

BASECAMP DATA PROCESSING ADDENDUM *(Revision July 2020)*

This Data Processing Addendum (“**DPA**”) forms part of the Terms of Service and Privacy Policy or other written or electronic agreement between Basecamp and Customer for the purchase and/or use of online services (including associated Basecamp mobile components) from Basecamp (identified either as “Services” or otherwise in the applicable agreement, and hereinafter defined as “Services”) (the “Agreement”) to reflect the parties’ agreement with regard to the Processing of Personal Data.

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 Customer’s Authorized Affiliates, if and to the extent Basecamp processes Personal Data for which such Authorized Affiliates qualify as the Controller. For the purposes of this DPA only, and except where indicated otherwise, the term "Customer" shall include Customer and Authorized Affiliates. All capitalized terms not defined herein shall have the meaning set forth in the Agreement.

In the course of providing the Services to Customer pursuant to the Agreement, Basecamp may Process Personal Data on behalf of Customer and the Parties agree to comply with the following provisions with respect to any Personal Data, each acting reasonably and in good faith.

HOW TO EXECUTE THIS DPA:

1. This DPA consists of two parts: the main body of the DPA, and Schedules 1, 2, 3, and 4 (including Appendices 1 to 3).
2. This DPA has been pre-signed on behalf of Basecamp. The Standard Contractual Clauses in Schedule 5 have been pre-signed by Basecamp as the data importer.
3. To complete this DPA, Customer must:
 - a. Complete the information in the signature box and sign on Page 9.
 - b. Complete the information as the data exporter on Page 14.
 - c. Complete the information in the signature box and sign on Page 21.
4. Send the completed and signed DPA to Basecamp at dpa@basecamp.com. If you are executing the DPA via HelloSign, the completed DPA will automatically be sent to dpa@basecamp.com; otherwise, you will need to directly send the signed DPA via email.

Upon receipt of the validly completed DPA by Basecamp at this email address, this DPA will become legally binding.

HOW THIS DPA APPLIES

If the Customer entity signing this DPA is a party to the Agreement, this DPA is an addendum to and forms part of the Agreement. In such case, the Basecamp entity that is party to the Agreement is party to this DPA.

This DPA shall not replace any comparable or additional rights relating to Processing of Customer Data contained in Customer's Agreement (including any existing data processing addendum to the Agreement).

DATA PROCESSING TERMS

1. DEFINITIONS

"Affiliate" means (a) any entity on whose behalf Customer obtained the Basecamp Services, and/or (b) any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"Authorized Affiliate" means any of Customer's Affiliate(s) which (a) is subject to the data protection laws and regulations of the European Union, the European Economic Area and/or their member states, Switzerland and/or the United Kingdom, and (b) is permitted to use the Services pursuant to the Agreement between Customer and Basecamp, but has not signed its own Agreement with Basecamp and is not a "Customer" as defined under the Agreement.

"Controller" means the entity which determines the purposes and means of the Processing of Personal Data.

"Customer Data" means what is described in the Basecamp Privacy Policy as "your data", "your info" or similar terms.

"Data Protection Laws and Regulations" means all laws and regulations, including laws and regulations of the European Union, the European Economic Area and their member states, Switzerland and the United Kingdom, applicable to the Processing of Personal Data under the Agreement.

"Data Subject" means the identified or identifiable person to whom Personal Data relates.

"GDPR" means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

"Personal Data" means any information relating to (i) an identified or identifiable natural person and, (ii) an identified or identifiable legal entity (where such information is protected

similarly as personal data or personally identifiable information under applicable Data Protection Laws and Regulations), where for each (i) or (ii), such data is Customer Data.

“Processing” (including its various forms) 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.

“Security, Privacy and Architecture Documentation” means Basecamp’s security overview and security whitepaper, as updated from time to time, and accessible via <https://basecamp.com/about/policies/security> and <https://basecamp.com/security-overview.pdf>, Basecamp’s Privacy Policy, as updated from time to time, and accessible via <https://basecamp.com/about/policies/privacy>, or as otherwise made reasonably available by Basecamp.

