

EU DATA PROCESSING ADDENDUM INSTRUCTIONS FOR QUANTIL CUSTOMERS

Who?

This Data Processing Addendum (“DPA”, “addendum”) has been prepared for those Customers of Quantil that are data controllers and who have determined a need for a data processing agreement addendum to be in place with Quantil who processes personal data on their behalf.

What?

This Addendum has been prepared by Quantil in compliance with the data processor obligations laid out under the terms of the General Data Protection Regulation (“GDPR”) and other relevant government privacy regulations. This document is ready for your signature in accordance with the instructions below and is designed to complement the existing contractual documentation between Quantil and its Customers.

Why?

Various governments have enacted data privacy laws protecting their citizens, including GDPR, which entered into full force on 25th May 2018. Under these regulations, data controllers are required to ensure that all processing by a data processor is governed by an appropriate contract.

How?

1. This DPA consists of two parts: the main body of the DPA and Annexes I (including Appendices 1 to 2) and II.
2. This DPA has been pre-signed on behalf of Quantil. The Standard Contractual Clauses in Annex I and the Security Measures in Annex II have been pre-signed by Quantil as the data importer.
3. To complete this DPA, Customer must complete the information in the signature boxes and sign on Pages 7, 8, 12, 14, and 18.
4. Customer should return the physical or electronic copy of the signed DPA to the Customer’s dedicated account manager.
5. Upon receipt of the validly completed DPA by Quantil, this DPA will become legally binding.

EU Data Processing Addendum (version 2 – February 2021)

This Data Processing Addendum (“DPA”) forms part of the Master Services Agreement (“MSA”), Service Order Forms, Quantil ”Acceptable User Policy” (<https://www.quantil.com/acceptable-use-policy>), or other written or electronic agreement, by and between Quantil, Inc. (“Quantil”) and the undersigned customer of Quantil (“Customer”) as a business customer for business purposes for certain optimisation, acceleration, cloud storage, cloud security, cloud domain name system, media acceleration, high-speed transmission, and/or other website or application services (collectively, the “Service”) provided by Quantil (the “Agreement”).

All capitalised terms not defined herein shall have the meanings set forth in the Agreement. Each of Customer and Quantil may be referred to herein as a “Party” and together as the “Parties.”

In connection with the Service, the Parties anticipate that Quantil may process outside of the European Union (“EU”) or European Economic Area (“EEA”) certain Personal Data in respect of which the Customer or any member of the Customer Group may be a data controller or data processor, as applicable, under the applicable EU Data Protection Laws and other relevant government privacy laws.

The Parties have agreed to enter into this DPA in order to ensure that adequate safeguards are put in place with respect to the protection of such Personal Data as required by EU Data Protection Laws and other relevant government privacy laws.

How to Execute this DPA:

1. This DPA consists of two parts: the main body of the DPA and Annexes I and II (including Appendices 1 to 2).
2. This DPA has been pre-signed on behalf of Quantil. The Standard Contractual Clauses in Annex I and the Security Measures in Annex II have been pre-signed by Quantil as the data importer.
3. To complete this DPA, Customer must complete the information in the signature boxes and sign on Pages 7, 8, 12, 14 and 18.
4. Customer should return the physical or electronic copy of the signed DPA to the Customer’s dedicated account manager.
5. Upon receipt of the validly completed DPA by Quantil, this DPA will become legally binding.

How this DPA Applies

This DPA is an addendum to and forms part of the Agreement. The Customer entity signing this DPA must be the same as the Customer entity party to the Agreement. If the Customer entity signing this DPA is not a party to the Agreement directly with Quantil but is instead a customer indirectly via an authorised reseller of Quantil services, this DPA is not valid and is not legally binding.

Such entity should contact the authorised reseller to discuss whether any amendment to its agreement with that reseller may be required.

Data Processing Terms

In the course of providing the Service to Customer pursuant to the Agreement, Quantil may process personal data on behalf of Customer.

