

GDPR DATA PROCESSING ADDENDUM

1. APPLICATION OF THIS ADDENDUM

- 1.1 This Data Processing Addendum, including its Schedules (**Addendum**) applies if the Processing (as defined below) of Passenger and Crew Data (as defined below) is governed by the GDPR (as defined below).
- 1.2 If this Addendum applies, this Addendum forms part of the Takeflite Service Agreement (**Agreement**) between Takeflite and the Customer (as defined below) and sets out the parties' agreement in relation to the processing of Passenger and Crew Data in accordance with the requirements of European Union data protection laws and regulations.
- 1.3 If the contracting entity under the Agreement is Takeflite Solutions Limited (**Takeflite NZ**), Takeflite NZ is located in New Zealand, which the European Commission has determined provides adequate protection for the purposes of Article 45 of the GDPR.
- 1.4 If the contracting entity under the Agreement is Takeflite Solutions Limited North America, Inc (**Takeflite USA**), this Addendum also includes Standard Contractual Clauses (as defined below), which are pre-signed by Takeflite USA and form part of this Addendum. If the Agreement is with Takeflite USA, please complete the necessary details, countersign the Standard Contractual Clauses, and return a counter-signed copy to Takeflite at dave@fllite.com.
- 1.5 Except as varied in this Addendum (including the Standard Contractual Clauses, if applicable) all terms and conditions set out in the Agreement continue to apply.

2. INTERPRETATION

- 2.1 Unless the context requires otherwise:
 - a capitalised terms used, but not defined, in this Addendum will have the meanings given to them in the GDPR (or, if not defined in the GDPR, the Agreement);
 - b the rules of interpretation set out in the Agreement apply to this Addendum; and
 - c references to clauses are references to the clauses in this Addendum.

- 2.2 In this Addendum:

Applicable Data Protection Laws means EU Data Protection Laws and any applicable data protection or privacy laws of any other country

Data means all data, content and information (including Personal Data) owned, held, used or created by the Customer or on its behalf that is stored using, or inputted into, the Services, including the Passenger and Crew Data

EEA means the European Economic Area

EU Data Protection Laws means all laws and regulations, including laws and regulations of the European Union, the EEA and their member states and (if the United Kingdom ceases to be a member state) the United Kingdom, that apply to the Processing of Passenger and Crew Data, including (where applicable) the GDPR

GDPR means the European Union General Data Protection Regulation 2016/679

Instruction means the instructions set out in clause 3.4 or agreed under clause 3.5

Passenger and Crew Data means personal information about the Customer's passengers or crew that is stored, or inputted into, the Services

Processing means any operation or set of operations which is performed upon Passenger and Crew Data, whether or not by automated means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction. *Process* has a consistent meaning

Services means any software or services Takeflite provides to the Customer under the Agreement

Standard Contractual Clauses means the standard contractual clauses set out in Schedule 3, as may be amended under clause 11.1

Sub-Processor means any person appointed by Takeflite or on its behalf to Process Passenger and Crew Data on the Customer's behalf in connection with the Underlying Agreement

- 2.3 If there is any conflict between any of the following, they will have precedence in the descending order of priority set out below:
- a the Standard Contractual Clauses, if applicable;
 - b this Addendum; and
 - c the Agreement.

3. PROCESSING

- 3.1 With respect to the Processing of Passenger and Crew Data under the Agreement:
- a the Customer acts as the Data Controller;
 - b Takeflite acts as the Data Processor; and
 - c subject to clause 6, Takeflite may engage the Sub-Processors listed in Schedule 2.
- 3.2 Takeflite will comply with all Applicable Data Protection Laws that apply to its Processing of Passenger and Crew Data on the Customer's behalf, including all EU Data Protection Laws that apply to Data Processors.
- 3.3 Where Takeflite Processes Passenger and Crew Data outside the EEA other than in a country that the European Commission has determined ensures an adequate level of protection within the meaning of

Article 45 of the GDPR, Takeflite will Process Passenger and Crew Data in accordance with the Standard Contractual Clauses.

