

DATA PROCESSING ADDENDUM

This Data Processing Addendum (“DPA”) governs ToltIQ’s processing of Client Data provided by Client to ToltIQ in connection with the Services. If and to the extent language in this DPA conflicts with the Agreement, the conflicting terms in this DPA shall control. Capitalized terms not defined in this DPA have the meaning set forth in the Agreement.

ToltIQ and Client each agree to comply with their respective obligations under all applicable data privacy and data protection laws (collectively, “**Data Protection Laws**”) in connection with the Services. Data Protection Laws may include, depending on the circumstances, (i) Cal. Civ. Code §§ 1798.100 et seq., as amended by the California Privacy Rights Act of 2020 (the California Consumer Privacy Act) (“**CCPA**”), Colo. Rev. Stat. §§ 6-1-1301 et seq. (the Colorado Privacy Act) (“**CPA**”), Connecticut’s Data Privacy Act (“**CTDPA**”), Utah Code Ann. §§ 13-61-101 et seq. (the Utah Consumer Privacy Act) (“**UCPA**”), VA Code Ann. §§ 59.1-575 et seq. (the Virginia Consumer Data Protection Act) (“**VCDPA**”) or such other, substantially similar laws set forth in any U.S. jurisdiction (collectively “**U.S. Privacy Laws**”), (ii) the General Data Protection Regulation (Regulation (EU) 2016/679) (“**EU GDPR**”) and the EU GDPR as it forms part of the laws of England and Wales by virtue of section 3 of the European Union (Withdrawal) Act 2018 (“**UK GDPR**”) (together, collectively “**GDPR**”), (iii) the Swiss Federal Act on Data Protection, (iv) the UK Data Protection Act 2018 and (v) the Privacy and Electronic Communications (EC Directive) Regulations 2003, in each case, as updated, amended or replaced from time to time.

In connection with the Agreement, Client is the person that determines the purposes and means for which Client Data is processed (a “**Data Controller**”), whereas ToltIQ processes Client Data in accordance with the Data Controller’s instructions and on behalf of the Data Controller (as a “**Data Processor**”). “**Data Controller**” and “**Data Processor**” also mean the equivalent concepts under Data Protection Laws. For the purposes of the Agreement and this DPA, (i) “**Personal Data**” has the meaning assigned to the term “personal data” or “personal information” under applicable Data Protection Laws; and (ii) “**Client Data**” means Personal Data that Client provides to ToltIQ that ToltIQ processed on behalf of Client to provide the Services. ToltIQ will process Client Data as Client’s Data Processor to provide the Services and for the purposes set forth in this DPA, and the Agreement.

1. Processing Requirements

As a Data Processor, ToltIQ agrees to:

- a. process Client Data only (i) on Client’s behalf for the purpose of providing and supporting the Services (including to provide insights, reporting, analytics, and platform abuse, trust and safety monitoring); (ii) in compliance with the written instructions received from Client; and (iii) in a manner that provides no less than the level of privacy protection required of it by Data Protection Laws;
- b. promptly inform Client in writing if ToltIQ cannot comply with the requirements of this DPA;
- c. not provide Client with remuneration in exchange for Client Data from Client. The parties acknowledge and agree that Client has not “sold” (as such term is defined by the CCPA) Client Data to ToltIQ;
- d. not “sell” (as such term is defined by U.S. Privacy Laws) or “share” (as such term is defined by the CCPA) Personal Data;