Quantil agrees to comply with the following provisions with respect to any Personal Data submitted by or for Customer to Quantil or collected and processed by or for Customer using Quantil’s services. The Parties agree that the obligations under this DPA that are specific to the GDPR apply after the GDPR is in full force and effect.

1. Definitions

1.1. The following definitions are used in this DPA:

- a) “EU Data Protection Laws” means all laws and regulations of the European Union, the European Economic Area, their member states, and the United Kingdom, applicable to the processing of Personal Data under the Agreement, including (where applicable) the General Data Protection Regulation (“GDPR”);
 - b) “GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons regarding the processing of personal data and on the free movement of such data);
 - c) “Personal Data” means all data which is defined as ‘personal data’ under EU Data Protection Laws and to which EU Data Protection Laws apply and similarly defined by other relevant government data privacy laws and which is provided by the Customer to Quantil, and accessed, stored or otherwise processed by Quantil as a data processor as part of its provision of the Service to Customer;
 - d) “Processing”, “data controller”, “data subject”, “supervisory authority” and “data processor” shall have the meanings ascribed to them in EU Data Protection Laws;
 - e) “Adequate Country” means a country or territory that is recognised under EU Data Protection Laws as providing adequate protection for Personal Data;
 - f) “Affiliate” means, with respect to a party, any corporate entity that, directly or indirectly, Controls, is Controlled by, or is under Common Control with such party (but only for so long as such Control exists);
 - g) “Quantil” herein means Quantil Inc. and/or any of its Affiliates;
 - h) “Customer Group” means Customer and any of its Affiliates established and/or doing business in the EU or EEA;
- 1.2. An entity “Controls” another entity if it: (a) holds a majority of the voting rights in it; (b) is a member or shareholder of it and has the right to remove a majority of its board of directors or equivalent managing body; (c) is a member or shareholder of it and controls alone or pursuant to an agreement with other shareholders or members, a majority of the voting rights in it; or (d) has the right to exercise a dominant influence over it pursuant to its constitutional documents or pursuant to a contract; and two entities are treated as being in “Common Control” if either controls the other (directly or indirectly) or both are controlled (directly or indirectly) by the same entity.

2. Status of the Parties

- 2.1. The type of Personal Data processed pursuant to this DPA and the subject matter, duration, nature and purpose of the processing, and the categories of data subjects, are as described in Section 3.
- 2.2. Each Party warrants in relation to Personal Data that it will comply (and will procure that any of its personnel comply and use commercially reasonable efforts to procure that its sub-processors comply), with EU Data Protection Laws and other relevant government data privacy laws. As between the Parties, the Customer shall have sole responsibility for the accuracy, quality, and lawfulness of processing the Personal Data and the means by which the Customer acquired Personal Data.
- 2.3. In respect of the Parties' rights and obligations under this DPA regarding the Personal Data, the Parties hereby acknowledge and agree that the Customer is the data controller or processor, and Quantil is the data processor or sub-processor, as applicable, and accordingly Quantil agrees that it shall process all Personal Data in accordance with its obligations pursuant to this DPA.
- 2.4. If Customer is a data processor, Customer warrants to Quantil that Customer’s instructions and actions with respect to the Personal Data, including its appointment of Quantil as another processor and concluding the standard contractual clauses (Annex I), have been authorised by the relevant controller.
- 2.5. Where and to the extent that Quantil processes data which is defined as ‘Personal Data’ under EU Data Protection Laws and defined similarly by other relevant government data privacy laws as a data controller Quantil will comply with applicable EU and the relevant country data protection laws in respect of that processing.

