

GDPR Data Processing Addendum

This Data Processing Addendum (“**DPA**”) by and between Membean, Inc. (“**Membean**”) and the undersigned customer of Membean (“**Customer**”) shall apply in the event Membean Processes Personal Data as further described below in connection with Membean’s provision of its service(s) (“**Service(s)**”) to Customer.

In connection with the Service, Membean may Process outside of the European Economic Area (“**EEA**”) and the United Kingdom (“**UK**”) certain Personal Data in respect of which the Customer may be a data controller or data processor, as applicable, under applicable EU/UK Data Protection Laws. If Membean does so, the Customer and Membean (each a “party”, and together “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 EU/UK Data Protection Laws.

This DPA is incorporated into, forms a part of, and is in all respects governed by the Membean Terms of Service (available at www.membean.com/agreement) (“**Main Agreement**”), and as such the Customer entity signing this DPA must be the same as the Customer entity that is party to the Main Agreement. The parties agree that the obligations under this DPA are specific to the GDPR and apply only when and where the GDPR has come into full force and effect. All capitalized terms shall have the meanings as set forth in the Main Agreement.

1 Definitions

- (a) “**Adequate Country**” means a country or territory that is recognized under EU/UK Data Protection Laws as providing adequate protection for Personal Data;
- (b) “**Affiliate**” means, with respect to a party, any corporate entity that, directly or indirectly, Controls, is Controlled by, or is under Common Control with such party. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.
- (c) “**EU/UK Data Protection Laws**” means all laws and regulations of the European Union, the European Economic Area, their member states, and the United Kingdom, applicable to the processing of Personal Data under the Main Agreement, including (where applicable) the GDPR;
- (d) “**Standard Contractual Clauses**” means the clauses for the transfer of Personal Data to processors established in third countries under Directive 95/46/EC of the European Parliament and of the Council that were adopted by the Commission Decision of 5 February 2010 on standard contractual clauses (notified under document C(2010) 593), as such clauses may be amended from time to time.
- (e) “**Privacy Shield**” means the EU-U.S. Privacy Shield Framework and its Principle and the Swiss-U.S. Privacy Shield Framework and its Principles.

- (f) **“GDPR”**, General Data Protection Regulation, means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 or the UK Data Privacy Protection Act , 2018 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.
- (g) **“Personal Data”** means all data which is defined as “personal data” under EU/UK Data Protection Laws and to which EU/UK Data Protection Laws apply and which is provided by the Customer to Membean, and accessed, stored or otherwise processed by Membean as a data processor as part of its provision of the Service to Customer; and
- (h) **“processing”, “data controller”, “data subject”, “supervisory authority” and “data processor”** shall have the meanings ascribed to them in EU/UK Data Protection Laws.

2 Processing of Personal Data

1. The parties acknowledge and agree that with regard to the Processing of Personal Data, Customer is the Controller, Membean is the Processor and that Membean will engage sub-processors pursuant to the requirements set forth in the “Sub-processors” section below.
2. The type of Personal Data processed pursuant to this DPA and the subject matter, duration, nature and purpose of the processing, and the categories of data subjects, are as described in Annex 1.
3. Customer shall, in its use of the Services, Process Personal Data in accordance with the requirements of Data Protection Laws and Regulations. Customer’s instructions and actions for the Processing of Personal Data shall comply with Data Protection Laws and Regulations. Customer shall have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which Customer acquired Personal Data.
4. Membean shall only process Personal Data on behalf of Customer in accordance with Customer’s documented instructions for the following purposes: (i) Processing in accordance with this DPA and the Main Agreement; (ii) Processing to comply with Customer’s documented instructions which are consistent with the Main Agreement; and (iii) Processing initiated by Customer or Customer Users in their use of the Services.

