



## **SUPPLEMENTAL TERMS AND CONDITIONS FOR ACCESS TO AND USE OF GMO'S NEEDS BASED ALLOCATION PLATFORM**

GMO has developed a proprietary asset allocation and portfolio management software platform for investment advisers that automates the process of building portfolios personalized to clients of the investment adviser (the "Allocation Platform"). The Allocation Platform uses Company Client Data (as defined herein) and other inputs provided by Company to assist Company to identify and optimize investment allocations for the benefit of Company Clients (as defined herein). Company wishes to access and use the Allocation Platform. The Allocation Platform and any and all information and output from the Allocation Platform, including but not limited to any asset class percentage allocations and glidepaths ("Results") are intended for use only by those companies (each, a "Company") that have executed an Asset Management Platform Services Agreement (together with these Terms and Conditions, the "Agreement") with GMO or a GMO licensee (each, an "Authorized User"). By accessing and/or using GMO's, each Company and Authorized User ("you") agrees to these Terms and Conditions in addition to any additional terms included elsewhere in the Agreement. Capitalized terms not defined in these Terms and Conditions shall have the meanings assigned to such terms elsewhere in the Agreement.

### **1. Use of Allocation Platform**

- a.** You acknowledge and agree that GMO may change or modify the Allocation Platform at any time. You agree that GMO may prevent or restrict access to and use of the Allocation Platform by any Authorized User that GMO believes is not complying with these Terms and Conditions.
- b.** Company will only permit Authorized Users to access and use the Allocation Platform and assumes responsibility for compliance by each Authorized User with the terms of the Agreement. GMO has no obligation to verify the identity of any person who gains access to the Allocation Platform by means of Company's access credentials. Company is solely responsible for monitoring access to and use of the Allocation Platform with credentials issued to the Company and/or its Authorized Users. A failure to comply with the Agreement by an Authorized User is a failure by Company. Company must immediately take all necessary steps, including providing notice to GMO, to effect the termination of access for any Authorized User (i) upon the Authorized User's termination of access rights (whether due to termination of employment or otherwise), (ii) if there is any compromise in the security of login credentials, or (iii) if unauthorized use is suspected or has occurred.
- c.** If Company believes that any person or entity (including Authorized Users or other employees, agents, or contractors of Company) is taking or threatens to take any action (or inaction) that would violate any of the provisions of the Agreement, Company will immediately notify GMO of such action (or inaction) and GMO may take steps to prevent the violation, including suspending Company's access to the Allocation Platform and Results. Company agrees to cooperate in all ways requested by GMO to protect the Allocation Platform, and GMO's intellectual property and proprietary rights in and to the Allocation Platform and Results.

- d. GMO is not responsible for the transfer of any data provided by Company or Company Clients, including but not limited to information about the Company Clients that may be reflected in Results, such as financial/retirement planning objectives, estate planning, anticipated cash flows and investment risk tolerance ("Company Client Data") over telecommunications facilities, including the Internet. GMO does not warrant secure operation of the Allocation Platform or that security technologies will be able to prevent disruption to any Allocation Platform. GMO does not warrant that the Allocation Platform will be error-free, or will function without interruption or that all defects will be corrected. GMO provides the Allocation Platform and Results on an "as is" basis and makes no representations or guarantees regarding uptime or availability of the Allocation Platform and Results and the underlying servers, cloud services, storage, and other systems required for the delivery and use of the Allocation Platform and Results.
- e. Company acknowledges that the Allocation Platform is not intended to be used for purposes of archiving or backing-up Company Client Data or Results and Company will not use the Allocation Platform for those purposes.
- f. Company shall not authorize any Company Client to use or access the Allocation Platform, and the license and rights granted herein do not extend to Company Clients.

## 2. Restrictions and Unauthorized Conduct

- a. You may not decompile, decipher, disassemble, translate, reverse engineer, or otherwise attempt to access or derive source code of the Allocation Platform, except as expressly permitted by applicable law notwithstanding this limitation.
- b. Except as otherwise expressly stated in the Agreement, you may not distribute, rent, lease, lend, transfer, sublicense, disclose, or otherwise provide or permit access to the Allocation Platform or the Results to or by any third party or use the Allocation Platform or Results for the benefit of any third party, including on an outsourced basis or by acting as a service bureau, software as a service, or provider of a time sharing service.
- c. You may not access or use the Allocation Platform or Results for purposes of (i) competitive analysis of the Allocation Platform or Results, (ii) the development, provision, or use of a competing software service or product or (iii) any other purpose that is to GMO's detriment or commercial disadvantage.
- d. Except as expressly stated in the Agreement, you may not modify or create derivative works of the Allocation Platform or Results in whole or in part.
- e. You may not remove, alter, or obscure any disclosures (including disclosures regarding the Results and its intended use), proprietary notices or labels on the Allocation Platform or Results.
- f. You may not make any use of the Allocation Platform or Results that violates any applicable local, state, national, international or foreign law.
- g. You may not upload any data, content, or information to the Allocation Platform or otherwise provide any content, data or information to GMO that contains viruses or malicious code or is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive or another's privacy or right of publicity, hateful, or racially, ethnically or otherwise objectionable.
- h. You may not use the Allocation Platform or Results in any manner that infringes the intellectual property, proprietary, or privacy rights of any third party.
- i. You may not interfere with, disrupt, or compromise the Allocation Platform or any GMO or third party system used to host the Allocation Platform or Results or the privacy or security of any of

the foregoing, or of any other equipment or networks used to provide the Allocation Platform or Results.