- e. inform Client promptly if, in ToltIQ's opinion, an instruction from Client violates applicable Data Protection Laws;
- f. require (i) persons employed by it and (ii) other persons engaged to perform on ToltIQ's behalf to be subject to a duty of confidentiality with respect to the Client Data and to comply with the data protection obligations applicable to ToltIQ under the Agreement and this DPA;
- g. engage the organizations or persons listed at <https://www.toltiq.com/subprocessor-list> to process Client Data (each "**Subprocessor**," and the list at the foregoing URL, the "**Subprocessor List**") to help ToltIQ satisfy its obligations in accordance with this DPA or to delegate all or part of the processing activities to such Subprocessors. Client hereby consents to the use of such Subprocessors. ToltIQ will notify Client of any changes ToltIQ intends to make to the Subprocessor List at least 15 days before the changes take effect (which may be via email, a posting, or notification on an online portal for our services or other reasonable means). In the event that Client does not wish to consent to the use of such additional Subprocessor, Client may notify ToltIQ that Client does not consent within fifteen (15) days on reasonable grounds relating to the protection of Client Data by following the instructions set forth in the Subprocessor List or by contacting privacy@ToltIQ.com. In such case, ToltIQ shall have the right to cure the objection through one of the following options: (i) ToltIQ will cancel its plans to use the Subprocessor with regards to processing Client Data or will offer an alternative to provide its Services or services without such Subprocessor; (ii) ToltIQ will take the corrective steps requested by Client in Client objection notice and proceed to use the Subprocessor; (iii) ToltIQ may cease to provide, or Client may agree not to use whether temporarily or permanently, the particular aspect or feature of the Services or services that would involve the use of such Subprocessor; or (iv) Client may cease providing Client Data to ToltIQ for processing involving such Subprocessor. If none of the above options are commercially feasible, in ToltIQ's reasonable judgment, and the objection(s) have not been resolved to the satisfaction of the parties within thirty (30) days of ToltIQ's receipt of Client's objection notice, then either party may terminate any usage regarding the Services that cannot be provided without the use of the new Subprocessor for cause and in such case, Client will be refunded any pre-paid fees for the applicable usage to the extent they cover periods or terms following the date of such termination. Such termination right is Client's sole and exclusive remedy if Client objects to any new Subprocessor. ToltIQ shall enter into contractual arrangements with each Subprocessor binding them to provide a comparable level of data protection and information security to that provided for herein. Subject to the limitations of liability included in the Agreement, ToltIQ agrees to be liable for the acts and omissions of its Subprocessors to the same extent ToltIQ would be liable under the terms of the DPA if it performed such acts or omissions itself;
- h. upon reasonable request no more than once per year, provide Client with ToltIQ's privacy and security policies and other such information necessary to demonstrate compliance with the obligations set forth in this DPA and applicable Data Protection Laws;
- i. where required by law and upon reasonable notice and appropriate confidentiality agreements, cooperate with assessments, audits, or other steps performed by or on behalf of Client at Client's sole expense and in a manner that is minimally disruptive to ToltIQ's business that are necessary to confirm that ToltIQ is processing Client Data in a manner consistent with this DPA. Where permitted by law, ToltIQ may instead make available to Client a summary of the results of a third-party audit or certification reports relevant to ToltIQ's compliance with this DPA. Such results, and/or the results of any such assessments, audits, or other steps shall be the Confidential Information of ToltIQ;

- j. to the extent that Client permits or instructs ToltIQ to process Client Data subject to U.S. Privacy Laws in a deidentified, anonymized, and/or aggregated form as part of the Services, ToltIQ shall (i) adopt reasonable measures to prevent such deidentified data from being used to infer information about, or otherwise being linked to, a particular natural person or household; (ii) not attempt to reidentify the information, except that ToltIQ may attempt to reidentify the information solely for the purpose of determining whether its deidentification processes comply with Data Protection Laws or are functioning as intended; and (iii) before sharing deidentified data with any other party, including Subprocessors, contractually obligate any such recipients to comply with the requirements of this provision;
- k. where the Client Data is subject to the CCPA, not (i) retain, use, disclose, or otherwise process Client Data except as necessary for the business purposes specified in the Agreement or this DPA; (ii) retain, use, disclose, or otherwise process Client Data in any manner outside of the direct business relationship between ToltIQ and Client; or (iii) combine any Client Data with Personal Data that ToltIQ receives from or on behalf of any other third party or collects from ToltIQ's own interactions with individuals, provided that ToltIQ may so combine Client Data for a purpose permitted under the CCPA if directed to do so by Client or as otherwise permitted by the CCPA;
- l. where required by law, grant Client the rights to (i) take reasonable and appropriate steps to ensure that ToltIQ uses Client Data in a manner consistent with Data Protection Laws by exercising the audit provisions set forth in this DPA above; and (ii) stop and remediate unauthorized use of Client Data, for example by requesting that ToltIQ provide written confirmation that applicable Client Data has been deleted.