“Basecamp” means the Basecamp entity which is a party to this DPA, as specified in the section “HOW THIS DPA APPLIES” above, being Basecamp, LLC, an Illinois Limited Liability Company.

“Standard Contractual Clauses” means the agreement executed by and between Customer and Basecamp and attached hereto as Schedule 5 pursuant to the European Commission’s decision (C(2010)593) of 5 February 2010 on Standard Contractual Clauses for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection.

“Sub-processor” means any Processor engaged by Basecamp.

“Supervisory Authority” means an independent public authority which is established by an EU Member State pursuant to the GDPR.

2. PROCESSING OF PERSONAL DATA

2.1 Roles of the Parties. The parties acknowledge and agree that with regard to the Processing of Personal Data, Customer is the Controller, Basecamp is the Processor and that Basecamp will engage Sub-processors pursuant to the requirements set forth in Section 5 “Sub-processors” below.

2.2 Customer’s Processing of Personal Data. Customer shall, in its use of the Services, Process Personal Data in accordance with the requirements of Data Protection Laws and Regulations. For the avoidance of doubt, Customer’s instructions for the Processing of Personal Data shall comply with Data Protection Laws and Regulations. Customer shall have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which Customer acquired Personal Data.

2.3 Basecamp's Processing of Personal Data. Basecamp shall treat Personal Data as confidential information and shall only Process Personal Data on behalf of and in accordance with Customer's documented instructions for the following purposes: (i) Processing in accordance with the Agreement; (ii) Processing initiated by Customers and/or Invited Users in their use of the Services; and (iii) Processing to comply with other documented reasonable instructions provided by Customer (e.g., via email) where such instructions are consistent with the terms of the Agreement.

2.4 Details of the Processing. The subject-matter of Processing of Personal Data by Basecamp is the performance of the Services pursuant to the Agreement. The duration of the Processing, the nature and purpose of the Processing, the types of Personal Data and categories of Data Subjects Processed under this DPA are further specified in Schedule 4 (Details of the Processing) to this DPA.

3. DATA SUBJECT REQUESTS

Basecamp shall, to the extent legally permitted, promptly notify Customer if Basecamp 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, object to the Processing, or its right not to be subject to an automated individual decision making ("Data Subject Request"). Taking into account the nature of the Processing, Basecamp shall assist Customer by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of Customer's obligation to respond to a Data Subject Request under Data Protection Laws and Regulations. In addition, to the extent Customer, in its use of the Services, does not have the ability to address a Data Subject Request, Basecamp shall upon Customer's request provide commercially reasonable efforts to assist Customer in responding to such Data Subject Request, to the extent Basecamp is legally permitted to do so and the response to such Data Subject Request is required under Data Protection Laws and Regulations. To the extent legally permitted, Customer shall be responsible for any costs arising from Basecamp's provision of such assistance.

4. BASECAMP PERSONNEL

4.1 Confidentiality. Basecamp shall ensure that its personnel engaged in the Processing of Personal Data are informed of the confidential nature of the Personal Data, have received appropriate training on their responsibilities and have executed written confidentiality agreements. Basecamp shall ensure that such confidentiality obligations survive the termination of the personnel engagement.

4.2 Reliability. Basecamp shall take commercially reasonable steps to ensure the reliability of any Basecamp personnel engaged in the Processing of Personal Data.

4.3 Limitation of Access. Basecamp shall ensure that Basecamp's access to Personal Data is limited to those personnel performing Services in accordance with the Agreement.

- 4.4 Data Protection Officer.** Based on Basecamp’s processing activities, Basecamp is not required to appoint a Data Protection Officer. Basecamp reserves the right to voluntarily appoint a Data Protection Officer in the future. For questions about this DPA, GDPR compliance, data privacy, Privacy Shield, or any other privacy issues please send an email to privacy@basecamp.com.

