

## **DATA PROTECTION ADDENDUM**

This Data Protection Addendum ("DPA") supplements the agreement between your firm (referred to herein as "Customer") and Orion Advisor Technology, LLC ("OAT"), in which OAT and/or its Affiliates (collectively "Orion") are providing you with the services set forth in such agreement (the "Agreement").

By signing the Agreement, Customer enters into this DPA on behalf of itself and, to the extent required under applicable Data Protection Laws and Regulations, in the name and on behalf of its Authorized Affiliates.

Capitalized terms used but not otherwise defined in this DPA have the same meanings as set out in the Agreement.

### **I. Definitions**

"Affiliate" means any legal entity directly or indirectly controlling, controlled by or under common control with a subject entity.

"Authorized Affiliates" means any of Customer's Affiliate(s) that (a) are permitted to use the Service pursuant to the Agreement and are not "Customer" (or such substantially equivalent term) as defined under the Agreement or this DPA, (b) qualify as a Controller of Personal Data Processed by Orion, and (c) are subject to Data Protection Laws and Regulations.

"Business" shall have the meaning given to it in the CCPA.

"California Personal Information" means Personal Data that is subject to the protection of the CCPA.

"CCPA" means California Civil Code Sec. 1798.100 et seq. (also known as the California Consumer Privacy Act of 2018), as the same may be supplemented or amended.

"Controller" means the entity which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data.

"Customer" means the entity that executed the Agreement together with its Affiliates (for so long as they remain Affiliates).

"Data Protection Law(s) and Regulation(s)" means all applicable worldwide legislation relating to data protection and privacy which applies to the respective party in the role of Processing Personal Data in question under the Agreement, including without limitation, European Data Protection Laws and the CCPA. Each party is responsible for determining its respective obligations under applicable Data Protection Laws and Regulations.

"Data Subject" means the identified or identifiable person to which the Personal Data relates, including, as applicable, a "Consumer" as such term is defined by the CCPA.

"Europe" means the European Union, the European Economic Area, and/or their member states, Switzerland and/or the United Kingdom.

"European Data" means Personal Data that is subject to European Data Protection Laws;

“European Data Protection Laws” means all laws and regulations of the European Union, the European Economic Area and their member states, applicable to the Processing of Personal Data.

“Personal Data” means any information relating to a Data Subject and is protected as personal data, personal information, or personally identifiable information under applicable Data Protection Laws and Regulations, including, as applicable, any “Personal Information” as such term is defined by the CCPA.

“Processing” (including its root word, “Process”) means any operation or set of operations which is performed upon Personal Data, whether or not by automatic 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.

"Processor" means the entity which Processes Personal Data on behalf of the Controller, including, as applicable, any “Service Provider” as such term is defined by the CCPA.

“Service Provider” shall have the meaning given to it in the CCPA.

“Services” means the service(s) provided for in the applicable Agreement.

“Standard Contractual Clauses” means the standard contractual clauses and related annexes and appendices available at <https://orionadvisortech.com/download/standard-contractual-clauses/> for the transfer of personal data to processors or sub-processors established in third countries, as adopted by the European Commission pursuant to the European Data Protection Laws and/or implementing decision 2021/914 of 4 June 2021, as applicable.

“Sub-Processor” means any Processor engaged by Orion or its Affiliates to Process Personal Data on Orion’s (or its Affiliates’) behalf. Sub-Processors shall not include any Orion employee, or any Processor that Processes Personal Data only at the direction of Customer, its Affiliate(s), or its Authorized Affiliate(s), as applicable.

## **II. Responsibilities and Representations Regarding Personal Data**

### **A. *Orion Responsibilities and Representations.***

1. Orion shall Process the Personal Data in connection with its Services under the Agreement only on documented instructions from Customer unless otherwise required by applicable law.
2. Orion shall ensure that personnel authorized by Orion to Process the Personal Data have committed themselves to confidentiality.
3. Orion shall not be required to comply with Customer’s instructions if such instructions would violate Data Protection Laws and Regulations.

### **B. *Customer Responsibilities and Representations.***

1. Customer shall: (i) ensure the ongoing accuracy, quality, and legality of Personal Data and the means by which Customer acquired Personal Data; (ii) comply with all necessary transparency and lawfulness requirements under applicable Data Protection Laws and Regulations for the collection and use of the Personal Data, including, but not limited to,

obtaining any necessary consents and authorizations from Data Subjects; (iii) ensure it has the right to transfer, or provide access to, the Personal Data to Orion for Processing in accordance with the terms of the Agreement (including this DPA); and (iv) ensure that its instructions to Orion regarding the Processing of Personal Data comply with, and do not cause Orion to violate, applicable laws, including Data Protection Laws and Regulations. Customer shall promptly inform Orion if any of the foregoing representations are no longer accurate.