- j. You may not circumvent the user authentication or security of the Allocation Platform or any host, network, or account related thereto.
- k. You may not use any application programming interface to access the Allocation Platform.
- l. You may not copy or otherwise duplicate the Allocation Platform.
- m. You may not and shall not permit any other Person to use the Allocation Platform, Results, or any other materials or data provided by GMO except as expressly permitted by these Terms and Conditions and the Agreement. All rights not expressly granted herein by GMO are reserved by GMO.
- n. You may not make any use of the Allocation Platform or Results that violates any applicable local, state, federal, international or foreign law.
- o. You may not access or attempt to access any information, data or areas of GMO's network beyond that which is expressly provided, if any, to you order to provide access to and use of the Allocation Platform.
- p. You may not make any use of the Allocation Platform in any manner not expressly permitted by the Agreement.
- q.
- r. The foregoing prohibitions and provisions and all other provisions herein also apply to each Company.

### 3. Export Restrictions

You and the Company acknowledge that the Allocation Platform is of U.S. origin and subject to U.S. export jurisdiction. You and Company agree to comply with all applicable international and national laws that apply to the Allocation Platform, including the U.S. Export Administration Regulations, as well as end-user, end-use, and destination restrictions issued by U.S. or other governments. Without limiting the generality of the foregoing, Company will not transmit, export or re-export, directly or indirectly, separately or as part of any system, the Allocation Platform or any technical data (including processes and services) received from GMO, without first obtaining any license required by the applicable government, including without limitation, the United States government acting under the authority of the Export Administration Act and implementing Export Administration Regulations, and/or any other applicable competent authority. By accepting the Allocation Platform, Company agrees that none of the Allocation Platform obtained from GMO will be sold or otherwise transferred to any US embargoed destination or any entity subject to a US denial order or to any person, company or entity if Company knows or has reason to believe that they will be re-exported, sold or transferred in violation of US or other applicable law or regulations. Company also certifies that none of the Allocation Platform will be sold or otherwise transferred to or made available for any entity or end use that is engaged in the design, development, production, stockpiling or use of nuclear, biological or chemical weapons or missile technology, or for any entity with specific end use that is engaged in conventional weapons or any other military activities.

### 4. Confidentiality.

- a. Each party expressly undertakes to protect and to preserve the confidentiality of all information and know-how made available under or in connection with the Agreement, or the parties' activities hereunder that is either designated as being confidential, or which, by the nature of the circumstances surrounding the disclosure, ought in good faith be treated as proprietary or confidential (the "Confidential Information").
- b. Each party shall take reasonable security precautions, at least as great as the precautions it takes to protect its own confidential information, but in any event using a reasonable standard of care to keep confidential the Confidential Information. Each party shall not disclose the Confidential Information except: (a) to those employees, officers, directors, members, agents and advisors of the receiving party who need to know such information in connection with the receiving party's obligations under the Agreement and are obligated to keep such information confidential (whether by contract, statute or common law); (b) in accordance with a judicial or other governmental order or when such disclosure is required by law, provided that prior to such disclosure the receiving party shall provide the disclosing party with written notice and shall comply with any protective order or equivalent; (c) in accordance with any and all regulatory filings; and (d) in accordance with a regulatory audit or inquiry, without prior notice to the disclosing party, provided that the party shall, to the extent practicable, notify the other party of such disclosure.
- c. GMO is authorized to, and Company's consent is hereby provided for, GMO to disclose nonpublic and confidential information to Third Party Providers (as defined herein) in connection with the Agreement. It is acknowledged and agreed by Company that any such disclosure will be deemed necessary to process a transaction or to service a customer relationship.
- d. Each party will make no use of any Confidential Information except as expressly authorized in the Agreement or as agreed to in writing between the parties. For purposes of the Agreement, the following shall not constitute Confidential Information: (i) information that is or becomes publicly available through no fault of the receiving party; (ii) information that can be documented as having been in the receiving party's possession as of the date of the Agreement, provided it shall not have been provided by the disclosing party; (iii) information that is independently developed by the receiving party outside the scope of services performed specifically for the disclosing party; (iv) information that is obtained lawfully and in good faith by the receiving party from a third party free from confidentiality obligations; or (v) information that is communicated by the receiving party to a third party with the express prior written consent of the disclosing party. The receiving party acknowledges that the burden of proving the foregoing exceptions resides with the receiving party. Each party's obligations under this clause shall survive for a period of three (3) years following the expiration or termination of the Agreement.

5. Limitation of Liability; Indemnification; Exclusion of Certain Damages; Disclaimer. The provisions below survive the termination of the Agreement.

- a. Company agrees to defend, indemnify and hold harmless GMO and each of its Affiliates (each an "Indemnified Party"), from and against any loss, damage or expense suffered or sustained by an Indemnified Party by reason of any action taken, or failure to act, in connection with the Agreement (each such action or omission, an "Action"), including, without limitation, any judgment, settlement, reasonable attorney's fees and other costs or expenses incurred in connection with the defense of any actual or threatened lawsuit, arbitration or mediation proceeding, or any other proceeding (collectively, "Losses"). Company shall advance to any Indemnified Party reasonable attorneys' fees and other costs and expenses incurred in connection with the defense of any lawsuit, arbitration or mediation proceeding, or any other proceeding that arises out of such conduct. In the event that such an advance is made, the

Indemnified Party shall agree (or, if a party hereto, hereby agrees) to reimburse Company for such fees, costs and expenses to the extent that it shall be determined that it was not entitled to indemnification under this Section.