5. SUB-PROCESSORS

- 5.1 Appointment of Sub-processors.** Customer acknowledges and agrees that (a) Basecamp’s Affiliates may be retained as Sub-processors; and (b) Basecamp and Basecamp’s Affiliates respectively may engage third-party Sub-processors in connection with the provision of the Services. Basecamp or a Basecamp Affiliate has entered into a written agreement with each Sub-processor containing data protection obligations not less protective than those in this DPA with respect to the protection of Customer Data to the extent applicable to the nature of the Services provided by such Sub-processor.
- 5.2 List of Current Sub-processors and Notification of New Sub-processors.** Basecamp shall make available to Customer the current list of Sub-processors for the Basecamp Services. Such Sub-processor lists shall include the identities of those Sub-processors and their country of location (“**Sub-processor Documentation**”). Customer may find on Basecamp’s webpage at <https://basecamp.com/about/policies/privacy/regulations> the Sub-processor Documentation. Basecamp, through notification to the Customer shall provide notification of a new Sub-processor(s) before authorizing any new Sub-processor(s) to Process Personal Data in connection with the provision of the applicable Services.
- 5.3 Objection Right for New Sub-processors.** Customer may object to Basecamp’s use of a new Sub-processor by notifying Basecamp promptly in writing within ten (10) business days after receipt of Basecamp’s notice in accordance with the mechanism set out in Section 5.2. In the event Customer objects to a new Sub-processor, as permitted in the preceding sentence, Basecamp will use reasonable efforts to make available to Customer a change in the Services or recommend a commercially reasonable change to Customer’s configuration or use of the Services to avoid Processing of Personal Data by the objected-to new Sub-processor without unreasonably burdening the Customer. If Basecamp is unable to make available such change within a reasonable period of time, which shall not exceed thirty (30) days, Customer may terminate the applicable Agreement with respect only to those Services which cannot be provided by Basecamp without the use of the objected-to new Sub-processor by providing written notice to Basecamp. Basecamp will refund Customer any prepaid fees covering the remainder of the term of such Agreement following the effective date of termination with respect to such terminated Services, without imposing a penalty for such termination on Customer.
- 5.4 Liability.** Basecamp shall be liable for the acts and omissions of its Sub-processors to the same extent Basecamp would be liable if performing the services of each Sub-processor directly under the terms of this DPA, except as otherwise set forth in the Agreement.

6. SECURITY

- 6.1 Controls for the Protection of Customer Data.** Basecamp shall maintain appropriate technical and organizational measures for protection of the security (including protection against unauthorized or unlawful Processing and against accidental or unlawful destruction, loss or alteration or damage, unauthorized disclosure of, or access to, Customer Data), confidentiality and integrity of Customer Data, as set forth in the Security, Privacy and Architecture Documentation. Basecamp regularly monitors compliance with these measures. Basecamp will not materially decrease the overall security of the Services during a subscription term.
- 6.2 Third-Party Certifications and Audits.** Basecamp has obtained the third-party certifications and audits set forth in the Security, Privacy and Architecture Documentation. Upon Customer's written request at reasonable intervals, and subject to the confidentiality obligations set forth in the Agreement, Basecamp shall make available to Customer that is not a competitor of Basecamp (or Customer's independent, third-party auditor that is not a competitor of Basecamp) a copy of Basecamp's then most recent third-party audits or certifications, as applicable.

7. CUSTOMER DATA INCIDENT MANAGEMENT AND NOTIFICATION

Basecamp maintains security incident management policies and procedures specified in the Security, Privacy and Architecture Documentation and the Agreement. Basecamp shall, notify Customer without undue delay, and in compliance with applicable laws, after becoming aware of the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer Data, including Personal Data, transmitted, stored or otherwise Processed by Basecamp or its Sub-processors of which Basecamp becomes aware (a "**Customer Data Incident**"). Basecamp shall make reasonable efforts to identify the cause of such Customer Data Incident and take those steps as Basecamp deems necessary and reasonable in order to remediate the cause of such a Customer Data Incident to the extent the remediation is within Basecamp's reasonable control. The obligations herein shall not apply to incidents that are caused by Customer or Customer's Invited Users.