3. Details of the Personal Data and Data Processing Activities

3.1. Personal Data we collect comprises:

- a) in relation to visitors of the Customer's online properties:
 - i. identification data;
 - ii. professional life data;

- iii. personal life data;
 - iv. connection data; and/or
 - v. localisation data (including IP addresses).
- b) Customer, its online visitors and/or other partners may also upload content to Customer's online properties which may include personal data and special categories of data, the extent of which is determined and controlled by the Customer in its sole discretion.
- c) Such special categories of data include, but may not be limited to, personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data, data concerning health or data concerning an individual's sex life or sexual orientation.
- d) in relation to users of the Customer for its account management, servicing, and support:
- a. identification data;
 - b. professional life data;
 - c. connection data; and/or
 - d. localisation data (including IP addresses).
- 3.2.** The duration of the processing will be: until the earliest of
- a) expiry/termination of the Agreement, or
 - b) the date upon which processing is no longer necessary for the purposes of either Party performing its obligations under the Agreement (to the extent applicable);
- 3.3.** The processing will comprise: Processing necessary to provide the Service to Customer, pursuant to the Agreement;
- 3.4.** The purpose(s) of the processing is/ are: necessary for the provision of the Service under the Agreement;
- 3.5.** Personal data may concern the following data subjects:
- a) Prospective customers, Customers, resellers, referrers, business partners, and vendors of the Customer (who are natural persons);
 - b) Employees or contact persons of the Customer's prospective customers, Customers, resellers, referrers, sub-processors, business partners, and vendors (who are natural persons);
 - c) Employees, agents, advisors, and freelancers of the Customer (who are natural persons); and/or
 - d) Natural persons authorised by the Customer to use the Service.

4. Quantil Obligations

- 4.1.** With respect to all Personal Data, Quantil warrants that it shall:
- a) only process Personal Data in order to provide the Service, and shall act only in accordance with:
 - i. this DPA;
 - ii. the Customer's written instructions as represented by the Agreement and this DPA; and
 - iii. obligations as required by applicable laws, including, but not limited to EU Data Protection Laws.
 - b) maintain a record of all categories of processing activities (as such term is defined in the GDPR) carried out on behalf of a controller;
 - c) upon becoming aware, inform the Customer if, in Quantil's opinion, any instructions provided by the Customer under clause 4.1(a) infringe the GDPR or other relevant government privacy laws;
 - d) implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks that are presented by the processing of Personal Data, in particular written authorisation protection against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data. Such measures include, without limitation, the security measures set out in Annex II;
 - e) take reasonable steps to ensure that only authorised personnel have access to such Personal Data and that any persons whom it authorises to have access to the Personal Data are under obligations of confidentiality;
 - f) without undue delay after becoming aware, notify the Customer of any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed by Quantil, its sub-processors, or any other identified or unidentified third Party (a "Personal Data Breach");

- g) promptly provide the Customer with reasonable cooperation and assistance in respect of a Personal Data Breach and all reasonable information in Quantil's possession concerning such Personal Data Breach insofar as it affects the Customer, including the following to the extent then known:
 - i. the possible cause and consequences for the Data Subjects of the Personal Data Breach;
 - ii. the categories of Personal Data involved;
 - iii. a summary of the possible consequences for the relevant data subjects;
 - iv. a summary of the unauthorised recipients of the Personal Data; and
 - v. the measures taken by Quantil to mitigate any damage;
- h) not make any public announcement about a Personal Data Breach (a "Breach Notice") without the prior written consent of the Customer, unless required by applicable law;
- i) promptly notify the Customer if it receives a request from a data subject to access, rectify or erase that individual's Personal Data, or if a data subject objects to the processing of, or makes a data portability request in respect of, such Personal Data (each a "Data Subject Request"). Quantil shall not respond to a Data Subject Request without the Customer's prior written consent except to confirm that such request relates to the Customer, to which the Customer hereby agrees. To the extent that the Customer does not have the ability to address a Data Subject Request, then upon Customer's request Quantil shall provide reasonable assistance to the Customer to facilitate such Data Subject Request to the extent able and in line with applicable law. Customer shall cover all costs incurred by Quantil in connection with its provision of such assistance;
- j) other than to the extent required to comply with applicable law, following termination or expiry of the Agreement or completion of the Service, Quantil will delete all Personal Data (including copies thereof) processed pursuant to this DPA;
- k) taking into account the nature of processing and the information available to Quantil, provide such assistance to the Customer as the Customer reasonably requests in relation to Quantil's obligations under EU Data Protection Laws and other relevant government privacy laws with respect to:
 - i. data protection impact assessments (as such term is defined in the GDPR);
 - ii. the cooperation or prior consultation with the Supervisory Authority in the performance of its tasks relating to Section 4 of this DPA, to the extent required under the GDPR and other relevant government privacy laws;
 - iii. notifications to the supervisory authority under EU Data Protection Laws and other relevant government privacy laws and/or communications to data subjects by the Customer in response to any Security Breach; and
 - iv. the Customer's compliance with its obligations under the GDPR and other relevant government privacy laws with respect to the security of processing;

