# Transfer Impact Assessment for the US

Made by: [Name of organization] (the **Exporter**)

Date: [Date]

Considering:

1. That a controller or processor subject to the General Data Protection Regulation (**GDPR**) transferring personal data to an importer in a third country (**Importer**) for which no decision pursuant to Art. 45(3) GDPR applies, requires appropriate safeguards pursuant to Art. 46 GDPR;
2. That the United States of America (**US**) is such a country for those importers not under the EU-US Data Privacy Framework (**EU-US** **DPF**);
3. That the Standard Contractual Clauses (**SCC**) approved by the European Commission on June 4, 2021, provide for such safeguards, provided that the Exporter and Importer have no reason to believe that the laws and practices in the third country prevent the importer from fulfilling its obligations under the SCC (**Problematic Laws**), whereas 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 Art. 23(1) GDPR are not Problematic Laws (Art. 14 SCC);
4. That the Exporter considers transferring personal data to the US using the SCC as safeguards pursuant to Art. 46(2)(c) GDPR;
5. That the Exporter has reviewed the US laws and practices that may result in access and use of personal data transferred by US public authorities, as laid out in the recitals 90-200 of the European Commission's decision of July 10, 2023, on the adequate level of protection of personal data under the EU-US DPF (the **DPF Decision**) and the materials referred to therein (incl. Annexes VI and VII);
6. That the European Commission, based on its review of the foregoing, considers that any interference in the public interest, in particular for criminal law enforcement and national security purposes, by US public authorities with the fundamental rights of the individuals whose personal data are transferred will be limited to what is strictly necessary to achieve the legitimate objective in question, and that effective legal protection against such interference exists (recital 203 DPF Decision), in particular given the implementation of EO 14086 and designation of the EU as a qualifying organization, thus concluding that US government access laws are no longer to be considered Problematic Laws;

The Exporter agrees with the European Commission's finding and, as well, concludes for its own purposes that it has no reason to believe that its transfers of personal data to the US will be subject to Problematic Laws in the US.

# Addendum for Switzerland

Made by: [Name of organization] (the **Exporter**)

Date: [Date]

Considering:

1. That the Exporter is located in Switzerland and subject to the Federal Data Protection Act (**DPA**);
2. That the Exporter enters into service/cloud contracts with service providers (**Providers**) with their seat being in the European Union (**EU**);
3. That the Providers will or may have to onward transfer the Exporter's personal data to sub-processors in the United States of America (**US**);
4. That the Providers are subject to the EU General Data Protection Regulation (**GDPR**) and are, thus, bound by Chapter V of the GDPR with regard to any such onward transfers of the Exporter's personal data;
5. That such transfers of personal data to the US are compliant with Chapter V of the GDPR if based on the EU-US Data Privacy Framework (**EU-US DPF**) or the Standard Contractual Clauses approved by the European Commission on June 4, 2021, subject to an adequate TIA;
6. That the Providers' transfers fulfill these conditions;
7. That while the EU-US DPF does not apply to data transfers out of Switzerland and Switzerland has not yet been designated a qualifying state under EO 14086, the Data Protection Review Court (**DPRC**) procedure provided for by it applies to (i) any data subject who has filed its complaint via an appropriate public authority of a qualifying state and (ii) its personal data is reasonably believed to have been transferred to the US from a qualifying state or organization;
8. That the EU is a qualifying organization and is expected to permit any data subject whose personal data is subject to the GDPR to submit DPRC complaints, even if such data subject is located outside the EU;
9. That such legal protection, thus, also applies to any personal data onward transferred by the Providers even if it originated in Switzerland;
10. That given the Providers' seats in the EU, any disclosure of personal data to the Providers will be considered a disclosure occurring to a country with an adequate level of data protection as per the DPA, requiring no particular safeguards, because any onward transfer is regulated by the data protection law of the Providers (i.e. the GDPR);

The Exporter concludes that any use of the Providers is in line with the data export provisions of the DPA, and that the same applies if the Exporter were to use a provider located in Switzerland, provided such provider subcontracts the provision of the services to a provider located in the EU.