**[Template clauses for data transfer / data protection]**

**Amendment Agreement**

This Amendment Agreement (the "**Amendment**") is entered on [date] by and between [insert the company name] ("**Company A**") and [insert the company name] ("**Company B**"), to amend [insert the agreement name] dated [insert] between Company A and Company B (the "**Agreement**").

Company A and Company B are each hereinafter individually referred to as a "**Party**" and collectively referred to as the "**Parties**."

Capitalized terms not otherwise defined herein shall have those meanings ascribed to them in the Agreement.

The Parties agree to add a new schedule (Data Protection) attached herewith as Schedule [insert Schedule Number] to the Agreement.

This Amendment supersedes any contrary prior agreements, understandings, representations, undertakings, or negotiations, whether written or oral, between the Parties with respect to the subject matter herein.

Save as amended by this Amendment, the provisions of the Agreement shall continue in full force and effect.

**In witness whereof**, the Parties have entered into this Amendment as of the date first written above.

[Insert Company A's name]

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

[Insert Company B's name]

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

**Schedule [insert Schedule Number] - Data Protection**

The Parties agree that the terms of this Schedule [insert Schedule Number] shall apply to the Agreement. In the event of any inconsistency between this Schedule [insert Schedule Number] and the Agreement, the terms of this Schedule [insert Schedule Number] shall prevail and govern.

* + 1. Capitalized terms used herein shall have the meanings set forth in this Schedule [insert Schedule Number] or in the Agreement.

"**Data Protection Laws**" means all laws, regulations, and other legal requirements, including but not limited to the Personal Data Protection Act, B.E. 2562 (2019) and its sub-regulations (the "**PDPA**"), official guideline and interpretation thereof, as applicable to the processing of Personal Data (as amended or replaced).

"**Process**" shall mean any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as the collection, recording, organization, storage, adaptation, alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, cross-border transfer, alignment or combination, blocking, erasure, or destruction of the Personal Data.

In this Schedule [insert Schedule Number] the terms "**Personal Data**," "**Data Processor**," "**Data Subject**," and "**Data Controller**" shall have the meaning as defined in the Data Protection Laws.

* + 1. For the purposes as described in Annex to this Schedule [insert Schedule Number], Company A and Company B agree to exchange Personal Data in accordance with the scope as set out in Annex to this Agreement (the "**Transfer**"). In carrying out the Transfer, the Parties shall act in compliance with the terms of Schedule [insert Schedule Number] and all applicable laws, including the Data Protection Laws.
    2. The transferring Party warrants and represents that, prior to any disclosure of any Personal Data to the receiving Party, it has obtained all necessary consent or relied on another legal basis to enable the receiving Party to process Personal Data received from the transferring Party lawfully and in accordance with Data Protection Laws for the purposes set out in Annex to this Schedule [insert Schedule Number].
    3. Each Party warrants and represents that, prior to any disclosure of Personal Data to the other Party, it has provided all relevant Data Subjects with necessary information and/or notices [(as previously approved by the receiving Party in writing)][[1]](#footnote-1) in accordance with the Data Protection Laws. [The receiving Party shall be entitled to review and provide amendments to the relevant information and/or notices provided to Data Subjects by the transferring Party, where such amendments are in the receiving Party's reasonable opinion required for compliance with the Data Protection Laws. The transferring Party agrees to make any such amendments reasonably requested by the receiving Party to such information and/or notices without undue delay, and at its own cost.][[2]](#footnote-2)
    4. The transferring Party shall ensure it is not subject to any restrictions or prohibitions which would prevent or restrict it from:

#### processing any Personal Data so transferred to the receiving Party in connection with performance of its obligations under this Agreement; or

#### disclosing or transferring the Personal Data to the receiving Party in connection with performance of its obligations under this Agreement.