provided that the Customer shall cover all costs incurred by Quantil in connection with its provision of such assistance.

5. Sub-processing

- 5.1. The Customer grants a general authorisation: (a) to Quantil to appoint its Affiliates as sub-processors, and (b) to Quantil and its Affiliates to appoint third Party suppliers, and outsourced marketing, business, engineering and customer support providers as sub-processors to support the performance of the Service.
- 5.2. Quantil will maintain a list of sub-processors on the Quantil.com website and will add the names of new and replacement sub-processors to the list prior to them starting sub-processing of Personal Data. If the Customer has a reasonable objection to any new or replacement sub-processor, it shall notify Quantil of such objections in writing within ten (10) days of the notification and the Parties will seek to resolve the matter in good faith. If Quantil is reasonably able to provide the Service to the Customer in accordance with the Agreement without using the sub-processor and decides in its discretion to do so, then the Customer will have no further rights under this clause 5.2 in respect of the proposed use of the sub-processor. If Quantil requires use of the sub-processor in its discretion and is unable to satisfy the Customer as to the suitability of the sub-processor or the documentation and protections in place between Quantil and the sub-processor within ninety (90) days from the Customer's notification of objections, the Customer may within thirty (30) days following the end of the ninety (90) day period referred to above, terminate the applicable Service Order Form with at least thirty (30) days written notice, solely with respect to the service(s) to which the proposed new sub-processor's processing of Personal Data relates. If the Customer does not provide a timely objection to any new or replacement sub-processor in accordance with this clause 5.2, it shall be regarded as Customer has given its consent to the involvement of the sub-processor and waived its right to object. Quantil may use a new or replacement sub-processor whilst the objection procedure in this clause 5.2 is in process.
- 5.3. Quantil will ensure that any sub-processor it engages to provide an aspect of the Service on its behalf in connection with this DPA does so only on the basis of a written contract which imposes on such sub processor

terms substantially no less protective of Personal Data than those imposed on Quantil in this DPA (the "**Relevant Terms**"). Quantil shall procure the performance by such sub-processor of the Relevant Terms and shall be liable to the Customer for any breach by such person of any of the Relevant Terms.

6. Audit and Records

- 6.1.** Quantil shall, in accordance with EU Data Protection Laws and other relevant government privacy laws, make available to the Customer such information in Quantil's possession or control as the Customer may reasonably request with a view to demonstrating Quantil's compliance with the obligations of data processors under EU Data Protection Law and other relevant government privacy laws in relation to its processing of Personal Data.
- 6.2.** The Customer may exercise its right of audit under EU Data Protection Laws and other relevant government privacy laws in relation to Personal Data, through Quantil providing:
 - a) Customer and its respective auditors or authorized agents access to conduct audits or inspections during the term of the Agreement, which shall include providing reasonable access to the premises, resources and personnel used by Quantil in connection with its processing of Customer data, and provide all reasonable assistance in order to assist Customer in exercising its audit rights under this Clause. The purpose of this audit pursuant to this Clause is to verify processing of personal data is conducted in accordance with Quantil obligations under this DPA. Such audit shall consist solely of: (i) the provision by Quantil of written information (including, without limitation, questionnaires and information about security policies) that may include information relating to sub-processors; and (ii) interviews with Quantil IT personnel. Such audit may be carried out by Customer or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality. For the avoidance of doubt, no access to any part of Quantil IT systems, data hosting sites or centers, or infrastructure will be permitted. And;
 - b) additional information in Quantil's possession or control to the relevant supervisory authority when it requests or requires additional information in relation to the processing of Personal Data carried out by Quantil under this DPA.