- b. Company shall promptly provide written notice to each relevant Indemnified Party of any event that becomes known to the Company which gives or reasonably may give rise to a claim for indemnification hereunder.
- c. In no event shall GMO or its Affiliates be liable to Company in connection with, or in any way related to, the Company's sharing of Results with a Company Client or any acts or omissions of a Third Party Provider.

IN NO EVENT WILL GMO OR ITS AFFILIATES BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING DAMAGES FOR LOSS OF PROFITS, DAMAGES TO COMPANY'S COMPUTER SYSTEM OR OTHER SYSTEMS, LOSS OF DATA, GOODWILL, USE, OR OTHER LOSSES) ARISING OUT OF THIS AGREEMENT, THE ALLOCATION TOOL, THE UNAVAILABILITY OF THE ALLOCATION TOOL OR CERTAIN INFORMATION THEREIN, SOFTWARE, SERVICES, INFORMATION, MATERIALS, OR ANY RESULTS EVEN IF GMO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY. THE FOREGOING LIMITATION OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES SHALL APPLY REGARDLESS OF THE SUCCESS OR EFFECTIVENESS OF OTHER REMEDIES. FOR THE AVOIDANCE OF DOUBT, NEITHER GMO NOR ITS AFFILIATES SHALL BE LIABLE FOR ANY ERROR OF JUDGMENT OR MISTAKE OF LAW OR FOR ANY LOSS, DAMAGE OR EXPENSE SUFFERED OR SUSTAINED BY COMPANY OR ANY COMPANY CLIENT IN CONNECTION WITH THE SUBJECT MATTER OF THIS AGREEMENT.

COMPANY'S SOLE AND EXCLUSIVE REMEDY AND GMO'S MAXIMUM AGGREGATE LIABILITY FOR ANY DAMAGES OR OBLIGATIONS (INCLUDING INDEMNIFICATION OBLIGATIONS) RELATED TO OR ARISING FROM THE ALLOCATION TOOL, SOFTWARE, SERVICES, INFORMATION, MATERIALS, OR ANY RESULTS PROVIDED BY GMO OR OTHERWISE UNDER OR IN CONNECTION WITH THIS AGREEMENT IS TO OBTAIN ITS DIRECT DAMAGES UP TO THE AMOUNT ACTUALLY PAID BY COMPANY TO GMO FOR THE ONE-YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY, OR, IF NO FEES ARE PAID, \$100. THE EXISTENCE OF MULTIPLE CLAIMS OR SUITS WILL NOT ENLARGE OR EXTEND THIS LIMITATION ON DAMAGES.

ANY EXCLUSION OF DAMAGES IN THIS AGREEMENT IS INDEPENDENT OF COMPANY'S EXCLUSIVE REMEDY PROVIDED FOR IN THE AGREEMENT AND IT SURVIVES EVEN IF THE EXCLUSIVE REMEDY FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE IS DEEMED UNENFORCEABLE. EACH OF THE LIMITATIONS OF LIABILITY IN THE AGREEMENT APPLIES WITHOUT REGARD TO WHETHER LOSS, LIABILITY, OR DAMAGE ARISE FROM (A) BREACH OF CONTRACT, (B) BREACH OF WARRANTY, (C) FAULT OR TORT, INCLUDING NEGLIGENCE AND MISREPRESENTATION, (D) STRICT LIABILITY, OR (E) ANY OTHER CAUSE OF ACTION, TO THE MAXIMUM EXTENT THE EXCLUSIONS AND LIMITATIONS ARE NOT PROHIBITED BY APPLICABLE LAW.

THE ALLOCATION TOOL AND RESULTS (INCLUDING ANY TRANSMISSION SERVICES) ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS FOR COMPANY'S EDUCATIONAL AND RESEARCH PURPOSES ONLY AND ANY DECISIONS MADE IN RELIANCE ON THE ALLOCATION TOOL OR RESULTS WILL BE ENTIRELY THE RESPONSIBILITY OF THE COMPANY AND WILL BE MADE BY COMPANY AT ITS OWN RISK. COMPANY ACCEPTS RESPONSIBILITY FOR, AND ACKNOWLEDGES IT EXERCISES ITS OWN INDEPENDENT JUDGMENT IN ITS USE OR INTENDED USE OF THE ALLOCATION TOOL, RESULTS, AND ANY OTHER INFORMATION OBTAINED FROM THE ALLOCATION TOOL. THE

ALLOCATION TOOL AND RESULTS ARE PROVIDED WITHOUT WARRANTY OF ANY KIND. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, GMO MAKES NO AND DISCLAIMS ALL PROMISES, REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE FOREGOING INCLUDING ALL IMPLIED WARRANTIES OF SATISFACTORY QUALITY, MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE.

