

DATA PROCESSING AMENDMENT

Acceptance of your applicable terms of service (e.g., the applicable standard Terms and Conditions (www.zix.com/terms) (“Underlying Agreement”), incorporates the terms of this Data Protection Amendment (“DPA”) into the Underlying Agreement by reference. If there is any conflict between a provision in this DPA and a provision in the Underlying Agreement, this DPA will control.

You acknowledge and agree that the ZixCorp Systems, Inc. subsidiary or affiliate that provides the applicable service (“Company”), will process personal information during or in connection with your use of the Subscription Services. “Personal Information” means information relating to identified or identifiable natural persons, or that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked to, directly or indirectly, a particular individual, consumer, data subject, or household, or is defined as “personally identifiable information,” “personal information,” “personal data,” or similar term under applicable data protection law. Company operates as a data processor in providing the Subscription Services to you. You are the data controller and you determine the purposes for which and the manner in which any personal data are, or are to be, processed by Company. For purposes of the California Consumer Privacy Act of 2018, California Civil Code § 1798.100 *et seq.* (“California Consumer Privacy Act” or “CCPA”) you are a Business and Company is a Service Provider. Company processes the personal data on your behalf and according to your instructions as set forth in the Agreement. Company shall not: (a) sell the Personal Information; (b) retain, use, or disclose the Personal Information for any purpose other than for the specific purpose of performing the Subscription Services; (c) retain, use, or disclose the Personal Information for a commercial purpose other than providing the Subscription Services; or (d) retain, use, or disclose the Personal Information outside of the direct business relationship between Company and Customer. Company certifies that it understands these restrictions and will comply with them.

Company requires, and you hereby warrant and represent, that any personal data you submit to Company during or in connection with your use of the Subscription Services, has not been collected, stored, and transferred to Company in violation of any law, regulation, or contractual obligation applicable to you. You shall have sole responsibility for the accuracy, quality, and legality of the personal data and the means by which you acquired the personal data.

To the extent Customer’s use of the Subscription Services or the Subscription Materials involves personal data originating outside of the United States, Customer (1) acknowledges and consents to the transfer of such personal data outside of its country of origin; (2) shall ensure that it has provided any required notice to, and obtained any required consent(s) from, individuals for the processing of their personal data by Company and for the transfer of their personal data outside of its country of origin; (3) shall comply with all privacy and data protection laws applicable to such personal data; and (4) shall indemnify and hold Company and its affiliates harmless from and against any and all claims, causes of action, liabilities, penalties, costs or expenses incurred by Company or any affiliate thereof as result of your breach or violation of the provisions of this Section 4. Company self-certifies to and complies with the EU-US Privacy Shield Framework, as administered by the US Department of Commerce, and will maintain its self-certification to and compliance with the EU-US Privacy Shield Framework with respect to the processing of personal data that is transferred from the European Economic Area to the United States for the Subscription Services.

To the extent your use of the Subscription Services involves the processing by Company of the personal data of data subjects located in the European Union or otherwise subject to Regulation (EU) 2016/679, the General Data Protection Regulation, together with any additional implementation legislation, rules or regulations that are issued by applicable supervisory authorities (“GDPR”), the following provisions apply. Words and phrases shall, to the greatest extent possible, have the meanings given to them in the GDPR.

1. Company shall process personal data on your behalf, according to your instructions, and in accordance with the GDPR requirements directly applicable to Company’s provision of the Subscription Services. The following specifications apply (“Specifications”):
 - a. The subject matter of the processing is the performance of the Subscription Services to you pursuant to the Agreement. Company may process the personal data for the following purposes: (1) processing in accordance with the Agreement; (2) processing initiated by your end users in their use of the Subscription Services; and (3) processing to comply with other documented reasonable instructions provided by you (e.g., via email) where such instructions are consistent with the terms of the Agreement.
 - b. The duration of the processing is for the duration of the Agreement except where otherwise required by applicable law, as required by a legal obligation or for Company to protect its rights or those of a third party, or as required for Company to continue processing personal data based on a legitimate interest.
 - c. The categories of data subjects about whom Company processes personal data are determined and controlled by you, in your sole discretion, which may include, but are not limited to, your end users.

- d. The types of personal data that Company processes are determined and controlled by you, in your sole discretion, and may include, but are not limited to the categories of data identified in Exhibit A.
2. Company shall process the personal data only on documented instructions from you and in accordance with the Specifications above, unless required to do otherwise by applicable law to which Company is subject; in such a case, Company shall inform you of that legal requirement before processing personal data, unless that law prohibits such disclosure on important grounds of public interest. The Agreement constitutes your complete and final documented instructions, and any additional or alternate instructions must be agreed upon separately.
3. Company shall, to the extent legally permitted, promptly notify you if Company receives a request from a data subject to exercise the data subject's right of access, right to rectification, restriction of processing, erasure ("right to be forgotten"), data portability, objection to processing, or right not to be subject to automated individual decision making ("Data Subject Request"). Taking into account the nature of the processing, Company shall assist you, insofar as is possible, in the fulfillment of your obligation to respond to a Data Subject Request. In addition, to the extent you, in your use of the Subscription Services, do not have the ability to address a Data Subject Request, Company shall upon your written request provide commercially reasonable efforts to assist you in responding to such Data Subject Request, to the extent Company is legally permitted to do so and the response to such Data Subject Request is required under applicable laws. To the extent legally permitted, you shall be responsible for any costs arising from Company's provision of such assistance. Please note that Company may not be able to fulfill a Data Subject Request where to do so would violate laws applicable to Company, would interfere with Company's ability to meet legal obligations or protect its rights or those of a third party, or would prevent Company from continuing to process personal data where it has a legitimate interest in doing so.
4. You acknowledge and agree that Company may retain third party service provider subprocessors during or in connection with your use of the Subscription Services. Company shall enter into a written agreement with each subprocessor containing data protection obligations not less protective than those in the Agreement with respect to the protection of your personal data to the extent applicable to the services provided by the third party service provider. Company shall ensure that persons authorized to carry out processing have committed themselves to confidentiality or are under the appropriate statutory obligation of confidentiality. You hereby provide Company with general written authorization to engage such subprocessors in connection with this Agreement. Company shall be liable for the acts and omissions of its subprocessors to the same extent Company would be liable if performing the services of each subprocessor directly under the terms of the Agreement.
5. Upon your written request, Company shall provide you with reasonable cooperation and assistance as needed and appropriate to fulfil your obligations under the GDPR to carry out a data protection impact assessment related to your use of the Subscription Services, to the extent you do not otherwise have access to the relevant information, and to the extent such information is available to Company. Company shall provide reasonable assistance to you in the cooperation or prior consultation with the Supervisory Authority in the performance of its tasks relating the data protection impact assessment, to the extent required under the GDPR.

Exhibit A to Data Processing Addendum

Categories of data

The personal data transferred may include but is not limited to the categories of data set out below.

Personal Data

- Name
- Email Address
- Data present in email contents
- Email Metadata, including IP address

Sensitive Personal Data (depending on what is included in email contents)

- Race
- Ethnic origin
- Political opinion
- Religious beliefs
- Physical/mental health
- Sexual orientation
- Criminal offences (or proceedings which involve them).