7. Data Transfers

- 7.1.** To the extent any processing of Personal Data by Quantil takes place in any country outside the EEA (except if in an Adequate Country), the Parties agree that the standard contractual clauses approved by the EU authorities under EU Data Protection Laws and set out in Annex I will apply in respect of that processing, and Quantil will comply with the obligations of the 'data importer' in the standard contractual clauses and the Customer will comply with the obligations of the 'data exporter'.
- 7.2.** The Customer acknowledges and accepts that the provision of the Service under the Agreement may require the processing of Personal Data by sub-processors in countries outside the EEA.
- 7.3.** If, in the performance of this DPA, Quantil transfers any Personal Data to a sub-processor located outside of the EEA (without prejudice to clause 5), Quantil shall in advance of any such transfer ensure that a legal mechanism to achieve adequacy in respect of that processing is in place, such as: (a) the requirement for Quantil to execute or procure that the sub-processor execute to the benefit of the Customer standard contractual clauses approved by the EU authorities under EU Data Protection Laws and set out in Annex I; (b) the requirement for the sub-processor to be certified under the EU-U.S. Privacy Shield Framework; or (c) the existence of any other specifically approved safeguard for data transfers (as recognised under EU Data Protection Laws) and/or a European Commission finding of adequacy.
- 7.4.** The following terms shall apply to the standard contractual clauses set out in Annex I: (a) The Customer may exercise its right of audit under clause 5.1(f) of the standard contractual clauses as set out in, and subject to the requirements of, clause 6.2 of this DPA; and (b) Quantil may appoint sub-processors as set out, and subject to the requirements of, clauses 4 and 7.3 of this DPA.

8. General

- 8.1.** This DPA is without prejudice to the rights and obligations of the Parties under the Agreement which shall continue to have full force and effect. In the event of any conflict between the terms of this DPA and the terms of the Agreement, the terms of this DPA shall prevail so far as the subject matter concerns the processing of Personal Data.
- 8.2.** Quantil's liability under or in connection with this DPA (including under the standard contractual clauses set out in Annex I) is subject to the limitations on liability contained in the Agreement.
- 8.3.** This DPA does not confer any third-Party beneficiary rights, it is intended for the benefit of the Parties hereto and their respective permitted successors and assigns only, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

- 8.4. This DPA and any action related thereto shall be governed by and construed in accordance with the laws of the State of California, without giving effect to any conflicts of laws principles.
- 8.5. Any dispute arising out of this DPA shall be brought to the Superior Court of California in Santa Clara County, or the United States District Court for the Northern District of California in San Jose, and the Parties hereby submit and consent to the exclusive jurisdiction and venue thereof.
- 8.6. This DPA is the final, complete and exclusive agreement of the Parties with respect to the subject matter hereof and supersedes and merges all prior discussions and agreements between the Parties with respect to such subject matter. Other than in respect of statements made fraudulently, no other representations or terms shall apply or form part of this DPA. No modification of, amendment to, or waiver of any rights under the DPA will be effective unless in writing and signed by an authorised signatory of each Party. This DPA may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement. Each person signing below represents and warrants that he or she is duly authorised and has legal capacity to execute and deliver this DPA. Each Party represents and warrants to the other that the execution and delivery of this DPA, and the performance of such Party's obligations hereunder, have been duly authorised and that this DPA is a valid and legally binding agreement on each such Party, enforceable in accordance with its terms.

IN WITNESS WHEREOF, the Parties have each caused this DPA to be signed and delivered by its duly authorised representative.

