or a representative in the EU pursuant to Article 27(2)(a) of the GDPR.

2.3 Sub-processors. Filemail will inform Customer, and obtain customer approval, about the intended engagement of sub processors. Filemail shall impose on the sub processor by way of contract the substantially the same data protection obligations as those set forth in this DPA. Customer acknowledges and agrees that Amazon Web Services ("AWS") and Microsoft, through its Azure services ("MS"), may act as a sub processors under this DPA and Customer hereby accepts the provisions of AWS's form of Data Processing Addendum (the "AWS DPA") and Microsoft's GDPR compliance terms (the "MS DPA"). Customer acknowledges that the AWS DPA and the MS DPA meet the requirements of the GDPR and this DPA, and that processing of personal data under the AWS DPA and MS DPA is authorized and approved by Customer.

3. Technical and Organizational Measures. Filemail takes appropriate technical and organizational measures for its own systems to comply with data privacy in order to ensure a level of data protection appropriate to the risk resulting from the processing of personal data under the Agreement, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing, as well as the severity and likelihood of realization of risks for the rights and freedoms of data subjects.

4. Personal Data; Audit.

4.1 Rights in Personal Data. Filemail recognizes that the right to use personal data is exclusive to Customer as data controller and Filemail does not claim any rights over the personal data. To the extent permitted by law, Filemail will inform Customer of requests made directly to Filemail from data subjects exercising their rights regarding personal data. Since it is the Customer, not Filemail, which retains control over the access, additions, deletions, modifications and monitoring of personal data, Customer shall be responsible to respond to such requests of data subjects. Similarly, if Filemail receives any subpoena or similar order from a court or other governmental authority which relates to the processing of personal data on behalf of the Customer, it will promptly pass on the same to Customer without responding to it, unless otherwise required by applicable law, and Customer shall promptly respond to the same. Upon termination or expiration of the Agreement Filemail, to the extent that Filemail maintains any personal data of Customer, it will either delete or return such personal data unless otherwise required by applicable law.

4.3 Reporting of Unauthorized Access. Filemail shall inform the Customer without undue delay, but at least within 48 hours, about any errors or irregularities in processing of personal data of the Customer or reasonable suspicion of any other breach of the protection of personal data.

4.4 Audit. At its sole cost and expense, Customer may audit Filemail's compliance with its obligations under this DPA up to once per year and upon at least 14 days advance written notice to Filemail, with such notice to include a detailed proposed audit plan; provided that to the extent required by the GDPR or applicable law, Customer or the relevant data protection authority may perform more frequent audits. The proposed audit plan must describe the proposed scope, duration, and start date of the audit. Filemail will review the proposed audit plan and provide Customer with any concerns or questions and work cooperatively with Customer to agree on a final audit plan. Filemail will contribute to such audits by providing the information and assistance reasonably necessary to conduct the audit, including any relevant records of processing activities applicable to Customer's use of the Filemail Solution where such records are not otherwise available to the Customer through the Filemail Solution. The audit must be conducted during regular business hours, may not unreasonably interfere with Filemail business activities, and be conducted subject to the agreed final audit plan and Filemail's or the applicable sub processor's internal policies. Customer will provide Filemail any audit reports generated as part of any audit under paragraph unless prohibited by the GDPR, applicable law, or the applicable data protection authority. Customer may use the audit reports only for the purposes of meeting Customer's regulatory audit requirements and/or confirming compliance with the requirements of this DPA. The audit reports are Confidential Information of the parties under the terms of the Agreement. Where assistance requested of Filemail in conjunction with such audit requires the use of resources different from or in addition to those required of Filemail under the Agreement, Customer shall pay for such additional resources at Filemail then-current rates.



4.5 Audit Rights to Subcontractors. Filemail hereby grants the Customer power of attorney to exercise any audit rights granted by AWS under the AWS DPA and/or by MS under the MS NDA, provided that any results of audits will be shared with Filemail. The execution of the Customer’s audit rights regarding subcontractors is performed by Filemail in the framework of the audit rights described in this Section 4.

5. Liabilities. Liability of the parties under this DPA is governed by the Agreement, provided that except for the intentional misconduct of Filemail, Customer shall defend, indemnify and hold harmless Filemail, its affiliated companies, their respective officers, directors, employees, agents, successors and assigns of the foregoing, and their authorized distributors and resellers, from and against any and all claims, losses, liabilities, damages, penalties, fines, costs and expenses (including reasonable attorneys’ fees and costs) arising out of this DPA. This paragraph controls in the event of any conflict between this paragraph and any other provision of the Agreement or any other document.

IN WITNESS WHEREOF, the Parties hereto, through their duly authorized representatives, have executed this Agreement as of the Effective Date.

FILEMAIL AS

CUSTOMER: _____

By: Njål A. Gjermundshaug

By: _____

Name: NJÅL ARNE GJERMUNDSHAUG

Name: _____

Title: FILEMAIL CEO

Title: _____

Date: May 23 2018

Date: _____