6. Additional Representations, Acknowledgments, and Agreements of Company.

- a. Company has discretionary authority to manage the assets of each Company Client pursuant to a written agreement with each Company Client.
- b. Company represents that it is (i) a broker-dealer, investment adviser, bank, insurance company or a representative of any such entity acting in such capacity; and (ii) capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies.
- c. Neither Company nor any of its officers, directors, employees, affiliates or agents is: (1) a registered broker-dealer subject to statutory disqualification as defined under Section 3(a)(39) of the Securities Exchange Act of 1934, as amended; (2) a person whose involvement would disqualify an offering from reliance on Regulation D under the Securities Act of 1933, as amended, by virtue of Rule 506(d) of Regulation D; or (3) an "ineligible person" as defined in Rule 206(4)-1(e)(9) of the Advisers Act.
- d. Company acknowledges that (i) Company will be solely responsible for investment decisions and implementation thereof arising from Company's use of the Allocation Platform, and (ii) the Results and/or use of the Allocation Platform may not be suitable for all Company Clients and may not represent a complete investment program.
- e. Company acknowledges that GMO's exercise of its rights and performance of its obligations hereunder are permitted by, and do not violate any terms of, agreements between Company and Company Clients.
- f. Company maintains reasonable technological protections, precautions, and safeguards in place on all electronic means of communications with its Company Clients and with GMO to protect against cybersecurity incidents in accordance with its requirements under applicable federal/state laws.
- g. Company acknowledges that it has conducted its own due diligence on GMO and the Allocation Platform.
- h. Company acknowledges and agrees that to the extent required by applicable law or regulation, Company will disclose to Company Clients material information related to GMO and the Allocation Platform, including risks and expenses.
- i. Company acknowledges and agrees that (i) GMO provides the Allocation Platform for educational and research purposes only; and (ii) the Allocation Platform and the Results are not "investment advice" (as such term is defined in the Advisers Act), recommendations, or an

offering of any services, securities or products for sale. Neither GMO nor its personnel provide tax or legal advice and neither the Allocation Platform nor the Results shall be construed as providing tax or legal advice.

- j. Company acknowledges and agrees that it: (i) is solely responsible for the accuracy and/or completeness of the data and information (including Company Client Data) provided to GMO, through the Allocation Platform, by Company, Company clients or otherwise, which may be reflected in the Results; and (ii) prior to relying on any Results based on Company Client Data, Company will review Company Client Data to ensure it is accurate, complete and current. GMO assumes no responsibility for the accuracy of such data and information.
- k. Company represents and warrants that (a) it has obtained all rights to use systems, software, or any other tangible or intangible property owned by persons or entities that are necessary for Company to access the Allocation Platform and Results; (b) it will maintain confidentiality of Results and Authorized User log-in credentials (e.g., user identification(s), code(s), password(s), procedure(s) and user keys); (c) data input by Authorized Users is free of all viruses, Trojan horses, and other elements which could interrupt or harm the systems or Allocation Platform used by GMO or its contractors to provide the Allocation Platform and Results; and (d) Company, Authorized Users, and all Company Client Data will comply with all applicable requirements and procedures made known to Company by GMO through the Allocation Platform or otherwise. Company will, and will require Authorized Users to, change all log-in credentials used to access the Allocation Platform at regular intervals. If Company believes a third party may have obtained knowledge of an Authorized User's password, Company will notify GMO immediately and promptly change the password.
- l. Company acknowledges and agrees that (i) the Results are current only as of the date of its production; (ii) the information reflected in the Results may be superseded by subsequent market events, updates to the Allocation Platform or otherwise, including changes in a Company Client's personal circumstances; (iii) and GMO assumes no duty to update the Results or to notify Company of subsequent changes.
- m. Company acknowledges and agrees that GMO does not guarantee: (i) any level of performance in connection with Company's use of the Allocation Platform; (ii) that the Allocation Platform will be successful; or (iii) that Company or any Company client will meet any investment goal. Any investment involves a degree of risk, including market volatility and the risk of loss of the entire amount invested.
- n. Company acknowledges that GMO, in its sole discretion, may from time to time make modifications, additions and/or deletions to the Allocation Platform. Such modifications, additions or deletions may sever, delay or otherwise affect Company's access to or use of the Allocation Platform. Company further acknowledges that despite GMO's commitment to business continuity planning, operational disruptions may occasionally occur and the Allocation Platform may become unavailable for periods of time. GMO will take reasonable measures to minimize disruptions, however Company acknowledges that GMO shall not be liable for any damages or losses arising from the unavailability of the Allocation Platform.
- o. Company acknowledges that custodial relationships involve inherent risks. Company remains responsible for selecting custodians on behalf of Company and Company Clients and shall assume all risk associated with custodian relationships.

p. Company acknowledges and agrees that it has provided and may continue to provide in connection with the Allocation Platform Company Client Data and that GMO will use the Company Client Data along with similar data from third parties to improve the Allocation Platform. Company further acknowledges and agrees that GMO is free to use, disclose, reproduce, license, and otherwise distribute know-how, ideas, suggestions, comments and information derived from the use of Company Client Data ("Residual Information") in perpetuity without any obligations or restrictions of any kind, including intellectual property rights. For clarity, upon expiration or termination of the Agreement, GMO will not be required to extract, remove, or otherwise segregate Residual Information from the Allocation Platform.