Customer		Quantil Inc.	
By		By	
Name		Name	Chuck Chu
Title		Title	VP of Sales, Americas and EMEA
Address		Address	4701 Patrick Henry Drive, #2101, Santa Clara, California 95054 USA
Date		Date	

Annex I

2010 EU Model clauses extracted from 2010/87/EU Annex Standard Contractual Clauses (Processors) for the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection

Name of the data exporting organisation	
Address	
Tel.	
Fax.	
Email	
Other information needed to identify the organisation	

(the data exporter)

And

Name of the data importing organisation	Quantil Inc.
Address	4701 Patrick Henry Drive, #2101, Santa Clara, California 95054 USA
Tel.	+1 408-228-3700
Fax.	
Email	support@quantil.com
Other information needed to identify the organisation	

(the data importer)

each a 'Party'; together 'the Parties',

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

1. Definitions

For the purposes of the Clauses:

- a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- b) 'the data exporter' means the controller who transfers the personal data;
- c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

- d) ‘the sub-processor’ means any processor engaged by the data importer or by any other sub-processor of the data importer who agrees to receive from the data importer or from any other sub-processor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;
- e) ‘the applicable data protection law’ means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;
- f) ‘technical and organisational security measures’ means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

2. Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

3. Third-Party beneficiary clause

- 3.1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-Party beneficiary.
- 3.2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.
- 3.3. The data subject can enforce against the sub-processor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-Party liability of the sub-processor shall be limited to its own processing operations under the Clauses.
- 3.4. The Parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

4. Obligations of the data exporter

The data exporter agrees and warrants:

- a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;
- b) that it has instructed and throughout the duration of the personal data-processing services will instruct the data importer to process the personal data transferred only on the data exporter’s behalf and in accordance with the applicable data protection law and the Clauses;
- c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;
- d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;
- e) that it will ensure compliance with the security measures;
- f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

- g) to forward any notification received from the data importer or any sub-processor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;
- h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for sub-processing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;
- i) that, in the event of sub-processing, the processing activity is carried out in accordance with Clause 11 by a sub-processor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and
- j) that it will ensure compliance with Clause 4(a) to (i).

5. Obligations of the data importer

The data importer agrees and warrants:

- a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;
- d) that it will promptly notify the data exporter about:
 - i. any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;
 - ii. any accidental or unauthorised access; and
 - iii. any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;
- e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;
- f) at the request of the data exporter to submit its data-processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;
- g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for sub-processing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;
- h) that, in the event of sub-processing, it has previously informed the data exporter and obtained its prior written consent;
- i) that the processing services by the sub-processor will be carried out in accordance with Clause 11;
- j) to send promptly a copy of any sub-processor agreement it concludes under the Clauses to the data exporter.

6. Liability

- 6.1. The Parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any Party or sub-processor is entitled to receive compensation from the data exporter for the damage suffered.
- 6.2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his sub-processor of any of their obligations referred to in

Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The data importer may not rely on a breach by a sub-processor of its obligations in order to avoid its own liabilities.

- 6.3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the sub-processor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the sub-processor agrees that the data subject may issue a claim against the data sub-processor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the sub-processor shall be limited to its own processing operations under the Clauses.

7. Mediation and jurisdiction

- 7.1. The data importer agrees that if the data subject invokes against it third-Party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:
- to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;
 - to refer the dispute to the courts in the Member State in which the data exporter is established.
- 7.2. The Parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

8. Cooperation with supervisory authorities

- 8.1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.
- 8.2. The Parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any sub-processor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.
- 8.3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any sub-processor preventing the conduct of an audit of the data importer, or any sub-processor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5(b).

9. Governing law

The Clauses shall be governed by the law of the Member State in which the data exporter is established, namely United Kingdom.

10. Variation of the contract

The Parties undertake not to vary or modify the Clauses. This does not preclude the Parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

11. Sub-processing

- 11.1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the sub-processor which imposes the same obligations on the sub-processor as are imposed on the data importer under the Clauses (1). Where the sub-processor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the sub-processor's obligations under such agreement.
- 11.2. The prior written contract between the data importer and the sub-processor shall also provide for a third-Party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-Party liability of the sub-processor shall be limited to its own processing operations under the Clauses.
- 11.3. The provisions relating to data protection aspects for sub-processing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established, namely United Kingdom

11.4. The data exporter shall keep a list of sub-processing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

12. Obligation after the termination of personal data-processing services

12.1. The Parties agree that on the termination of the provision of data-processing services, the data importer and the sub-processor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

12.2. The data importer and the sub-processor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data-processing facilities for an audit of the measures referred to in paragraph 1.