3 Membean Obligations

1. Membean shall, to the extent legally permitted, promptly notify Customer if it receives a request from a Data Subject to exercise the Data Subject’s right of access, right to rectification, restriction of Processing, or erasure of that person’s Personal Data or if a Data Subject objects to the Processing or makes a data portability request thereof (**“Data Subject Request”**).
2. Taking into account the nature of the Processing and the information available, Membean shall reasonably assist Customer by appropriate technical and organizational measures, insofar as this is possible, for the fulfillment of Customer’s obligation to respond to a Data Subject Request under EU/UK Data Protection Laws and Regulations; provided that the

Customer shall cover all costs incurred by Membean in connection with its provision of such assistance, to the extent legally permitted.

3. Membean shall take reasonable steps to ensure that only authorized personnel have access to Personal Data being Processed to provide the Services and that any persons whom it authorizes to have access to such Personal Data are informed of the confidential nature of the Personal Data and are under obligations of confidentiality.
4. Except to the extent required to comply with applicable law, as soon as reasonably practicable following termination or expiration of the Main Agreement or completion of the Services, Membean shall delete all Personal Data Processed pursuant to this DPA.
5. Membean shall provide, at Customer's cost and request, reasonable assistance needed to fulfill Customer's obligations under the GDPR to carry out a data protection impact assessment relating to the Processing of Personal Data by Membean, taking into account the nature of the Processing and to the extent Customer does not otherwise have access to the relevant information, and to the extent such information is available to Membean. Membean shall also provide reasonable assistance to Customer in the cooperation with the Supervisory Authority to the extent required under GDPR.

4 Security and Audits

1. Membean shall implement appropriate technical and organizational measures to ensure a level of security appropriate to the risks that are presented by the Processing of Personal Data, in particular protection against accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data. Such measures include, without limitation, the security measures set out in Appendix 2 to the Standard Contractual Clauses.
2. Membean shall notify Customer without undue delay after becoming aware 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 Membean, its sub-processors, or any other identified or unidentified third party (a **"Security Breach"**).
3. Membean shall make reasonable efforts to identify the cause of such Security Breach and take those steps as Membean deems necessary and reasonable in order to remediate the cause of such a Security Breach to the extent the remediation is within reasonable control of Membean. The obligations herein shall not apply to incidents that are caused by Customer or Customer's Users.
4. The Customer may exercise its right of audit under GDPR in relation to Membean's compliance with its obligations under GDPR. Upon Customer's written request at reasonable intervals, and subject to the confidentiality obligations set forth in this DPA, Membean shall make available to Customer an audit report not older than eighteen (18)

months demonstrating that Membean's technical and organizational measures are in accordance with accepted industry standards and certifications.

5. The Customer may request an on-site audit of the procedures relevant to the protection of Personal Data by notifying Membean in writing thirty (30) days in advance and not to exceed once a year. Unless otherwise specified by Membean, Customer shall conduct such audit only during regular business hours and in a manner avoiding any damage or disruption to Membean's premises, equipment, and business while the audit is taking place on-site. Customer shall be responsible to reimburse Membean for any time expended for any such on-site audit at Membean's then-current professional service rates, which shall be made available to Customer upon request. Customer and Membean shall mutually agree upon the scope, timing and duration of the audit in addition to the reimbursement rate. Customer shall promptly notify Membean with information regarding any non-compliance discovered during the course of an audit.

5 Sub-processing

1. Customer grants a general authorization to Membean and its Affiliates to appoint third party data center operators, and outsourced marketing, business, engineering and customer support providers as sub-processors to support the provision and performance of the Service. Membean shall make available to Customer a current list of sub-processors at www.membean.com.
2. Membean will ensure that any sub-processor it engages to provide an aspect of the Service on its behalf in connection with this DPA does so only on the basis of a written agreement containing data protection terms no less protective of Personal Data than those in this DPA to the extent applicable to the nature of the Services provided by such sub-processor.
3. Membean will maintain a current list of sub-processors on the membean.com website and will add the names of new and replacement sub-processors to the list prior to them starting sub-processing of Personal Data.
4. **Objection Right for New Sub-Processors.** If the Customer has a reasonable objection to any new or replacement sub-processor, it shall notify Membean of such objections in writing within ten (10) days of the notification and the parties will seek to resolve the matter in good faith. If Membean is reasonably able to provide the Service to the Customer in accordance with the Main Agreement without using the sub-processor and decides in its discretion to do so, then the Customer will have no further rights under this objection clause in respect of the proposed use of the sub-processor. If Membean requires use of the sub-processor in its discretion and is unable to satisfy the Customer as to the suitability of the sub-processor or the documentation and protections in place between Membean and the sub-processor within ninety (90) days from the Customer's notification of objections, the Customer may following the end of the ninety (90) day period referred to above, terminate the applicable Order Form and/or Insertion Orders with at least thirty (30) days written notice, solely with respect to the Service(s) to which the proposed new sub-processor's Processing of Personal Data relates. If the Customer does not provide a timely