7. Taxes; Service Fees

- a. Company shall pay or reimburse GMO (including following the expiration or termination of the Agreement) for any unpaid Taxes and GMO may add any such Taxes to invoices submitted to Company by GMO. GMO reserves the right to charge a late fee of up to 1.5% per month (or, if less, the maximum rate allowable by law) on any balance due remaining unpaid for more than thirty (30) days from the date of receipt by Company or Company Client's custodian.
- b. In the event that GMO is unable to collect Service Fees or Taxes from the Company Client's custodial accounts (for example in the event custodian has not received sufficient authorization from Company or Company Client(s) account or Company Client account(s) has insufficient cash), Company shall be responsible for paying to GMO directly the payable but unpaid Service Fees and Taxes (plus late fees, if any) associated with such Company Client accounts.
- c. In the event the Service Fee and Taxes (whether in whole or in part) have not been received by GMO by the payment due date noted above, GMO may, at its option, in addition to other available remedies, suspend Company use of and access to the Allocation Platform, provided that it first gives Company five (5) business days' prior notice to permit Company to cure any default for non-payment.

8. Non-Exclusive Contract. Company acknowledges that:

- a. Each party's services under the Agreement are non-exclusive, and GMO may make the Allocation Platform available to other companies and individuals.
- b. Each party to the Agreement and its Affiliates may engage in other business activities of any kind.

9. Discontinuation of Allocation Platform; Termination by GMO. GMO may, in its sole discretion, discontinue the offering, provision and support for the Allocation Platform and related operations. In connection with such discontinuation, or for any other reason, GMO may terminate the Agreement by providing no less than thirty (30) days' written notice to Company.

10. Data Privacy and Processing Addendum

This Data Privacy and Processing Addendum applies to any and all activities associated with the Agreement, in whose scope GMO Processes Personal Data on behalf of Company, but only to the extent (i) such Personal Data pertains to data subjects in the European Economic Area or California and/or (ii) GMO is otherwise subject to a Privacy Law.

- a. Personal Data

- i. Company represents and warrants that it will utilize Personal Data, regardless of its source, within the Allocation Platform only as reasonably necessary to fulfill its fiduciary obligations to the applicable Company Client. To the extent Company is able to utilize Personal Data on an anonymized or deidentified basis, it will undertake reasonable efforts to do so.
- ii. This Data Processing Addendum shall only apply to any Personal Data shared by the Company with GMO under the Agreement that is subject to an applicable Privacy Law.

b. Customer as Data Controller

- i. As between the parties, Company is a Data Controller in respect of the Processing of Personal Data and GMO is a Data Processor.
- ii. Each party warrants to the other that it will not act in such a way to cause the other party to breach any of its obligations under this Addendum.

c. GDPR

- i. GMO will comply with GMO's applicable obligations as a Data Processor under the GDPR, including those requirements set out in Articles 28 (Processor), 29 (Processing under the authority of the controller or processor), 31 (Cooperation with the supervisory authority) and 32 (Security of processing) of the GDPR.
- ii. GMO will promptly notify Company in the event GMO becomes aware of a relevant Personal Data breach and provide reasonable assistance to Company in Company's notification of that Personal Data breach to the relevant supervisory authority and those data subjects affected as set out in Articles 33 (Notification of a personal data breach to the supervisory authority) and 34 (Communication of a personal data breach to the data subject) of the GDPR.
- iii. GMO will not disclose or use Personal Data except in accordance with Company's lawful instructions, to carry out GMO's obligations under, or as otherwise permitted pursuant to the terms of, the underlying Agreement with Company and to comply with applicable law, including the GDPR.
- iv. GMO will only transfer Personal Data to its affiliates and subcontractors that have executed a data protection agreement containing privacy and security terms that are materially similar to those contained herein.
- v. GMO (a "data importer") and Company (a "data exporter") agree to enter into the Standard Contractual Clauses without modification in respect of any transfer of Personal Data from the EU into the United States.

d. CCPA

To the extent GMO processes "personal information", as defined by the CCPA, the parties agree as follows:

- i. GMO is a service provider.
- ii. Company discloses personal information to GMO solely for GMO to perform the services as further described in the Agreement.
- iii. GMO is prohibited from: (i) selling the personal information; (ii) retaining, using, or disclosing the personal information for any purpose other than for the specific purpose of performing the services provided under the Agreement, including retaining, using, or disclosing the personal information for a commercial purpose other than providing the services under the Agreement; and (iii) retaining, using, or disclosing the personal information outside of the direct business relationship between GMO and Company.
- iv. GMO understands the restrictions set forth in Section c above and certifies that it will comply with the same.

e. Definitions

- i. "CCPA" means the California Consumer Privacy Act of 2018.
- ii. "Privacy Laws" means the CCPA and the GDPR. iii. "GDPR" means (i) 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 (ii) all relevant European Union member state laws or regulations giving effect or corresponding with the GDPR; (iii) the laws, regulations, or other binding obligations (including any and all legislative and/or regulatory amendments or successors thereto) of the European Union, European Economic Area, Switzerland, and the United Kingdom that govern or apply to personal data; and (iv) any judicial or administrative interpretation of any of the above, any guidance, guidelines, codes of practice, approved codes of conduct or approved certification mechanisms issued by any relevant Supervisory Authority and binding under applicable law.
- iv. "Personal Data" means any information relating to an identified or identifiable natural person that has been provided by Company to GMO under the Agreement.
- v. "Processing" means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

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If you and/or your Investors are subject to 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, the following Standard Contractual Clauses ("SCCs") will apply. In this event, please request and complete the SCCs Addendum.

