

OPAL DATA PROCESSING ADDENDUM

THIS DATA PROCESSING ADDENDUM (“DPA”) is agreed to between Opal Labs Inc., an Oregon corporation with its principal place of business at 555 SE MLK Jr. Blvd. Suite 105, Portland, OR 97214, U.S.A. (“Opal”) and the entity appearing on the signature page of the associated Order (“Customer”), and is incorporated into the Order (defined below) and the associated Master Software as a Service Agreement (referred to herein as the “Main Agreement”). Each of Customer and Opal may be referred to herein as a “party” and together as the “parties.”

RECITALS:

- A. Opal provides or shall provide to Customer certain software and related services (collectively, the “Service”) pursuant to the applicable order form (“Order”) and the Main Agreement.
- B. In connection with the Service, the parties anticipate that Opal may process certain personal data and, in so doing, may be subject to certain laws, such as the EU Data Protection Laws if within the European Economic Area (“EEA”), or similar laws if outside of the EEA.
- C. The parties have agreed to enter into this DPA in order to ensure that adequate safeguards are put in place with respect to the protection of such personal data as required by any applicable laws.

1. Applicability

1.1 Section 2 of this DPA, and other provisions specific to Data Protection Laws shall apply only to the extent Customer is: (1) established within the EEA or Switzerland; (2) subject to the UK’s Data Protection Act 2018; and/or (3) to the extent Opal processes personal data of data subject located in the EEA, UK, or Switzerland on behalf of Customer. Notwithstanding the foregoing, Section 2 of this DPA shall also apply to the extent that the current or future laws regarding personal data of any other jurisdiction apply to Customer’s personal data and may be satisfied by implementation of the Standard Contractual Clauses and additional terms as described in this DPA. Other provisions of this DPA, including Section 6 and appendices pertaining to subprocessors, shall apply regardless of the applicability of Data Protection Laws.

1.2 If the Customer entity signing this DPA has ordered the Service under the Main Agreement but is not a direct party to the Main Agreement, this DPA will be incorporated into such order(s).

2. Definitions: The following definitions are used in this DPA:

2.1 “Customer” is defined above in the introductory paragraph.

2.2 “Data Protection Laws” means all laws and regulations of the European Union, the European Economic Area, their member states, and the UK applicable to the processing of personal data under the Main Agreement, including (where applicable) the GDPR.

2.3 “Data Protection Officer” shall have the meaning set forth in Section 5.1 of this DPA.

2.4 “GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council 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).

2.5 “SCCs” and New SCCs” have the meaning set forth in Section 3.2 of this DPA.

2.6 “UK Addendum” has the meaning set forth in Section 3.2 of this DPA.

2.7 “Personal data”, “processing”, “data controller”, “data subject”, “supervisory authority”, “sub-processor”, “data processor” and the other data processing terms used herein have the meanings ascribed to them in the GDPR.

3. Incorporation of Current Standard Contractual Clauses and UK Addendum

3.1 This Section 2 shall apply only to the extent Customer is: (1) established within the EEA or Switzerland; (2) subject to the UK’s Data Protection Act 2018; and/or (3) to the extent Opal processes personal data of data subject located in the EEA, UK, or Switzerland on behalf of Customer. Notwithstanding the foregoing, this Section 2 shall also apply to the extent that the current or future laws regarding personal data of any other jurisdiction apply to Customer’s personal data and may be satisfied by implementation of the Standard Contractual Clauses as described herein.

3.2 The European Commission has provided certain Standard Contractual Clauses (“SCCs”) as the approved mechanism for the transfer of Personal Data under the EU Data Protection Laws. As of June 4, 2021, the European Commission’s Implementing Decision 2021/914 has replaced prior SCCs with new SCCs which are available at https://eur-lex.europa.eu/eli/dec_impl/2021/914/oj (“New SCCs”). As of March 21, 2022 the Addendum issued by the Information Commissioner’s Office under s119A(1) of the UK’s Data Protection Act 2018 (“UK Addendum”) may serve as the transfer mechanism in respect of the UK GDPR.

3.3 The parties agree that the New SCCs and UK Addendum are hereby incorporated into the Agreement as follows and entirely replace and supersede any reference to prior SCCs.