8. RETURN AND DELETION OF CUSTOMER DATA

Basecamp shall return Customer Data to Customer and, to the extent allowed by applicable law, delete Customer Data in accordance with the procedures and timeframes specified in the Security, Privacy and Architecture Documentation.

9. AUTHORIZED AFFILIATES

- 9.1 Contractual Relationship.** The parties acknowledge and agree that, by executing the DPA, the Customer enters into the DPA on behalf of itself and, as applicable, in the name and on behalf of its Authorized Affiliates, thereby establishing a separate DPA between Basecamp and each such Authorized Affiliates subject to the provisions of the Agreement

and this Section 9 and Section 10. Each Authorized Affiliate agrees to be bound by the obligations under this DPA and, to the extent applicable, the Agreement. For the avoidance of doubt, by Customer entering into this DPA, an Authorized Affiliate is not and does not become a party to the Agreement, and is only a party to the DPA. All access to and use of the Services and Content by Authorized Affiliates must comply with the terms and conditions of the Agreement and any violation of the terms and conditions of the Agreement by an Authorized Affiliate shall be deemed a violation by Customer.

- 9.2 Communication.** The Customer that is the contracting party to the Agreement shall remain responsible for coordinating all communication with Basecamp under this DPA and be entitled to make and receive any communication in relation to this DPA on behalf of its Authorized Affiliate.
- 9.3 Rights of Authorized Affiliates.** Where an Authorized Affiliate becomes a party to the DPA with Basecamp, 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, subject to the following:

9.3.1 Except where applicable Data Protection Laws and Regulations require the Authorized Affiliate to exercise a right or seek any remedy under this DPA against Basecamp directly by itself, the parties agree that (i) solely the Customer that is the contracting party to the Agreement shall exercise any such right or seek any such remedy on behalf of the Authorized Affiliate, and (ii) the Customer that is the contracting party to the Agreement shall exercise any such rights under this DPA not separately for each Authorized Affiliate individually but in a combined manner for all of its Authorized Affiliates together (as set forth, for example, in Section 9.3.2, below).

9.3.2 The parties agree that the Customer that is the contracting party to the Agreement shall, when carrying out an on-site audit of the procedures relevant to the protection of Personal Data, take all reasonable measures to limit any impact on Basecamp and its Sub-processors by combining, to the extent reasonably possible, several audit requests carried out on behalf of different Authorized Affiliates in one single audit.

10. LIMITATION OF LIABILITY

Each party's and all of its Affiliates' liability, taken together in the aggregate, arising out of or related to this DPA, and all DPAs between Authorized Affiliates and Basecamp, whether in contract, tort or under any other theory of liability, is subject to the limitations of liability set forth in the Agreement, and such limitations apply to the aggregate liability of that party and all of its Affiliates under the Agreement and all DPAs together.

For the avoidance of doubt, Basecamp's and its Affiliates' total liability for all claims from the Customer and all of its Authorized Affiliates arising out of or related to the Agreement and each DPA shall apply in the aggregate for all claims under both the Agreement and all DPAs

established under this Agreement, including by Customer and all Authorized Affiliates, and, in particular, shall not be understood to apply individually and severally to Customer and/or to any Authorized Affiliate that is a contractual party to any such DPA.

Also for the avoidance of doubt, each reference to the DPA in this DPA means this DPA including its Schedules and Appendices.

11. EUROPEAN SPECIFIC PROVISIONS

11.1 GDPR. With effect from May 25, 2018, Basecamp will Process Personal Data in accordance with the GDPR requirements directly applicable to Basecamp's provision of its Services.

11.2 Data Protection Impact Assessment. With effect from May 25, 2018, upon Customer's request, Basecamp shall provide Customer with reasonable cooperation and assistance needed to fulfill Customer's obligation under the GDPR to carry out a data protection impact assessment related to Customer's use of the Services, to the extent Customer does not otherwise have access to the relevant information, and to the extent such information is available to Basecamp. Basecamp shall provide reasonable assistance to Customer in the cooperation or prior consultation with the Supervisory Authority in the performance of its tasks relating to Section 11.2 of this DPA, to the extent required under the GDPR.