2. Customer recognizes that Orion does not have a means to verify (i) the residency of each Data Subject, (ii) the aspects of Personal Data that are provided to Orion by Customer in connection with each request by Customer to Process such Personal Data, nor (iii) the location of third-parties that Customer chooses to exchange Personal Data with as part of the intended functionality of the Service.

### **III. Data Subject Requests**

A. Orion provides Customer with a number of controls that Customer may use to retrieve, correct, delete or restrict Personal Data, which Customer may use to assist it in connection with its obligations under Data Protection Laws and Regulations, including its obligations relating to responding to requests from Data Subjects to exercise their rights under applicable Data Protection Laws and Regulations (“Data Subject Requests”).

B. To the extent Customer is unable to independently address a Data Subject Request through the Service, then upon Customer’s written request Orion shall, to the extent legally required, provide reasonable assistance to Customer to respond to any Data Subject Requests or requests from data protection authorities relating to the Processing of Personal data under the Agreement. At Orion’s request, Customer shall reimburse Orion for the commercially reasonable costs arising from this assistance.

C. If a Data Subject Request or other communication regarding the Processing of Personal Data under the Agreement is made directly to Orion, Orion will promptly inform Customer and will advise the Data Subject to submit their request to Customer. Customer shall be solely responsible for responding to any such Data Subject Requests or communications involving Personal Data.

### **IV. Security**

A. Both parties shall maintain appropriate technical and organizational measures to protect against accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data.

### **V. Personal Data Incidents**

A. In accordance with applicable Data Protection Laws and Regulations, each party shall notify the other party without undue delay upon becoming aware of an accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data maintained and Processed in the Orion system (a “Personal Data Incident”). Each party shall make reasonable efforts to identify the cause of a Personal Data Incident and take those steps as deemed necessary and reasonable in order to remediate the cause of such Personal Data Incident, to the extent that the remediation is within such party’s reasonable control. Orion’s obligations set forth herein shall not apply to Personal Data Incidents that are caused directly or indirectly by Customer or a Processor engaged by Customer.

### **VI. Retention, Return, and Deletion of Personal Data**

A. During the term of the Agreement, Orion will provide Customer with the capability to obtain a copy of Personal Data Processed by Orion and in Orion's possession, as set forth in the Agreement. Notwithstanding anything to the contrary herein, Orion may retain copies of Personal Data as necessary to comply with legal, regulatory, judicial, audit, or internal compliance requirements.

## **VII. Audits**

A. If required by applicable Data Protection Laws and Regulations, Orion shall make available to Customer (upon its request), all information reasonably necessary to demonstrate compliance with applicable Data Protection Laws and Regulations and allow for and contribute to audits, including inspections, conducted by Customer or another reputable auditor selected by Customer and reasonably approved by Orion, provided that Customer shall not exercise this right more than once per calendar year, unless necessary to comply with governmental or regulatory requirements.

## **VIII. Sub-Processors**

A. *Sub-Processors.* Customer acknowledges and agrees that (a) Orion's Affiliates may be retained as Sub-Processors; and (b) Orion and Orion's Affiliates respectively may engage third-party Sub-Processors in connection with Orion's performance of the Agreement.

1. If and to the extent Orion engages third-party Sub-Processors to Process Personal Data on Orion's behalf, Orion will impose data protection terms on those Sub-Processors that provide at least the same level of protection for Personal Data as those in this DPA, to the extent applicable to the nature of the services provided by such Sub-Processors. Orion will remain responsible for each Sub-Processor's compliance with the obligations of this DPA and for any acts or omissions of such Sub-Processor that cause Orion to breach any of its obligations under this DPA, except as otherwise set forth in the Agreement.

2. Orion will provide notification of a new third-party Sub-Processor to be engaged solely by Orion, and Customer may object to Orion's engagement of such new Sub-Processor by notifying Orion within ten (10) business days after receipt of Orion's notification. In the event Customer objects to a new Sub-Processor, the parties will work in good faith with a view to achieving a commercially reasonable resolution. If no such resolution can be reached, Orion will, at its sole discretion, either not appoint the new Sub-Processor, or permit Customer to suspend or terminate the affected portion of the Services to be performed by such new Sub-Processor with respect only to those aspects which cannot be provided by Orion without the use of the objected-to new Sub-Processor by providing written notice to Orion.

3. Notwithstanding anything herein to the contrary, Orion shall not be responsible for third-party Processors engaged by Customer.