- 3.4 The Customer must, when using the Services, comply with all Applicable Data Protection Laws that apply to its Processing of Passenger and Crew Data, including all EU Data Protection Laws that apply to Data Controllers.
- 3.5 The Customer instructs Takeflite to Process Passenger and Crew Data and in particular, subject to clause 6, transfer Passenger and Crew Data to any country or territory:
 - a as reasonably necessary to provide the Services in accordance with the Agreement;
 - b as initiated through the use of the Services by the Customer, its personnel and other end users the Customer allows to use the Services; and
 - c to comply with any further instruction from the Customer (including by email or through Takeflite's support channels) that is consistent with the Agreement and this Addendum.
- 3.6 This Addendum and the Agreement are the Customer's complete and final instructions for the Processing of Passenger and Crew Data as at the time this Addendum takes effect. Any additional or alternate instructions must be agreed between the parties separately in writing.
- 3.7 Takeflite will not Process Passenger and Crew Data other than on the Customer's Instructions unless required by any law to which Takeflite is subject, in which case Takeflite will to the extent permitted by applicable law inform the Customer of that legal requirement before Takeflite Processes that Passenger and Crew Data.
- 3.8 As required by article 28(3) of the GDPR (and, if applicable, equivalent requirements of other Applicable Data Protection Laws), the nature and purpose of the Processing, the types of Passenger and Crew Data and categories of Data Subjects Processed under this Addendum are set out in Schedule 1. Takeflite may amend Schedule 1 from time to time on written notice to the Customer as Takeflite reasonably considers necessary to meet the requirements of the GDPR (and applicable equivalent requirements of other Applicable Data Protection Laws).
- 3.9 The duration of Processing is limited to the duration of the Agreement. Takeflite's obligations in relation to Processing will continue until the Passenger and Crew Data has been properly deleted or returned to the Customer in accordance with clause 10 of this Addendum.
- 3.10 The Customer is solely responsible for ensuring that its Instructions comply with Applicable Data Protection Laws. It is also the Customer's responsibility to enter into data processing agreements with other relevant Data Controllers in order to allow Takeflite and its Sub-Processors to Process Passenger and Crew Data in accordance with this Addendum.
- 3.11 If, in Takeflite's reasonable opinion, an Instruction infringes Applicable Data Protection Laws, Takeflite will notify the Customer as soon as reasonably practicable.

4. DATA SUBJECT REQUESTS

- 4.1 To the extent permitted by law, Takeflite will notify the Customer promptly if it receives a request from a Data Subject to exercise the Data Subject's rights under Applicable Data Protection Laws relating to any Passenger and Crew Data (**Data Subject Request**).
- 4.2 Taking into account the nature of the Processing, Takeflite will assist the Customer by implementing appropriate technical and organisational measures, to the extent possible, to fulfil the Customer's obligation to respond to a Data Subject Request under Applicable Data Protection Laws.
- 4.3 To the extent the Customer does not have the ability to address a Data Subject Request, Takeflite will, on the Customer's written request, provide reasonable assistance in accordance with Applicable Data Protection Laws to facilitate that Data Subject Request. The Customer will reimburse Takeflite for the costs arising from this assistance.
- 4.4 Takeflite will not respond to a Data Subject Request except on the Customer's written request or if required by applicable law.

5. TAKEFLITE PERSONNEL

Takeflite will:

- a take reasonable steps to ensure the reliability of any of its personnel engaged in the Processing of Passenger and Crew Data;
- b ensure that access to Passenger and Crew Data is limited to its personnel who require that access as strictly necessary for the purposes of exercising its rights and performing its obligations under the Agreement;
- c ensure that its personnel engaged in Processing Passenger and Crew Data are subject to confidentiality undertakings or professional or statutory obligations of confidentiality; and
- d ensure that its personnel engaged in Processing Passenger and Crew Data are informed of the confidential nature of the Passenger and Crew Data and receive appropriate training on their responsibilities.

6. SUBPROCESSORS

- 6.1 The Customer acknowledges and agrees that Takeflite may engage third party Sub-Processors in connection with the provision of the Services.
- 6.2 Takeflite have entered into (and will, for any new Sub-Processor, enter into) written agreements with each Sub-Processor containing data protection obligations which offer at least the same level of protection for Passenger and Crew Data as set out in this Addendum and that meet the requirements of Article 28(3) of the GDPR, as applicable to the nature of the services provided by that Sub-Processor.
- 6.3 The Customer may request copies of Takeflite's written agreements with Sub-Processors (which may be redacted to remove confidential information not relevant to this Addendum).