2. Notice to Client

ToltIQ will inform Client if ToltIQ becomes aware of:

- a. any legally binding request for disclosure of Client Data by a law enforcement authority, unless ToltIQ is otherwise forbidden by law to inform Client, for example to preserve the confidentiality of an investigation by law enforcement authorities;
- b. any notice, inquiry or investigation by an independent public authority established by a member state pursuant to Article 51 of the GDPR (a "Supervisory Authority") with respect to Client Data; or
- c. any complaint or request (in particular, requests for access to, rectification or blocking of Client Data) received directly from Client's data subjects. ToltIQ will not respond to any such request without Client's prior written authorization.

3. Assistance to Client

ToltIQ will provide reasonable assistance to Client regarding:

- a. information necessary, taking into account the nature of the processing, to respond to requests received pursuant to Data Protection Laws from Client's data subjects in respect of access to or the rectification, erasure, restriction, portability, objection, blocking or deletion of Client Data that ToltIQ processes for Client. In the event that a data subject sends such a request directly to ToltIQ, ToltIQ will promptly send such request to Client;

- b. the investigation of any breach of ToltIQ's security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or unauthorized access to Client Data processed by ToltIQ for Client (a "Personal Data Breach"); and
- c. where appropriate, the preparation of data protection impact assessments with respect to the processing of Client Data by ToltIQ and, where necessary, carrying out consultations with any supervisory authority with jurisdiction over such processing.

4. Required Processing

If ToltIQ is required by Data Protection Laws to process any Client Data for a reason other than in connection with the Agreement, ToltIQ will inform Client of this requirement in advance of any such processing, unless legally prohibited.

5. Security

ToltIQ will:

- a. implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk, including, as appropriate, measures referred to in Article 32(1) of the GDPR. In assessing the appropriate level of security, ToltIQ shall take into account in particular of the risks that are presented by Processing, in particular from a Personal Data Breach;
- b. take appropriate steps to confirm that ToltIQ personnel are protecting the security, privacy and confidentiality of Client Data consistent with the requirements of this DPA; and
- c. notify Client of any Personal Data Breach by ToltIQ, its Subprocessors, or any other third parties acting on ToltIQ's behalf without undue delay after ToltIQ becomes aware of such Personal Data Breach.

6. Obligations of Client

- a. Client represents, warrants and covenants that it has and shall maintain throughout the term all necessary rights, consents and authorizations to provide the Client Data to ToltIQ and to authorize ToltIQ to use, disclose, retain and otherwise process Client Data as contemplated by this DPA, the Agreement and/or other processing instructions provided to ToltIQ.
- b. Client shall comply with all applicable Data Protection Laws.
- c. Client shall reasonably cooperate with ToltIQ to assist ToltIQ in performing any of its obligations with regard to any requests from Client's data subjects.
- d. Without prejudice to ToltIQ's security obligations in Section 5 of this DPA, Client acknowledges and agrees that it, rather than ToltIQ, is responsible for certain configurations and design decisions for the services and that Client, and not ToltIQ, is responsible for implementing those configurations and design decisions in a secure manner that complies with applicable Data Protection Laws.
- e. Client shall not provide Client Data to ToltIQ except through agreed mechanisms. For example, Client shall not include Client Data other than technical contact information, or in technical support tickets, transmit user Client Data to ToltIQ by email. Without limitation to the foregoing, Client represents, warrants

and covenants that it shall only transfer Client Data to ToltIQ using secure, reasonable and appropriate mechanisms, to the extent such mechanisms are within Client's control.

f. Client shall not take any action that would (i) render the provision of Client Data to ToltIQ a "sale" under U.S. Privacy Laws or a "share" under the CCPA (or equivalent concepts under U.S. Privacy Laws); or (ii) render ToltIQ not a "service provider" under the CCPA or "processor" under U.S. Privacy Laws.