3.3.1 The optional language at Clause 11(a) of the New SCCs shall not apply and the following of the New SCCs shall apply, Clause 7; Module Two: Transfer controller to processor; Clause 9(a) Option 2: General Written Authorization and “[Specify time period]” shall be replaced with “thirty (30) calendar days”; Clause 17 Option 1; Clause 17 and Clause 18 shall reference the EU member state Ireland.

3.3.2 The information in Exhibit 1, attached hereto, shall be used as Annex I, II and III of the New SCCs.

3.3.3 For transfers of personal data originating from Switzerland: (i) references in the New SCCs to a “Member State” shall not be read to prevent data subjects from Switzerland from the possibility of suing for their rights in their place of habitual residence (i.e. Switzerland); (ii) until the revised Swiss Federal Act of 19 June 1992 on Data Protection (“FADP”) enters into force the New SCCs shall also protect the data of legal entities in Switzerland.

3.3.4 For transfers of personal data originating from the UK, the UK Addendum is appended to the New SCCs subject to the following (i) the New SCCs are considered amended as set out in the UK Addendum (ii) “Exporter” is selected for the purpose of Section 19 and Table 4 of the UK Addendum; and (iii) the Parties recognize that the information required to populate the Tables of the UK Addendum is provided in this DPA, including the Exhibits, and that by entering into this DPA and the New SCCs as provided for in this Section 1.1 then they have also entered into the UK Addendum and agree to be bound by its terms.

3.4 Opal shall ensure sub-processors involved in processing personal data are subject to the relevant commitments regarding access by public authorities as set out in Clause 15 of the New SCCs.

3.5 If either the New SCCs, UK Addendum or other legal instrument in relation to international transfers of personal data from the EEA, UK or Switzerland is invalidated, amended or replaced, the parties agree to work together in good faith to resolve any resulting non-compliance issue and enter into such other form of contract as necessary to ensure that processing of personal data remains compliant with applicable Data Protection Laws and the parties will execute documentation to effectuate the legality of such.

3.6 This DPA reflects the processing of personal data by Opal as agreed and defined in the Main Agreement and Order and any other written agreement between the parties pertaining to the services provided to Customer.

4. Status of the Parties

4.1 Each party warrants in relation to personal data that it will comply (and will procure that any of its personnel comply and use commercially reasonable efforts to procure that its sub-processors comply), with Data Protection Laws.

4.2 In respect of the parties' rights and obligations under this DPA regarding the personal data, the parties hereby acknowledge and agree that Customer is the data controller and Opal is the data processor, and accordingly Opal agrees that it shall process all personal data in accordance with its obligations pursuant to this DPA.

4.3 Each party shall appoint an individual within its organization authorized to respond from time to time to enquiries regarding the personal data and each party shall deal with such enquiries promptly.

5. Opal Obligations:

5.1 Opal shall:

5.1.1 Appoint a dedicated person in charge of privacy matters in writing and shall provide Customer with the contact details of such person ("Data Protection Officer"). Opal shall ensure that the Data Protection Officer monitors the use of operations used to process personal data in compliance with instructions of Customer. Opal shall ensure that the Data Protection Officer takes the appropriate measures to familiarize persons dealing with the processing of personal data with the relevant data protection provisions and obligations under this DPA.

5.1.2 Ensure that only authorized personnel have access to such personal data and that any persons whom it authorizes to have access to the personal data are under obligations of confidentiality and are notified of the data protection obligations specifically arising from the work to be carried out.

5.1.3 Make available to Customer on request any information necessary to demonstrate Opal's compliance with the obligations agreed upon in this DPA.

5.1.4 Shall promptly notify Customer about any request of data subjects regarding the processing of personal data, including but not limited to rectification, erasure, blocking of data, portability requests and objection to processing to ensure an appropriate reaction regarding the requests.

5.1.5 Opal shall not respond to any request of data subjects except on a documented instruction by Customer or as required under the applicable data protection laws, in which case it will, to the extent permitted under applicable data protection law, inform Customer of that legal requirement before responding to the request.

5.1.6 Provide at no extra cost to Customer prompt assistance in relation to Customer's obligations under Data Protection Laws with respect to:

(a) data protection impact assessments;

(b) a data subject's request according to Art. 13 – 20 GDPR. Opal shall not respond to a data subject request without Customer's prior written consent except to confirm that such request relates to Opal, to which Customer hereby agrees. Upon Customer's request Opal shall at no extra charge to Customer provide reasonable assistance to Customer (as Customer's request shall specify) to facilitate such data subject request;

(c) notifications to the supervisory authority competent according to GDPR and/or communications to data subjects by Customer in response to any Security Breach (as defined below); and

(d) Customer's compliance with their respective obligations under the GDPR with respect to the security of processing.