- 6.4 A list of current Sub-Processors for the Services as at May 2020 is set out in Schedule 2. Takeflite may update the list of Sub-Processors from time to time and, subject to clause 6.5, Takeflite will give at least 30 days' written notice of any new Sub-Processor (**Change Notice**).
- 6.5 Takeflite may engage Sub-Processors as needed to serve as an Emergency Replacement to maintain and support the Services. *Emergency Replacement* means a sudden replacement of a Sub-Processor where a change is outside Takeflite's reasonable control. In this case, Takeflite will inform the Customer of the replacement Sub-Processor as soon as reasonably practicable.
- 6.6 The Customer may object to any new Sub-Processor on reasonable grounds by notifying Takeflite within 10 days of receipt of Takeflite's Change Notice. The Customer's notice of objection to any new Sub-Processor must explain the reasonable grounds for the Customer's objection. Takeflite must discuss the Customer's concerns with the Customer about the new Sub-Processor in good faith with a view to resolve the objection to the use of the new Sub-Processor in a commercially reasonable manner. If it is not possible to resolve the objection, and Takeflite does not revoke the Change Notice before the date the Change Notice takes effect, the Customer may, despite anything to the contrary in the Agreement, terminate the applicable Services under the Agreement that cannot be provided to the Customer without that new Sub-Processor. If the Customer does not terminate the relevant Services under the Agreement in accordance with this clause, the Customer is deemed to have agreed to the new Sub-Processor.
- 6.7 Takeflite is liable for the acts and omissions of its Sub-Processors to the same extent Takeflite would be liable if performing the services of each Sub-Processor directly under the terms of this Addendum, except as otherwise set out in this Addendum.

7. SECURITY & BREACH MANAGEMENT

- 7.1 Takeflite will maintain appropriate technical and organisational measures to protect the confidentiality, integrity and security (including protection against unauthorised or unlawful Processing and against accidental or unlawful destruction, loss or alteration or damage, unauthorised disclosure of, or access to, Data), of Passenger and Crew Data and to manage data security incidents affecting Passenger and Crew Data, including (where applicable) in accordance with Appendix 2 of the Standard Contractual Clauses.
- 7.2 Takeflite will comply with all applicable laws requiring notification to the Customer of any accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Passenger and Crew Data Processed by Takeflite or its Sub-Processors of which Takeflite becomes aware (**Breach Incident**).
- 7.3 Takeflite will make reasonable efforts to identify the cause of that Breach Incident, notify the Customer within a timely manner to allow the Customer to meet its obligations to report a Breach Incident, and take steps Takeflite considers necessary and reasonable to remediate the cause of the Breach Incident, to the extent remediation is within its reasonable control.

8. AUDIT AND COMPLIANCE

Upon the Customer's written request, Takeflite will submit to the Customer's audits and inspections, and provide the Customer all information necessary, to demonstrate that both parties are complying with their respective obligations under Applicable Data Protection Laws (including each party's respective obligations under Article 28 of the GDPR).

9. DATA PROTECTION IMPACT ASSESSMENT

Upon the Customer's written request, Takeflite will provide the Customer with reasonable assistance needed to fulfil the Customer's obligation under the GDPR to carry out a data protection impact assessment relating to the Customer's use of the Services, to the extent the Customer does not otherwise have access to the relevant information.