On behalf of the data exporter:

Name (written out in full)	
Position	
Address	
Other information in order for the contract to be binding (if any)	
Signature	
Stamp of organisation	

On behalf of the data importer:

Name (written out in full)	Chuck Chu
Position	VP of Sales, Americas and EMEA
Address	4701 Patrick Henry Drive, #2101, Santa Clara, California 95054 USA
Other information in order for the contract to be binding (if any)	
Signature	
Stamp of organisation	

Appendix 1 to the Standard Contractual Clauses

This Appendix forms part of the Clauses and must be completed and signed by the Parties

The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix

Data exporter

The data exporter is (please specify briefly your activities relevant to the transfer):

The data exporter is (i) the legal entity that has executed the Standard Contractual Clauses as a Data Exporter and, (ii) all Affiliates (as defined in the Agreement) of Customer established within the European Economic Area (EEA) that have purchased Services on the basis of one or more Service Order Form(s).

Data importer

The data importer is (please specify briefly activities relevant to the transfer):

Quantil Inc. ("Quantil"), which processes Personal Data upon the instruction of the data exporter in accordance with the terms of the agreement between the data exporter and Quantil.

Data subjects

The personal data transferred concern the following categories of data subjects (please specify):

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

- Prospective customers, Customers, resellers, referrers, business partners, and vendors of the data exporter (who are natural persons);
- Employees or contact persons of the data exporter's prospective customers, Customers, resellers, referrers, subcontractors, business partners, and vendors (who are natural persons);
- Employees, agents, advisors, and freelancers of the data exporter (who are natural persons); and/or
- Natural persons authorised by the data exporter to use the services provided by Quantil to the data exporter.

Categories of data

The personal data transferred concern the following categories of data (please specify):

The data exporter may submit Personal Data to Quantil and its Affiliates, the extent of which is determined and controlled by the data exporter in its sole discretion, and which may include, but is not limited to, the following categories of Personal Data:

- First and last name
- Title
- Position
- Employer
- Contact information (company, email, phone, physical business address)
- Identification data
- Professional life data
- Personal life data
- Connection data
- Localisation data (including IP addresses).

Special categories of data (if appropriate)

The personal data transferred concern the following special categories of data (please specify):

The personal data transferred will be subject to the following basic processing activities (please specify):

The data exporter may submit special categories of data to Quantil and its Affiliates, the extent of which is determined and controlled by the data exporter in its sole discretion.

Such special categories of data for the sake of clarity include, but may not be limited to, Personal Data with information revealing racial or ethnic origins, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning an individual's health or sex life.

Processing operations

The objective of the processing of Personal Data by Quantil is to provide the Service, pursuant to the Agreement.

DATA EXPORTER	
Name	
Authorised Signature	
DATA IMPORTER	Quantil Inc.
Name	Chuck Chu
Authorised Signature	

Appendix 2 to the Standard Contractual Clauses

This Appendix forms part of the Clauses and must be completed and signed by the Parties.

Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

See Annex II to the DPA.

Annex II - Security Measures

- A. Data importer/sub-processor has implemented and shall maintain a security programme in accordance with industry standards.
- B. More specifically, data importer/sub-processor's security programme shall include:

Access Control of Processing Areas

Data importer/sub-processor implements suitable measures in order to prevent unauthorised persons from gaining access to the data processing equipment (namely telephones, database and application servers and related hardware) where the personal data are processed or used, including:

- establishing security areas;
- protection and restriction of access paths;
- establishing access authorisations for employees and third Parties, including the respective documentation;
- all access to the data centre where personal data are hosted is logged, monitored, and tracked; and
- the data centre where personal data are hosted is secured by a security alarm system, and other appropriate security measures.