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## STANDARD CONTRACTUAL CLAUSES

### SECTION I

#### *Clause 1*

#### *Purpose and scope*

- (a) The purpose of these standard contractual clauses is to ensure compliance with the requirements of 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 (General Data Protection Regulation) for the transfer of personal data to a third country.
- (b) The Parties:

- (i) the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter ‘entity/ies’) transferring the personal data, as listed in Annex I.A (hereinafter each ‘data exporter’), and
- (ii) the entity in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A (hereinafter each ‘data importer’) have agreed to these standard contractual clauses (hereinafter: ‘Clauses’).
- (c) These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.
- (d) The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

*Clause 2*

***Effect and invariability of the Clauses***

- (a) These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46(2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.
- (b) These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

*Clause 3*

***Third-party beneficiaries***

- (a) Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:
  - (i) Clause 1, Clause 2, Clause 3, Clause 6, Clause 7; Clause 8 – Module One: Clause 8.5 (e) and Clause 8.9(b); Module Two: Clause 8.1(b), 8.9(a), (c), (d) and (e); Module Three: Clause 8.1(a), (c) and (d) and Clause 8.9(a), (c), (d), (e), (f) and (g); Module Four: Clause 8.1 (b) and Clause 8.3(b);
  - (ii) Clause 9 – Module Two: Clause 9(a), (c), (d) and (e); Module Three: Clause 9(a), (c), (d) and (e);
  - (iii) Clause 12 – Module One: Clause 12(a) and (d); Modules Two and Three: Clause 12(a), (d) and (f);
  - (iv) Clause 13;

- (v) Clause 15.1(c), (d) and (e);
- (vi) Clause 16(e);
- (vii) Clause 18 – Modules One, Two and Three: Clause 18(a) and (b); Module Four: Clause 18.

(b) Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

*Clause 4*

***Interpretation***

- (a) Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.
- (b) These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.
- (c) These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

*Clause 5*

***Hierarchy***

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

*Clause 6*

***Description of the transfer(s)***

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

*Clause 7*

***Docking clause***

- (a) An entity that is not a Party to these Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer, by completing the Appendix and signing Annex I.A.
- (b) Once it has completed the Appendix and signed Annex I.A, the acceding entity shall become a Party to these Clauses and have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex I.A.
- (c) The acceding entity shall have no rights or obligations arising under these Clauses from the period prior to becoming a Party.

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## SECTION II – OBLIGATIONS OF THE PARTIES

### *Clause 8*

#### ***Data protection safeguards***

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

##### **8.1 Instructions**

- (a) The data importer shall process the personal data only on documented instructions from the data exporter. The data exporter may give such instructions throughout the duration of the contract.
- (b) The data importer shall immediately inform the data exporter if it is unable to follow those instructions.

##### **8.2 Purpose limitation**

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I. B, unless on further instructions from the data exporter.

##### **8.3 Transparency**

On request, the data exporter shall make a copy of these Clauses, including the Appendix as completed by the Parties, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including the measures described in Annex II and personal data, the data exporter may redact part of the text of the Appendix to these Clauses prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand the its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information. This Clause is without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

##### **8.4 Accuracy**

If the data importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the data exporter without undue delay. In this case, the data importer shall cooperate with the data exporter to erase or rectify the data.

##### **8.5 Duration of processing and erasure or return of data**

Processing by the data importer shall only take place for the duration specified in Annex I.B. After the end of the provision of the processing services, the data importer shall, at the choice of the data exporter, delete all personal data processed on behalf of the data exporter and certify to the data exporter that it has done so, or return to the data exporter all personal data processed on its behalf and delete existing copies. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit return or deletion of the personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 14, in particular the requirement for the data importer under Clause 14(e) to notify the data exporter throughout the duration of the

contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 14(a).

## **8.6 *Security of processing***

- (a) The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter ‘personal data breach’). In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter. In complying with its obligations under this paragraph, the data importer shall at least implement the technical and organisational measures specified in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.
- (b) The data importer shall grant access to the personal data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- (c) In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. The data importer shall also notify the data exporter without undue delay after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), its likely consequences and the measures taken or proposed to address the breach including, where appropriate, measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.
- (d) The data importer shall cooperate with and assist the data exporter to enable the data exporter to comply with its obligations under Regulation (EU) 2016/679, in particular to notify the competent supervisory authority and the affected data subjects, taking into account the nature of processing and the information available to the data importer.

## **8.7 *Sensitive data***

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences (hereinafter 'sensitive data'), the data importer shall apply the specific restrictions and/or additional safeguards described in Annex I.B.