objection to any new or replacement sub-processor in accordance with this objection clause, the Customer will be deemed to have consented to the sub-processor and waived its right to object. Membean may use a new or replacement sub-processor whilst the objection procedure in this objection clause is in process.

5. Membean shall be liable for the acts and omissions of its sub-processors only to the extent it would be liable if performing the services of each sub-processor directly under the terms of this DPA and as otherwise set forth in the Main Agreement.

6 Data transfers

1. The Customer acknowledges and accepts that the provision of the Service under the Main Agreement may require the Processing of Personal Data by sub-processors in countries outside the EEA/UK.
2. If, in its performance of this DPA and/or the Main Agreement, Membean transfers any Personal Data outside of the EEA/UK (except if in an Adequate Country) which are subject to EU/UK Data Protection Laws, Membean shall ensure that a legal mechanism is in place to achieve adequacy in respect of that Processing (including through appointment of sub-processors), such as:
 - a. Certifications under the Privacy Shield; or
 - b. Entering into the Standard Contractual Clauses; or
 - c. Any other specifically approved safeguard as recognized under EU/UK Data Protection Laws and/or a European Commission finding of adequacy.

7 General

1. This DPA is without prejudice to the rights and obligations of the parties under the Main Agreement which shall continue to have full force and effect. 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.
2. Membean's liability under or in connection with this DPA (including under the Standard Contractual Clauses) is subject to the limitations on liability contained in the Main Agreement.
3. Except to the extent specified in the Standard Contractual Clauses, if applicable, 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.
4. This DPA and any action related thereto shall be governed by and construed in accordance with the Governing Law and Venue clauses of the Main Agreement.

The parties have each caused this DPA to be signed, dated and duly executed by its authorized representatives.

Customer

Membean, Inc.

By

Ragav Satish

Title

President

Address

10940 SW Barnes Road #233
Portland, OR 97225
USA

Annex 1 - Details of the Personal Data and Processing Activities

Nature and Purpose of Processing

Membean will process Personal Data as necessary to perform Services pursuant to the Main Agreement.

Duration of Processing

Membean will process data for the duration of the Main Agreement and until such date upon which processing is no longer necessary for the purposes of either party performing its obligations under the Main Agreement, to the extent applicable.

Categories of Data Subjects

Customer may submit Personal Data to Membean, the extent of which is determined and controlled by the Customer in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of data subjects:

- Prospects, customers, business partners and vendors of data exporters (who are natural persons)
- Employees or contact persons of data exporter's prospects, customers, business partners and vendors
- Employees, agents, advisors and freelancers of the data exporters (who are natural persons)
- Natural persons authorized by the data exporter to use the services provided by Membean to the data exporter.

Type of Personal Data

Customer may submit Personal Data to Membean, the extent of which is determined and controlled by the Customer in its sole discretion, and which may include, but is not limited to, the following categories of Personal Data:

- First and last names, titles, position, school, contact information (email, phone, etc.), identification data, professional life data, device data, connection data, or localization data (including IP addresses).

Customer and its associated users and/or other partners may also upload content which may include personal data and special categories of data, the extent of which is determined and controlled by the Customer in its sole discretion. Such special categories of data include, but may not be limited to, information revealing racial or ethnic origins, political opinions, religious or philosophical beliefs.