10. RETURN AND DELETION OF DATA

- 10.1 Subject to clauses 10.2 and 10.3, following termination of the Agreement Takeflite will delete all Passenger and Crew Data within a reasonable period from termination of the Agreement.
- 10.2 Subject to clause 10.3, the Customer may submit a written request to Takeflite within 10 working days of the termination of the Agreement requiring Takeflite, within 20 working days of the Customer's written request, to:
- a return a complete copy of all Passenger and Crew Data by secure file transfer in a common format; and
 - b delete all other copies of Passenger and Crew Data Processed by Takeflite or any Sub-Processor.
- 10.3 Takeflite, or each Sub-Processor, may retain Passenger and Crew Data to the extent that it is required by applicable laws, provided that Takeflite ensure the confidentiality of all such Passenger and Crew Data and ensure that such Passenger and Crew Data is only processed as necessary for the purposes required under applicable laws requiring its Processing and for no other purpose.
- 10.4 If Takeflite cannot delete all Passenger and Crew Data due to technical reasons, Takeflite will inform the Customer as soon as reasonably practicable and will take reasonably necessary steps to:
- a come as close as possible to a complete and permanent deletion of the Passenger and Crew Data;
 - b fully and effectively anonymise the remaining data; and
 - c make the remaining Passenger and Crew Data which is not deleted or effectively anonymised unavailable for future Processing.

11. CHANGES IN DATA PROTECTION LAWS

- 11.1 Takeflite may on at least 30 days' written notice to the Customer from time to time, make any variations to this Addendum, which Takeflite considers (acting reasonably) are required as a result of any change in, or decision of a competent authority under, Applicable Data Protection Law, to allow transfers and Processing of Passenger and Crew Data to continue without breach of Applicable Data Protection Law.
- 11.2 If the Customer objects to any variation under clause 11.1 on reasonable grounds, the Customer may, despite anything to the contrary in the Agreement, terminate the Agreement without penalty on written notice, provided the Customer's notice of termination is received by Takeflite before the effective date of Takeflite's notice. If the Customer does not terminate the Agreement in accordance with this clause, the Customer is deemed to have agreed to the variation.

12. LIMITATION OF LIABILITY

The liability of each party to the other party under or in connection with this Addendum is subject to the limitations and exclusions set out in the Agreement, and any reference in the Agreement to the liability of a party means the aggregate liability of that party under the Agreement and this Addendum together.

13. GENERAL

If any provision of this Addendum is, or becomes unenforceable, illegal or invalid for any reason, the relevant provision is deemed to be varied to the extent necessary to remedy the unenforceability, illegality or invalidity. If variation is not possible, the provision must be treated as severed from this Addendum without affecting any other provisions of this Addendum.



SCHEDULE 1

DETAILS OF PROCESSING

Nature and Purpose of Processing

Takeflite will Process Passenger and Crew Data as necessary to provide the Services in accordance with the Agreement, as further specified in Takeflite's documentation relating to the Services, and as further instructed by the Customer and its personnel and other end users the Customer allows to use the Services through the use of the Services.

Duration of Processing

Subject to clause 10 of this Addendum, Takeflite will Process Passenger and Crew Data for the duration of the Agreement, unless otherwise agreed upon in writing.

Categories of Data Subjects

The Customer may submit Passenger and Crew Data to the Services, the extent of which is determined and controlled by the Customer in its sole discretion, and which may include, but is not limited to, Passenger and Crew Data relating to the following categories of data subjects:

- the Customer's passengers and crew who are natural persons

Type of Passenger and Crew Data

The Customer may submit Passenger and Crew Data to the Services, the extent of which is determined and controlled by the Customer in its sole discretion, and which may include, but is not limited to, the following categories of personal data:

- first and last name
- title
- contact information
- travel information
- where international travel is required, border control information such as passport details
- for crew, work rosters, flight logs, leave, rostered days off, exams, training and recency status



SCHEDULE 2

LIST OF SUB-PROCESSORS AS AT JANUARY 1ST 2020

Third party / service vendor	Purpose	Location of sub processor	Privacy information
Amazon Web Services	transaction processing, data storage, disaster recovery and app installation	United States	https://aws.amazon.com/compliance/data-privacy-faq/ Privacy Shield certified
Microsoft Azure	transaction processing, Analytics, data storage, non-transactional tasks	United States	https://www.microsoft.com/enus/trustcenter/privacy/default.aspx Privacy Shield certified
Cloudflare	Connection security	United States	https://www.cloudflare.com/gdpr/introduction/ Privacy Shield certified
Raygun	Error monitoring, Bug reporting	New Zealand	https://gdprtracker.io/compliance/raygun/
Freshdesk	Customer support	United States	https://freshdesk.com/gdpr
Mailgun	Email processing	United States	https://www.mailgun.com/gdpr Privacy Shield certified
Auth0	Customer security	United States	https://auth0.com/docs/compliance Privacy Shield certified
Google	Mobile Analytics, Connection security	United States	https://cloud.google.com/security/gdpr/ Privacy Shield certified
TokenEx	Payment Security	United States	https://tokenex.com/gdpr/ Privacy Shield certified