11.3 Transfer mechanisms for data transfers. Subject to the additional terms in Schedule 1, Basecamp makes available the transfer mechanisms listed below which shall apply, in the order of precedence as set out in Section 11.4, to any transfers of Personal Data under this DPA from the European Union, the European Economic Area and/or their member states, Switzerland and the United Kingdom to countries which do not ensure an adequate level of data protection within the meaning of Data Protection Laws and Regulations of the foregoing territories, to the extent such transfers are subject to such Data Protection Laws and Regulations:

1. Basecamp's EU-U.S. and Swiss-U.S. Privacy Shield Framework self-certifications apply to the Services listed in Schedule 2 to this DPA (the "**EU-US and Swiss-US Privacy Shield Services**"), subject to the additional terms in Section 1 of Schedule 1;
2. The Standard Contractual Clauses set forth in Schedule 4 to this DPA apply to the Services listed in Appendix 3 to the Standard Contractual Clauses (the "**SCC Services**"), subject to the additional terms in Section 2 of Schedule 1.

11.4 Order of precedence. In the event that Services are covered by more than one transfer mechanism, the transfer of Personal Data will be subject to a single transfer mechanism in accordance with the following order of precedence: (1) Basecamp's EU-U.S. and Swiss-U.S. Privacy Shield Framework self-certifications and (2) the Standard Contractual Clauses.

12. PARTIES TO THIS DPA

The Section “HOW THIS DPA APPLIES” specifies which Basecamp entity is party to this DPA. In addition, Basecamp, LLC is a party to the Standard Contractual Clauses in Schedule 5. Notwithstanding the signatures below of any other Basecamp entity, such other Basecamp entities are not a party to this DPA or the Standard Contractual Clauses.

13. LEGAL EFFECT

This DPA shall only become legally binding between Customer and Basecamp when the formalities steps set out in the Section “HOW TO EXECUTE THIS DPA” above have been fully completed.

List of Schedules

Schedule 1: Transfer Mechanisms for European Data Transfers

Schedule 2: EU-U.S. and Swiss-U.S. Privacy Shield Services

Schedule 3: Details of the Processing

Schedule 4: Standard Contractual Clauses

The parties' authorized signatories have duly executed this Agreement:

CUSTOMER

Signature: _____

Customer Legal Name: _____

Print Name: _____

Title: _____

Date: _____

BASECAMP, LLC

Signature:  _____

Print Name: David Heinemeier Hansson

Title: CTO

Date: July 30, 2020

SCHEDULE 1
TRANSFER MECHANISMS FOR EUROPEAN DATA TRANSFERS

1. ADDITIONAL TERMS FOR EU-U.S. AND SWISS-U.S. PRIVACY SHIELD SERVICES

Basecamp and its U.S. Affiliates self-certify to and comply with the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks, as administered by the U.S. Department of Commerce, and Basecamp shall ensure that such entities maintain their self-certifications to and compliance with the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks with respect to the Processing of Personal Data that is transferred from the European Economic Area and/or Switzerland to the United States.

2. ADDITIONAL TERMS FOR SCC SERVICES

2.1 Customers covered by the Standard Contractual Clauses. The Standard Contractual Clauses and the additional terms specified in this Section 2 of this Schedule 1 apply to (i) the legal entity that has executed the Standard Contractual Clauses as a data exporter and its Invited Users and (ii) all Affiliates, including, but not limited to, Invited Users of Customer established within the European Economic Area, Switzerland and the United Kingdom, which have signed Agreements for the SCC Services. For the purpose of the Standard Contractual Clauses and this Section 2, the aforementioned entities shall be deemed “data exporters”.