* + 1. [If the receiving Party suffers or incurs any losses from the transferring Party in connection with the transferred Personal Data under this Schedule [insert Schedule Number], the transferring Party shall (subject to the receiving Party's consent, not to be unreasonably withheld or delayed) promptly take such other action as the transferring Party may propose and the receiving Party may agree upon (such agreement not to be unreasonably withheld) at its own expense, as appropriate, to avoid or settle any claims.][[3]](#footnote-3)
    2. The receiving Party shall not disclose the Personal Data so received from the transferring Party under this Schedule [insert Schedule Number] to any employee, director, agent, contractor, or affiliate of the receiving Party or any third party, except as necessary for the performance of obligation under the Agreement and data processing under this Schedule, on a need-to-know basis or to comply with applicable laws, or with the transferring Party's prior written approval.
    3. Each Party agrees to implement all appropriate technical and organizational measures as required by the applicable laws including the Data Protection Laws:
       1. to protect the security and confidentiality of the Personal Data transferred and received hereunder;
       2. to protect the Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized processing, access, or disclosure; and
       3. as required under Data Protection Laws to ensure a level of security appropriate to the risk, including as appropriate: (a) the pseudonymization and encryption of the Personal Data transferred and received hereunder; (b) the ability to ensure the ongoing confidentiality, integrity, availability, and resilience of processing systems and services; (c) the ability to restore the availability and access to the Personal Data transferred and received hereunder in a timely manner; and (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring and maintaining the security of processing the Personal Data transferred and received hereunder.
    4. Each Party shall notify the other Party immediately of any request or complaint made by a Data Subject under the Data Protection Laws in relation to or in connection with the Personal Data transferred and received hereunder. Each Party is responsible for the handling of any requests or complaints from Data Subjects if they relate to the violation of provisions in the Data Protection Laws, for which each Party is responsible under this Agreement. If either Party receives a complaint or a request which is within the responsibility of the other Party under the Agreement, the former Party shall forward the complaint or request to the latter Party without undue delay, and the former Party shall notify the Data Subject of the forwarding of the complaint or request.
    5. Both Parties shall cooperate and provide one another with such reasonable assistance as they both require in relation to any complaints or requests made by Data Subjects or investigations or inquiries made by any competent authority relating to the each Party's obligations under the applicable laws including the Data Protection Laws.
    6. In relation to Personal Data processed by the Parties under this Agreement, both Parties shall cooperate to the extent reasonably necessary to enable each Party to adequately discharge its responsibility as a Data Controller under the Data Protection Laws.
    7. Each Party shall, immediately and in any event within [12] hours of becoming aware, promptly notify the other Party in writing of any actual or suspected accidental, unlawful, or unauthorized destruction, loss, alteration, disclosure, or processing of or access to the Personal Data transferred and received hereunder ("**Incident**"). This notice shall include reasonable details of the Incident, including without limitation: (i) a description of the Incident; (ii) the likely consequences of the Incident; (iii) the number of data subjects affected, number of records affected, and types of records affected; and (iv) the measures taken or proposed to be taken to address the Incident, including measures to mitigate possible adverse effects. Both Parties shall cooperate fully with any investigation regarding the Incident and take all necessary measures to limit further unauthorized access to, disclosure of or unauthorized processing of the Personal Data transferred and received hereunder in connection with the Incident. The Party which experiences the Incident or causes the Incident to occur is responsible for notifying the supervisory authority of the Incident, and, where applicable, the affected Data Subjects if such notification is required by the Data Protection Laws.
    8. If either Party has to export the Personal Data received from the other Party pursuant to this Agreement outside Thailand, the export shall be in compliance with the lawful cross-border transfer mechanism under Data Protection Laws of the country from which the Personal Data is exported. Each Party agrees to enter into any agreement as necessary to comply with the applicable law which applies to the data transfer.
    9. [Upon the termination or expiry of the Agreement, the receiving Party shall delete or return all the Personal Data transferred and received hereunder to the transferring Party, and the receiving Party shall delete and destroy existing copies of this Personal Data, except as necessary when strictly for the purposes of compliance with applicable law.]
    10. Each Party may use other Data Processors for the processing of the Personal Data transferred and received hereunder, provided that the Party shall comply with the applicable laws including entering into a written contract with the Data Processor which contains terms for the protection of the Personal Data transferred and received hereunder which are no less protective than the terms set out in this Schedule [insert Schedule Number], and contains all terms as required by the Data Protection Laws. For the avoidance of doubt, if either Party engages a Data Processor, such Party shall remain liable to the other Party for any acts or omissions of its Data Processor which cause losses or damages to the other Party.
    11. Each Party shall ensure that its personnel who have access to the Personal Data are bound by confidentiality obligations in respect of the processing of the Personal Data.
    12. Each Party shall maintain a written record of all processing activities hereunder. This record shall be prepared and maintained pursuant to Data Protection Laws, and contain, at a minimum:
        1. the Personal Data received from the other Party;
        2. the purposes of collection of each category of Personal Data received from the other Party;
        3. the details of both Parties;
        4. the retention period for the Personal Data received from the other Party; and
        5. the rights and methods of access to the Personal Data received from the other Party, including conditions for personnel entitled to this access and conditions for this access;
        6. further disclosure of the Personal Data, which was received from the other Party;
        7. any rejections of the Data Subject's requests in relation to the Personal Data received from the other Party; and
        8. a general description of the technical and organizational security measures taken to safeguard the Personal Data received from the other Party.