SCHEDULE 3

STANDARD CONTRACTUAL CLAUSES (PROCESSORS)

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of Personal Data to Processors established in third countries which do not ensure an adequate level of data protection.

Name of the data exporting organisation:
Address:
Tel.:; fax:; e-mail:
Other information needed to identify the organisation (the data exporter)

And

Name of the data importing organisation: the Takeflite contracting entity as defined in the Takeflite Service Agreement (**Agreement**) between the parties

Address: United States: PO Box 1764, Mercer Island, WA 98040
New Zealand: PO Box 82312, Highland Park, Auckland, 2143

E-mail: support@fllite.com

Other information needed to identify the organisation:

(the **data importer**)

each a **party**, together the **parties**

have agreed the following Standard Contractual Clauses (**Clauses**) in order to provide 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 of this Schedule 3.

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 organisational security measures* means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

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 organisational security measures specified in Appendix 2 to this contract;
- (d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

- (e) that it will ensure compliance with the security measures;
- (f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;
- (g) to forward any notification received from the data importer or any 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 organisational security measures specified in Appendix 2 before processing the personal data transferred;

- (d) that it will promptly notify the data exporter about:
 - (i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,
 - (ii) any accidental or unauthorised access, and
 - (iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;
- (e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;
- (f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;
- (g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for 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.....

On behalf of the data importer:

Name (written out in full): David E. Pelter

Position: Chief Executive Officer

Address: United States: PO Box 1764, Mercer Island, WA 98040
New Zealand: PO Box 82312, Highland Park, Auckland, 2143

Other information necessary in order for the contract to be binding (if any):

Signature.....



APPENDIX 1 TO THE STANDARD CONTRACTUAL CLAUSES

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

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

Data exporter

The data exporter is:

[Customer to complete the details below]

Name:

(please specify briefly your activities relevant to the transfer):

.....

Data importer

The data importer is:

the Takeflite contracting entity as defined in the Agreement (**Takeflite**)

(please specify briefly your activities relevant to the transfer):

Takeflite provides a cloud-based airline software platform, which includes optional reservation, online booking, check-in and pilot and crew rostering and management services, to the data exporter under the Agreement.

Data subjects

The personal data transferred concern the following categories of data subjects:

The data exporter may submit personal data to Takeflite, the extent of which will be determined and controlled by the data exporter in the data exporter's sole discretion, and which may include, but is not limited to, personal data relating to the data exporter's yor passengers and crew who are natural persons

Categories of data

The data exporter may submit personal data to Takeflite, the extent of which will be determined and controlled by the data exporter in the data exporter's sole discretion, and which may include, but is not limited to, the following categories of personal data:



- first and last name
- title
- contact information
- travel information
- where international travel is required, border control information such as passport details
- for crew, work rosters, flight logs, leave, rostered days off, exams, training and recency status

Special categories of data (if appropriate)

The personal data transferred concern the following special categories of data:

The data exporter may submit special categories of data, the extent of which will be determined and controlled by the data exporter in the data exporter’s sole discretion, and which is for the sake of clarity is personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation.

Processing operations

The personal data transferred will be subject to the following basic processing activities:

Takeflite will process personal data to exercise its rights and perform its obligations under the Agreement.

DATA EXPORTER

<i>[Customer to complete the details below]</i>	
Name:
Signature

DATA IMPORTER

Name: Takeflite
Signature Takefltie



APPENDIX 2 TO THE STANDARD CONTRACTUAL CLAUSES

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

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

Takeflite will implement security measures at least equivalent to those described in the Agreement

DATA EXPORTER

<i>[Customer to complete the details below]</i>	
Name:
Signature

DATA IMPORTER

Name: Takeflite

Signature Takeflite