## **8.8 *Onward transfers***

The data importer shall only disclose the personal data to a third party on documented instructions from the data exporter. In addition, the data may only be disclosed to a third party located outside the European Union (in the same country as the data importer or in another third country, hereinafter 'onward transfer') if the third party is or agrees to be bound by these Clauses, under the appropriate Module, or if:

- (i) the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;
- (ii) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 Regulation of (EU) 2016/679 with respect to the processing in question;
- (iii) the onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings;  
or
- (iv) the onward transfer is necessary in order to protect the vital interests of the data subject or of another natural person.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

## **8.9 *Documentation and compliance***

- (a) The data importer shall promptly and adequately deal with enquiries from the data exporter that relate to the processing under these Clauses.
- (b) The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer shall keep appropriate documentation on the processing activities carried out on behalf of the data exporter.
- (c) The data importer shall make available to the data exporter all information necessary to demonstrate compliance with the obligations set out in these Clauses and at the data exporter's request, allow for and contribute to audits of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non-compliance. In deciding on a review or audit, the data exporter may take into account relevant certifications held by the data importer.
- (d) The data exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the data importer and shall, where appropriate, be carried out with reasonable notice.

(e) The Parties shall make the information referred to in paragraphs (b) and (c), including the results of any audits, available to the competent supervisory authority on request.

*Clause 9*

***Use of sub-processors***

(a) The data importer has the data exporter's general authorisation for the engagement of subprocessor(s) from an agreed list. The data importer shall specifically inform the data exporter in writing of any intended changes to that list through the addition or replacement of sub-processors at least 30 days in advance, thereby giving the data exporter sufficient time to be able to object to such changes prior to the engagement of the sub-processor(s). The data importer shall provide the data exporter with the information necessary to enable the data exporter to exercise its right to object.

(b) Where the data importer engages a sub-processor to carry out specific processing activities (on behalf of the data exporter), it shall do so by way of a written contract that provides for, in substance, the same data protection obligations as those binding the data importer under these Clauses, including in terms of third-party beneficiary rights for data subjects. The Parties agree that, by complying with this Clause, the data importer fulfils its obligations under Clause 8.8. The data importer shall ensure that the sub-processor complies with the obligations to which the data importer is subject pursuant to these Clauses.

(c) The data importer shall provide, at the data exporter's request, a copy of such a subprocessor agreement and any subsequent amendments to the data exporter. To the extent necessary to protect business secrets or other confidential information, including personal data, the data importer may redact the text of the agreement prior to sharing a copy.

(d) The data importer shall remain fully responsible to the data exporter for the performance of the sub-processor's obligations under its contract with the data importer. The data importer shall notify the data exporter of any failure by the sub-processor to fulfil its obligations under that contract.

(e) The data importer shall agree a third-party beneficiary clause with the sub-processor whereby – in the event the data importer has factually disappeared, ceased to exist in law or has become insolvent – the data exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

*Clause 10*

***Data subject rights***

(a) The data importer shall promptly notify the data exporter of any request it has received from a data subject. It shall not respond to that request itself unless it has been authorised to do so by the data exporter.

- (b) The data importer shall assist the data exporter in fulfilling its obligations to respond to data subjects' requests for the exercise of their rights under Regulation (EU) 2016/679. In this regard, the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.
- (c) In fulfilling its obligations under paragraphs (a) and (b), the data importer shall comply with the instructions from the data exporter.

*Clause 11*

***Redress***

- (a) The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.
- (b) In case of a dispute between a data subject and one of the Parties as regards compliance with these Clauses, that Party shall use its best efforts to resolve the issue amicably in a timely fashion. The Parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them.
- (c) Where the data subject invokes a third-party beneficiary right pursuant to Clause 3, the data importer shall accept the decision of the data subject to:
  - (i) lodge a complaint with the supervisory authority in the Member State of his/her habitual residence or place of work, or the competent supervisory authority pursuant to Clause 13;
  - (ii) refer the dispute to the competent courts within the meaning of Clause 18.
- (d) The Parties accept that the data subject may be represented by a not-for-profit body, organisation or association under the conditions set out in Article 80(1) of Regulation (EU) 2016/679.
- (e) The data importer shall abide by a decision that is binding under the applicable EU or Member State law.
- (f) The data importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.

*Clause 12*

***Liability***

- (a) Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.

- (b) The data importer shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data importer or its sub-processor causes the data subject by breaching the third-party beneficiary rights under these Clauses.
- (c) Notwithstanding paragraph (b), the data exporter shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data exporter or the data importer (or its sub-processor) causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter and, where the data exporter is a processor acting on behalf of a controller, to the liability of the controller under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable.
- (d) The Parties agree that if the data exporter is held liable under paragraph (c) for damages caused by the data importer (or its sub-processor), it shall be entitled to claim back from the data importer that part of the compensation corresponding to the data importer's responsibility for the damage.
- (e) Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.
- (f) The Parties agree that if one Party is held liable under paragraph (e), it shall be entitled to claim back from the other Party that part of the compensation corresponding to its/their responsibility for the damage.
- (g) The data importer may not invoke the conduct of a sub-processor to avoid its own liability.

*Clause 13*

***Supervision***

- (a) Where the data exporter is established in an EU Member State, the supervisory authority with responsibility for ensuring compliance by the data exporter with Regulation (EU) 2016/679 as regards the data transfer, as indicated in Annex I.C, shall act as competent supervisory authority.  
Where the data exporter is not established in an EU Member State, the supervisory authority of one of the Member States in which the data subjects whose personal data is transferred under these Clauses in relation to the offering of goods or services to them, or whose behaviour is monitored, are located, as indicated in Annex I.C, shall act as competent supervisory authority.
- (b) The data importer agrees to submit itself to the jurisdiction of and cooperate with the competent supervisory authority in any procedures aimed at ensuring compliance with these Clauses. In particular, the data importer agrees to respond to enquiries, submit to audits and comply with the measures adopted by the supervisory authority, including remedial and compensatory measures. It shall provide the supervisory authority with written confirmation that the necessary actions have been taken.