A Party shall provide this written record to the other Party upon request, and agrees that it may be submitted by the former Party to any third-party data controller (as applicable) and to relevant competent authorities.

* + 1. Each Party shall indemnify the other Party against any and all fines, losses, or damages actually suffered or incurred by the non-defaulting Party arising from or in connection with the defaulting Party's breach of any of its obligations under this Schedule [insert Schedule Number], notwithstanding any limitation of liability under the Agreement, provided that the non-defaulting Party shall promptly notify the defaulting Party in writing of evidence of such fines, losses, or damages suffered or incurred.
    2. The Parties acknowledge and agree that if changes to this Schedule [insert Schedule Number] are required for the receiving Party to continue to process the Personal Data in compliance with the Data Protection Laws and to address the legal interpretation of the Data Protection Laws, the Parties shall discuss and agree in good faith any amendments required to this Schedule [insert Schedule Number].
    3. Each Party shall cease processing Personal Data received from the other Party immediately upon the termination or expiry of the Agreement, and as soon as possible thereafter, delete and destroy from its systems or return to the other Party, at the other Party's election, such Personal Data received from the other Party and any copies thereof, save to the extent for the retention necessary for compliance with applicable laws.

**Annex**

**Details of Personal Data**

**1. The types of Personal Data to be processed**

[Insert list of data types]

**2. Subject matter**[[4]](#footnote-4) **and duration of the processing of the Personal Data**

The subject matter and duration of the processing of the Personal Data are set out in the Agreement and this Schedule [insert Schedule Number].

**3. Purposes of the processing of Personal Data**

[Insert][[5]](#footnote-5)

**4. The categories of Data Subject to whom the Personal Data relates**

[Insert][[6]](#footnote-6)

**5. Special categories of data**

[Insert][[7]](#footnote-7)

### **Privacy Notice**

**[Insert an up-to-date version of applicable privacy notice]**

1. [**BM**: This clause can be removed if the company (i.e. ASCO members) is only the data transferring party.] [↑](#footnote-ref-1)
2. [**BM**: This clause can be removed if the company (i.e. ASCO members) is only the data transferring party.] [↑](#footnote-ref-2)
3. [**BM**: This clause can be removed if the company (i.e. ASCO members) is only the data transferring party.] [↑](#footnote-ref-3)
4. [**BM**: For your information, "subject matter" refers to the subject matter of the main Agreement, e.g. cloud service as subject matter in the main Agreement.] [↑](#footnote-ref-4)
5. [**BM**: Please ensure that the purposes as described in this annex are within the scope of the applicable privacy notice or privacy policy provided to the relevant data subjects. For example, if the purposes are related to customer's data, the purposes must be within the scope of the customer-facing privacy notice or privacy policy.] [↑](#footnote-ref-5)
6. [**BM**: For example, potential customers, existing customers, employees.] [↑](#footnote-ref-6)
7. [**BM**: For example, race, ethnicity, religion from copy of national identification card, biometric data, facial recognition, fingerprints, health data from health and medical history/report, disability, criminal records.] [↑](#footnote-ref-7)