Access Control to Data Processing Systems

- Data importer/sub-processor implements suitable measures to prevent their data processing systems from being used by unauthorised persons, including:
- use of adequate encryption technologies;
- identification of the terminal and/or the terminal user to the data importer/sub-processor and processing systems;
- automatic temporary lock-out of user terminal if left idle, identification and password required to reopen;
- automatic temporary lock-out of the user ID when several erroneous passwords are entered, log file of events, monitoring of break-in-attempts (alerts); and
- all access to data content is logged, monitored, and tracked.

Access Control to Use Specific Areas of Data Processing Systems

Data importer/sub-processor commits that the persons entitled to use their data processing system are only able to access the data within the scope and to the extent covered by their respective access permission (authorisation) and that personal data cannot be read, copied or modified or removed without authorisation. This shall be accomplished by various measures including:

- employee policies and training in respect of each employee's access rights to the personal data;
- allocation of individual terminals and /or terminal user, and identification characteristics exclusive to specific functions;
- monitoring capability in respect of individuals who delete, add or modify the personal data;
- release of data only to authorised persons, including allocation of differentiated access rights and roles;
- use of adequate encryption technologies; and
- control of files, controlled and documented destruction of data.

Availability Control

Data importer/sub-processor implements suitable measures to ensure that personal data are protected from accidental destruction or loss, including:

- infrastructure redundancy; and
- backup is stored at an alternative site and available for restore in case of failure of the primary system.

Transmission Control

Data importer/sub-processor implements suitable measures to prevent the personal data from being read, copied, altered or deleted by unauthorised Parties during the transmission thereof or during the transport of the data media. This is accomplished by various measures including:

- use of adequate firewall, VPN and encryption technologies to protect the gateways and pipelines through which the data travels;
- certain highly confidential employee data (e.g., personally identifiable information such as National ID numbers, credit or debit card numbers) is also encrypted within the system; and
- providing user alert upon incomplete transfer of data (end to end check); and
- as far as possible, all data transmissions are logged, monitored and tracked.

Input Control

Data importer/sub-processor implements suitable input control measures, including:

- an authorisation policy for the input, reading, alteration and deletion of data;
- authentication of the authorised personnel;
- protective measures for the data input into memory, as well as for the reading, alteration and deletion of stored data;
- utilisation of unique authentication credentials or codes (passwords);
- providing that entries to data processing facilities (the rooms housing the computer hardware and related equipment) are kept locked;
- automatic log-off of user ID's that have not been used for a substantial period of time; and
- proof established within data importer/sub-processor's organisation of the input authorisation; and
- electronic recording of entries.

Separation of Processing for Different Purposes

Data importer/sub-processor implements suitable measures to ensure that data collected for different purposes can be processed separately, including:

- access to data is separated through application security for the appropriate users;
- modules within the data importer/sub-processor's data base separate which data is used for which purpose, i.e. by functionality and function;
- at the database level, data is stored in different normalised tables, separated per module, per Controller Customer or function they support; and
- interfaces, batch processes and reports are designed for only specific purposes and functions, so data collected for specific purposes is processed separately.

Documentation

Data importer/sub-processor will keep documentation of technical and organisational measures in case of audits and for the conservation of evidence. Data importer/sub-processor shall take reasonable steps to ensure that persons employed by it, and other persons at the place of work concerned, are aware of and comply with the technical and organisational measures set forth in this Appendix 2.

Monitoring

Data importer/sub-processor shall implement suitable measures to monitor access restrictions to data importer/sub-processor's system administrators and to ensure that they act in accordance with instructions received. This is accomplished by various measures including:

- individual appointment of system administrators;
- adoption of suitable measures to register system administrators' access logs to the infrastructure and keep them secure, accurate and unmodified for at least six months;
- yearly audits of system administrators' activity to assess compliance with assigned tasks, the instructions received by the data importer/sub-processor and applicable laws;

- keeping an updated list with system administrators' identification details (e.g. name, surname, function or organizational area) and tasks assigned and providing it promptly to data exporter upon request.

DATA EXPORTER	
Name	
Authorised Signature	
DATA IMPORTER	Quantil Inc.
Name	Chuck Chu
Authorised Signature	