2.2 Instructions. This DPA and the Agreement are Customer’s complete and final documented instructions at the time of signature of the Agreement to Basecamp for the Processing of Personal Data. Any additional or alternate instructions must be agreed upon separately. For the purposes of Clause 5(a) of the Standard Contractual Clauses, the following is deemed an instruction by the Customer to process Personal Data: (a) Processing in accordance with the Agreement; (b) Processing initiated by Users in their use of the SCC Services and (c) Processing to comply with other reasonable documented instructions provided by Customer (e.g., via email) where such instructions are consistent with the terms of the Agreement.

2.3 Appointment of new Sub-processors and List of current Sub-processors. Pursuant to Clause 5(h) of the Standard Contractual Clauses, Customer acknowledges and expressly agrees that (a) Basecamp’s Affiliates may be retained as Sub-processors; and (b) Basecamp and Basecamp’s Affiliates respectively may engage third-party Sub-processors in connection with the provision of the SCC Services. Basecamp shall make available to Customer the current list of Sub-processors in accordance with Section 5.2 of this DPA

2.4 Notification of New Sub-processors and Objection Right for new Sub-processors. Pursuant to Clause 5(h) of the Standard Contractual Clauses, Customer acknowledges and expressly agrees that Basecamp may engage new Sub-processors as described in Sections 5.2 and 5.3 of the DPA.

2.5. Copies of Sub-processor Agreements. The parties agree that the copies of the Sub-processor agreements that must be provided by Basecamp to Customer pursuant to Clause 5(j) of the Standard Contractual Clauses may have all commercial information, or clauses unrelated to the Standard Contractual Clauses or their equivalent, removed by Basecamp beforehand; and, that such copies will be provided by Basecamp, in a manner to be determined in its discretion, only upon request by Customer.

2.6. Audits and Certifications. The parties agree that the audits described in Clause 5(f) and Clause 12(2) of the Standard Contractual Clauses shall be carried out in accordance with the following specifications:

Upon Customer's request, and subject to the confidentiality obligations set forth in the Agreement, Basecamp shall make available to Customer that is not a competitor of Basecamp (or Customer's independent, third-party auditor that is not a competitor of Basecamp) information regarding Basecamp's compliance with the obligations set forth in this DPA in the form of the third-party certifications and audits set forth in the Security, Privacy and Architecture Documentation to the extent Basecamp makes them generally available to its customers. Customer may contact Basecamp in accordance with the "Notices" Section of the Agreement to request an on-site audit of the procedures relevant to the protection of Personal Data. Customer shall reimburse Basecamp for any time expended for any such on-site audit at the Basecamp Group's then-current professional services rates, which shall be made available to Customer upon request. Before the commencement of any such on-site audit, Customer and Basecamp shall mutually agree upon the scope, timing, and duration of the audit in addition to the reimbursement rate for which Customer shall be responsible. All reimbursement rates shall be reasonable, taking into account the resources expended by Basecamp. Customer shall promptly notify Basecamp with information regarding any non-compliance discovered during the course of an audit.

2.7. Certification of Deletion. The parties agree that the certification of deletion of Personal Data that is described in Clause 12(1) of the Standard Contractual Clauses shall be provided by Basecamp to Customer only upon Customer's request.

2.8. Conflict. In the event of any conflict or inconsistency between the body of this DPA and any of its Schedules (not including the Standard Contractual Clauses) and the Standard Contractual Clauses in Schedule 5, the Standard Contractual Clauses shall prevail.

SCHEDULE 2
EU-U.S. AND SWISS-U.S. PRIVACY SHIELD SERVICES

- All Basecamp Services

SCHEDULE 3

DETAILS OF THE PROCESSING

Nature and Purpose of Processing

Basecamp will Process Personal Data as necessary to perform the Services pursuant to the Agreement, as further specified in the DPA, and as further instructed by Customer in its use of the Services.

Duration of Processing

Subject to Section 8 of the DPA, Basecamp will Process Personal Data for the duration of the Agreement, unless otherwise agreed upon in writing.

Categories of Data Subjects

Customer may submit Personal Data to the Services, the categories, extent and detail of which is determined and controlled by Customer in its sole discretion.

Type of Personal Data

Customer may submit Personal Data to the Services, the type, extent and detail of which is determined and controlled by Customer in its sole discretion.