5.2 Opal represents and warrants

5.2.1 It will only process personal data in order to provide the Service, and shall act only in accordance with: (a) this DPA, and (b) Customer's written instructions.

5.2.2 Upon becoming aware, to immediately inform Customer if, in Opal's opinion, any instruction provided by Customer or any other processing of personal data according to this DPA infringes Data Protection Laws.

5.2.3 Upon becoming aware, to immediately (at the latest within 72 hours) notify Customer of any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data transmitted, stored or otherwise processed by Opal, its sub-processors, or any other identified or unidentified third party (a "Security Breach");

5.2.4 To promptly provide Customer with full cooperation and assistance in respect of a Security Breach and all reasonable information in Opal's possession concerning such Security Breach insofar as it affects Customer, including the following to the extent then known:

(a) the possible cause and consequences of the Security Breach;

(b) the categories of personal data involved;

(c) a summary of the possible consequences for the relevant data subjects;

(d) a summary of the unauthorized recipients of the personal data; and

(e) the measures taken by Opal to mitigate any damage.

6. Sub-processors

6.1 If Customer approves Opal's use of a sub-processor, Opal shall not appoint any replacement or additional sub-processors without the prior written consent of Customer except as follows:

6.1.1 Opal may, by giving no less than thirty (30) days' notice to Customer, add or make changes to the sub-processors. Customer may object to the appointment of an additional sub-processor within fourteen (14) calendar days of such notice on reasonable grounds relating to the protection of the personal data, in which case Opal shall have the right to cure the objection through one of the following options (to be selected at Opal's sole discretion): (a) Opal will cancel its plans to use the sub-processor with regard

to personal data or will offer an alternative to provide the Service without such sub-processor; or (b) Opal will take the corrective steps requested by Customer in its objection (which remove Customer's objection) and proceed to use the sub-processor with regard to personal data; or (c) Opal may cease to provide or Customer may agree not to use (temporarily or permanently) the particular aspect of the Service that would involve the use of such sub-processor with regard to personal data, subject to a mutual agreement of the parties to adjust the remuneration for the Service considering the reduced scope of the Service. Objections to a sub-processor shall be submitted to Opal by following the directions set forth in the sub-processor list. If none of the above options are reasonably available and the objection has not been resolved to the mutual satisfaction of the parties within thirty (30) days after Opal's receipt of Customer's objection, either party may terminate the Main Agreement, and Customer will be entitled to a pro-rata refund for prepaid fees for the Service not performed as of the date of termination.

6.1.2 Opal may replace a sub-processor if the reason for the change is beyond Opal's reasonable control. In such instance, Opal shall notify Customer of the replacement as soon as reasonably practicable, and Customer shall retain the right to object to the replacement sub-processor pursuant to Section 6.1.1.

7. Audit and Records

Opal shall, in accordance with Data Protection Laws, make available to Customer such information in Opal's possession or control and provide all assistance in connection with audits of Opal's premises, systems, and documentation as Customer may reasonably request with a view to demonstrating Opal's compliance with the obligations of data processors under EU Data Protection Law in relation to its processing of personal data.

8. General

8.1 This DPA is incorporated into and subject to the terms of the Main Agreement and applicable Order and shall be effective and remain in force for the term of the Main Agreement, applicable Order, or the duration of the Service. In the event of any conflict between the terms of this DPA and the terms of the Main Agreement, the terms of this DPA shall prevail so far as the subject matter concerns the processing of personal data.

8.2 This DPA does not confer any third-party beneficiary rights, it is intended for the benefit of the parties hereto and their respective permitted successors and assigns only, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

8.3 This DPA and any action related thereto shall be governed by and construed in accordance with the laws of England and Wales, without giving effect to any conflicts of laws principles. The parties' consent to the personal jurisdiction of, and venue in, the English courts.

8.4 This DPA is the final, complete, and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions and agreements between the parties with respect to such subject matter. Other than in respect of statements made fraudulently, no other representations or terms shall apply or form part of this DPA. No modification of, amendment to, or waiver of any rights under the DPA will be effective unless in writing and signed by an authorized signatory of each party.