## **IX. Authorized Affiliates**

A. The parties agree that, by executing the DPA, Customer enters into the DPA on behalf of itself and, to the extent required under applicable Data Protection Laws and Regulations, in the name and on behalf of its Authorized Affiliate(s), thereby establishing a separate DPA between Orion and each such Authorized Affiliate. Each Authorized Affiliate shall be bound by the obligations under this DPA and, to the extent applicable, the Agreement. For the avoidance of doubt, all access and use of the Services by Authorized Affiliate(s) shall comply with the terms and conditions of the Agreement and any violation thereof by an Authorized Affiliate shall be deemed a violation by Customer.

B. Where an Authorized Affiliate becomes a party to the DPA, it shall to the extent required under applicable Data Protection Laws and Regulations be entitled to exercise the rights and seek remedies under this DPA, except where applicable Data Protection Laws and Regulations require the Authorized Affiliate to exercise a right or seek any remedy under this DPA against Orion directly by itself.

## **X. Special Provisions for European Data**

B. *Scope.* This section shall apply if and only with respect to European Data.

C. *Roles.* When Processing European Data in accordance with Customer's instructions, the parties acknowledge and agree that Customer is the Controller of European Data and Orion is the Processor.

D. *Data Protection Impact Assessments and Consultation with Supervisory Authorities.* To the extent that the required information is reasonably available to Orion, and Customer does not otherwise have access to the required information, Orion will provide reasonable assistance to Customer with any data protection impact assessments, and prior consultations with supervisory authorities or other competent data privacy authorities to the extent required by European Data Protection Laws.

E. *European Data Transfers.*

1. Customer acknowledges that in connection with the performance of the Services by Orion, Orion may be a recipient of European Data in the United States if so directed by Customer. If and to the extent that Customer transfers European Data to Orion, and Orion Processes such European Data in the United States, the parties agree that the Standard Contractual Clauses located at <https://orionadvisortech.com/download/standard-contractual-clauses/>, which are hereby incorporated by reference, shall govern such transfer. For purposes of the Standard Contractual Clauses, Customer shall be the data exporter, Orion shall be the data importer, and Customer's execution of the Agreement shall be treated as its execution of the Standard Contractual Clauses. If Customer requires a signed copy of this DPA or the Standard Contractual Clauses, Customer can download both or either and send a signed copy to [legal@orion.com](mailto:legal@orion.com). Upon receipt, OAT will provide you with a completed, countersigned copy.

2. Orion shall not transfer European Data to any country or recipient not recognized as providing an adequate level of protection for Personal Data (within the meaning of European Data Protection Laws) unless it takes such measures as necessary to ensure the transfer is in compliance with applicable European Data Protection Laws. Such measures may include (without limitation) transferring such data to a recipient that has achieved binding corporate rules authorization in accordance with European Data Protection Law or to a recipient that has executed appropriate standard contractual clauses adopted or approved by the European Commission.

## **XI. Special Provisions for California Personal Information**

A. *Scope.* This section shall apply if and only with respect to California Personal Information.

B. *Roles.* When Processing California Personal Information in accordance with Customer's instructions, the parties acknowledge and agree that Customer is a Business and Orion is a Service Provider for the purposes of the Agreement and this DPA.

C. *Responsibilities.* The parties agree that Orion will Process California Personal Information as a Service Provider strictly for the purpose of performing the Services under the Agreement (the "Business Purpose"). Orion shall not (a) sell California Personal Information (as defined in the CCPA); (b) retain, use, or

disclose California Personal Information for a commercial purpose other than for the Business Purpose or as otherwise permitted by the CCPA; or (c) retain, use, or disclose California Personal Information outside of the direct business relationship between Customer and Orion. Notwithstanding the foregoing, Customer specifically acknowledges that its use of the Services will not violate the rights of any Data Subject that has opted-out from sales or other disclosures of Personal Data, to the extent applicable under the CCPA.

## **XII. General Provisions**

A. *Precedence.* This DPA is incorporated into and forms part of the Agreement. For matters not addressed under this DPA, the terms of the Agreement apply. Except as specifically set forth in this DPA, the terms of the underlying Agreement shall remain unmodified and in full force and effect. In the event of a conflict between the terms of the Agreement and the terms of this DPA, the terms of this DPA shall prevail.

B. *Amendments.* This DPA may be updated by OAT from time to time as reasonably required by applicable Data Protection Laws and Regulations following notice to Customer. Customer's continued use of the services pursuant to the Agreement shall signify acceptance of such revised terms.

C. *Severability.* If any individual provisions of this DPA are determined to be invalid or unenforceable, the validity and enforceability of the other provisions of this DPA shall not be affected.