SCHEDULE 4
STANDARD CONTRACTUAL CLAUSES
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 organization:

Address:

Telephone

Facsimile:

Email:

Other information needed to identify the organization:

(the data **exporter**)

And

Name of the data importing organization: Basecamp, LLC

Address: 2045 W Grand Ave Ste B, PMB 53289, Chicago IL 60612

Telephone: (312) 281-5645

Facsimile: (312) 2277-7666

Email: dpa@basecamp.com

Other information needed to identify the organization: Not applicable.

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.

Clause 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 subprocessor'* means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor 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 organizational security measures'* means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 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.

Clause 3
Third-party beneficiary clause

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.
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. The data subject can enforce against the subprocessor 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 subprocessor shall be limited to its own processing operations under the Clauses.
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.

Clause 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 organizational 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, unauthorized 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 subprocessor 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 subprocessing 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 subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor 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).

Clause 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 organizational 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 unauthorized access, and
 - (iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorized 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 subprocessing, 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 subprocessing, it has previously informed the data exporter and obtained its prior written consent;
- (i) that the processing services by the subprocessor will be carried out in accordance with Clause 11;
- (j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

Clause 6

Liability

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 subprocessor is entitled to receive compensation from the data exporter for the damage suffered.

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 subprocessor 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 subprocessor of its obligations in order to avoid its own liabilities.

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 subprocessor 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 subprocessor agrees that the data subject may issue a claim against the data subprocessor 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 subprocessor shall be limited to its own processing operations under the Clauses.

Clause 7

Mediation and jurisdiction

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:
 - (a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;
 - (b) to refer the dispute to the courts in the Member State in which the data exporter is established.
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.

Clause 8

Cooperation with supervisory authorities

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.

2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, 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.
3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

Clause 9 ***Governing Law***

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

Clause 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.

Clause 11 ***Subprocessing***

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 subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. Where the subprocessor 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 subprocessor's obligations under such agreement.
2. The prior written contract between the data importer and the subprocessor 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 subprocessor shall be limited to its own processing operations under the Clauses.

3. The provisions relating to data protection aspects for subprocessing 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.
4. The data exporter shall keep a list of subprocessing 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.

Clause 12

Obligation after the termination of personal data processing services

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor 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.
2. The data importer and the subprocessor 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 necessary in order for the contract to be binding (if any):

Signature: _____

(stamp of organization)

On behalf of the data importer:

Name (written out in full): David Heinemeier Hansson

Position: CTO

Address: 2045 W Grand Ave Ste B, PMB 53289, Chicago, IL 60612

Other information necessary in order for the contract to be binding (if any): Not applicable.

Signature: _____

(stamp of organization)

APPENDIX 1 TO THE STANDARD CONTRACTUAL CLAUSES

This Appendix forms part of the Clauses.

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):

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) and Switzerland that have purchased SCC Services on the basis of one or more Order Form(s).

Data importer

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

Basecamp is a cloud-based software-as-a-service provider of project management software which processes personal data upon the instruction of the data exporter in accordance with the terms of the Agreement.

Data subjects

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

As defined in Section 1 and Schedule 3 of the DPA

Categories of data

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

As defined in Schedule 3 of the DPA

Special categories of data (if appropriate)

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

Data exporter may submit special categories of data to Basecamp, the type, category, extent and detail of which is determined and controlled by the data exporter in its sole discretion.

Processing operations

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

The objective of Processing of Personal Data by data importer is the performance of Basecamp's Services pursuant to the Agreement.

APPENDIX 2 TO THE STANDARD CONTRACTUAL CLAUSES

This Appendix forms part of the Clauses.

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

Data importer will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Personal Data uploaded to the SCC Services, as described in the Security, Privacy and Architecture Documentation applicable to the specific SCC Services purchased by data exporter. Data Importer will not materially decrease the overall security of the SCC Services during a subscription term.

APPENDIX 3 TO THE STANDARD CONTRACTUAL CLAUSES

- All Basecamp Services