Exhibit 1 – Annexes to the New Standard Contractual Clauses

Annex I

A. LIST OF PARTIES

Data exporter(s):

Name	As set forth in the associated Order
Address	As set forth in the associated Order
Contact person's name, position and contact details:	As set forth in the associated Order
Activities relevant to the data transferred under these Clauses:	As set forth in the associated Order
Role (controller/processor)	Controller

Data importer(s): 1:

Name	Opal Labs Inc.
Address	555 SE Martin Luther King Jr Blvd ste 105, Portland, OR 97214
Contact person's name, position and contact details:	Contact: Vesper Luckey Position: Sr. Director, Cloud and Technical Operations Contact Details: vluckey@workwithopal.com
Activities relevant to the data transferred under these Clauses:	Opal is the marketing and communications calendar that unites teams and bridges the gap between strategy and execution of campaigns. Opal will process marketing information on behalf of the data exporter.
Role (controller/processor)	Processor

B. DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred:	Data subjects relevant for the performance of the Services as set out in the Agreement including employee data.
Categories of personal data transferred:	Personal data for the performance of the Services as set out in the Agreement including user information.
Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures:	Opal processes user information (name, usernames, email address and IP address) and company marketing collaterals. All data is encrypted in transit using TLS 1.2 or greater and at rest using AES-256. Although all Opal employees are trained on safe data handling practices, access to databases is strictly restricted on a need-to-know basis for approved employees only.
The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis):	Continuous basis
Nature of the processing:	The performance of the Services pursuant to the Agreement.
Purpose(s) of the data transfer and further processing:	Data Importer shall process the Personal Data as necessary to perform the Services pursuant to the Agreement.

The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period:	Subject to the terms of the Agreement and unless otherwise agreed in writing, Data Importer shall process the Personal Data for the duration of the Agreement.
For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing:	Sub-processors shall process Personal Data as necessary to perform the Services pursuant to the Agreement.
The identities of the sub-processors used in the provision of the Services and the subject matter which they process are listed here:	https://workwithopal.com/sub-processors/
In the case of specific authorizations of sub-processors, the identities of the sub-processors used in the provision of the Services, contact persons details, description of processing (including a clear delineation of responsibilities in case of several sub-processors) and the subject matter which they process are listed here:	Not applicable – General Written Authorization applies.

C. COMPETENT SUPERVISORY AUTHORITY

Identify the competent supervisory authority/ies in accordance with Clause 13:

Ireland - Data Protection Commission, 21 Fitzwilliam Square South, Dublin 2

D02 Rd28, Ireland in parallel with the Swiss Federal Data Protection Information Commissioner insofar as data transfer(s) are governed by the FADP.

Annex II: TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

The Opal Platform is hosted on Azure. Opal's cloud provider maintains SOC 2 and ISO 27001 compliance, stringent backup and environment control systems, amongst other best-in-class countermeasures. More information about Microsoft's compliance programs can be found at (<https://learn.microsoft.com/en-us/azure/compliance/>).

Opal is compliant against the ISO 27001:2013 standard as well as the SOC 2 Trust Service Criteria. In addition, the platform is penetration-tested on an annual or more frequent basis, with periodic use of static code analysis tools

Customer data is encrypted by default—in transit and at rest— using TLS 1.2 or greater and AES-256, respectively. Databases and database backups are fully encrypted at rest. Encryption keys stored in Hardware Security Modules.

Opal performs weekly vulnerability scans of the application and maintains automated and manual testing to ensure vulnerabilities are identified and remedied promptly.

Opal features firewall systems, IDS/IPS measures, robust authentication methods, and data classification methods to maintain application integrity and data security. The database uses logical segregation to maintain the separation of customer records.

Opal maintains a business continuity and disaster recovery program tested every year to ensure business continuity after a disaster or outage.

All Opal employees receive security training and best practices on a variety of topics such as, phishing, malware, to name a few.

Opal developers are trained on OWASP secure coding practices, including the OWASP Top 10. All code changes undergo peer review, regression testing, automated testing, and manual testing to ensure appropriateness of the code change for production use.

Opal may share data with a Sub Processor. Sub Processors must comply with Opal data privacy and security requirements.