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SECTION III – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES

*Clause 14*

***Local laws and practices affecting compliance with the Clauses***

*(where the EU processor combines the personal data received from the third country-controller with personal data collected by the processor in the EU)*

- (a) The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.
- (b) The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:
  - (i) the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;
  - (ii) the laws and practices of the third country of destination – including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards;
  - (iii) any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.
- (c) The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.
- (d) The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.
- (e) The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request)

indicating an application of such laws in practice that is not in line with the requirements in paragraph (a).

(f) Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and (e) shall apply.

*Clause 15*

***Obligations of the data importer in case of access by public authorities***

*(where the EU processor combines the personal data received from the third country-controller with personal data collected by the processor in the EU)*

**15.1 *Notification***

(a) The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:

- (i) receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or
- (ii) becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.

(b) If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.

(c) Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in

particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.).

- (d) The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.
- (e) Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

## **15.2 *Review of legality and data minimisation***

- (a) The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).
- (b) The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request.
- (c) The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

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## SECTION IV – FINAL PROVISIONS

### *Clause 16*

#### ***Non-compliance with the Clauses and termination***

- (a) The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.
- (b) In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).

(c) The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:

- (i) the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;
- (ii) the data importer is in substantial or persistent breach of these Clauses; or
- (iii) the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority of such non- compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

(d) Personal data that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall at the choice of the data exporter immediately be returned to the data exporter or deleted in its entirety. The same shall apply to any copies of the data. The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.

(e) Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

*Clause 17*

***Governing law***

These Clauses shall be governed by the law of one of the EU Member States, provided such law allows for third-party beneficiary rights. The Parties agree that this shall be the law of The Netherlands.

*Clause 18*

***Choice of forum and jurisdiction***

- (a) Any dispute arising from these Clauses shall be resolved by the courts of an EU Member State.
- (b) The Parties agree that those shall be the courts of The Netherlands.

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- (c) A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of the Member State in which he/she has his/her habitual residence.
- (d) The Parties agree to submit themselves to the jurisdiction of such courts.

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## ***APPENDIX***

### *ANNEX I*

#### ***A. LIST OF PARTIES***

**Data exporter(s):** Included in relevant SCCs Addendum

**Data importer:**

Name: Grantham, Mayo, Van Otterloo & Co. LLC

Address: 53 State Street, 33<sup>rd</sup> Floor, Boston, MA 02109

Contact info: generalcounsel@gmo.com

Activities relevant to the data transferred under these Clauses: Provision of web-based software for financial advisers

Role (controller/processor): Processor

#### ***B. DESCRIPTION OF TRANSFER***

1. *Categories of data subjects whose personal data is transferred: Individual clients of the data exporter.*
2. *Categories of personal data transferred: Name, date of birth, retirement and financial information.*
3. *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: n/a*
4. *The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis): Continuous.*
5. *Nature of the processing: The data may be entered by the data exporter on the website for the data importer's proprietary needs-based asset class web-based tool.*
6. *Purpose(s) of the data transfer and further processing: The data may be entered by the data exporter on the website for the data importer's proprietary needs-based asset class web-based tool.*

7. *The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period: Depends on systems and applicable legal and regulatory requirements.*
8. *For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing: n/a.*

**c. COMPETENT SUPERVISORY AUTHORITY**

1. *Identify the competent supervisory authority/ies in accordance with Clause 13: Dependent on the data exporter; see identifying information listed separately.*

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*ANNEX II*

**TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA**

*Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.*

As detailed in its Information Security Program Executive Summary (available upon request), GMO's firmwide Information Security Program is structured based on the National Institute of Standards and Technology Cybersecurity Framework, and incorporates additional guidance from sources including (but not limited to) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016. For information regarding this Program and related measures, please contact [privacy@gmo.com](mailto:privacy@gmo.com).

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*ANNEX III*

**LIST OF SUB-PROCESSORS**

The controller has authorised the use of the following sub-processors:

1. Name: \_\_\_\_\_ Address: \_\_\_\_\_

Contact person's name, position and contact details: \_\_\_\_\_

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised): \_\_\_\_\_

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## SCCs ADDENDUM

This SCCs Addendum shall form part of the Standard Contractual Clauses between Grantham, Mayo, Van Otterloo & Co. LLC and the below named Data Exporter as included in [the Allocation Platform Disclosures].

### **Data Exporter**

*This shall form part of Annex I to the Standard Contractual Clauses.*

Name: \_\_\_\_\_

Address\*: \_\_\_\_\_

Contact person's name, position and contact details (*including, where applicable, of its/their data protection officer and/or representative in the European Union*): \_\_\_\_\_

Activities relevant to the data transferred under these Clauses: Maintains personal data of clients in its capacity as investment adviser or fiduciary to those clients.

Role (controller/processor): Controller

*\*Place of establishment applicable to Clause 13(a) of the Standard Contractual Clauses.*

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

*Acknowledged and agreed by Grantham, Mayo, Van Otterloo & Co. LLC:*

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_