7. International Data Transfers

- a. ToltIQ will process Client Data provided by Client that originates in the EEA or Switzerland. To the extent that ToltIQ transfers Client Data to other ToltIQ affiliates in jurisdictions that do not provide the same level of data protection, it will do so on the basis of intra-group agreements that incorporate appropriate transfer mechanism provisions to protect Client Data. Such mechanisms may include the Standard Contractual Clauses adopted by the EU Commission on June 4, 2021 (as may be amended, updated or replaced from time to time) ("EU SCCs") or an adequacy decision issued by the European Commission under Article 45 GDPR.
- b. ToltIQ will process Client Data provided by Client located in the EEA in accordance with the EU SCCs, and provided by Client located in the UK in accordance with the EU SCCs as amended by the UK addendum to the EU SCCs issued by the Information Commissioner under section 119A(1) of the Data Protection Act 2018, being the template Addendum B1.0 ("UK Addendum") which are deemed entered into (and incorporated into this DPA by this reference) and completed as follows (each as amended by the UK Addendum, where relevant and applicable): (i). Module Two (Controller to Processor) of the EU SCCs apply when Client is a controller and ToltIQ is processing Client Data as a processor. (ii). Module Three (Processor to Sub-Processor) of the EU SCCs apply when Client is a processor and ToltIQ is processing Client Data as a sub-processor.
- c. For each module of the EU SCCs, where applicable, the following applies: (i). The optional docking clause in Clause 7 does not apply; (ii). In Clause 9, Option 2 (general written authorization) applies, and the minimum time period for prior notice of sub-processor changes shall be as set forth in Section 1(g) of this DPA. (iii). In Clause 11, the optional language does not apply; (iv). All square brackets in Clause 13 are hereby removed; (v). In Clause 17 (Option 1), the EU SCCs will be governed by the laws of Ireland (except with respect to the UK Addendum, in which case, England and Wales); (vi). In Clause 18(b), disputes will be resolved before the courts of Ireland (except with respect to the UK Addendum, in which case, England and Wales); and (vii). The Schedule to this DPA contains the information required in Annex I and Annex III of the EU SCCs.
- d. The parties will comply with the terms of Part 2: Mandatory Clauses of the UK Addendum. The parties also agree (i) that the information included in Part 1 of the UK Addendum is as set out in the Schedule to this DPA and (ii) that either party may end the UK Addendum as set out in Section 19 of the UK Addendum.

8. Term, Data Return and Deletion

- a. This DPA shall remain in effect as long as ToltIQ carries out Client Data processing operations on Client's behalf or until the termination of the Agreement. Subject to paragraph b. below, ToltIQ shall promptly and in any event within 30 days of the date of termination of the Agreement, delete and procure the deletion of all copies of Client Data.

- b. ToltIQ may retain Client Data to the extent required by applicable law, and only to the extent and for such period as required by applicable law, provided that ToltIQ shall ensure the confidentiality of all such Client Data and shall ensure that such Client Data is only processed as necessary for the purpose(s) specified in the applicable law requiring its storage and for no other purpose.
- c. On the termination of the DPA, ToltIQ will direct each Subprocessor to delete the Client Data within thirty (30) days of the DPA's termination, unless prohibited by law.

THE SCHEDULE

A. LIST OF PARTIES

With regard to any transfers of Client Data falling within the scope of the applicable Data Protection Laws, additional information regarding the data exporter and data importer is set out below.

Data Exporter: the Client.

Data Importer:

ToltIQ, Inc., 16 Mt Bethel Rd, Suite 343, Warren, NJ 07059

Contact Person's name, position and contact details are included in the Agreement or will be disclosed to Client upon request.

Role (controller/processor): Processor

B. DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred:

Users of data exporters applications.

Categories of personal data transferred:

Name, contact information, demographic information, or other information provided by the user in unstructured data.

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 specialized training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.

No sensitive data is intended to be transferred unless the user includes it unexpectedly in unstructured data.

Duration and Frequency of the Processing:

Continuous.

Nature of the processing:

The performance of the Services described in the Agreement to which this Schedule is attached.

Purpose(s) of the data transfer and further Processing:

The performance of the Services described in the Agreement to which this Schedule is attached.

The period for which the personal data will be retained:

During the term of the Agreement.

For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing:

The performance of the Services described in the Agreement to which this Schedule is attached.

C. COMPETENT SUPERVISORY AUTHORITY

Identify the competent supervisory authority/ies in accordance with Clause 13 of the SCCs.

Where the data exporter is established in an EU Member State: The supervisory authority of the country in which the data exporter established is the competent authority.

Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of the GDPR in accordance with its Article 3(2) and has appointed a representative pursuant to Article 27(1) of the GDPR: The competent supervisory authority is the one of the Member State in which the representative is established.

Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of the GDPR in accordance with its Article 3(2) without, however, having to appoint a representative pursuant to Article 27(2) of the GDPR: The competent supervisory authority is the supervisory authority of Ireland.