

Data Processing Addendum

This Data Processing Addendum ("**Addendum**") is effective on the first date that Customer provides to e3 Software EU Personal Data (as defined below) subject to the GDPR (as defined below) or May 25, 2018, whichever is later, and forms part of the Master Agreement or other written or electronic agreement ("**Agreement**") by and between the organization signing or accepting below ("**Customer**") and **e3 Software, LLC** ("**e3 Software**"), and sets forth the terms and conditions relating to the privacy, confidentiality, and security of EU Personal Data associated with Online Services and Maintenance to be rendered by e3 Software to Customer pursuant to the Agreement. All terms defined or used in the Agreement shall have the same meaning in this Addendum unless otherwise specified.

Whereas Customer may provide e3 Software, a company located in the United States, with access to personally identifiable information about individuals located in the European Union to act as a Processor in connection with Online Services and Maintenance performed by e3 Software for or on behalf of Customer pursuant to the Agreement; and

Whereas Customer requires that e3 Software preserve and maintain the privacy and security of such EU Personal Data as a Processor according to the terms of this Addendum;

Now therefore, in consideration of the mutual covenants and agreements in this Addendum and the Agreement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Customer and e3 Software agree as follows:

Section I—Definitions

- A. "**Controller**" means any person or organization that, alone or jointly with others, determines the purposes and means of the Processing of EU Personal Data.
- B. "**EU Personal Data**" means personally identifiable information about individuals located in the European Union and may include, but not limited to, the following: name, email address and location.
- C. "**GDPR**" means the European Union General Data Protection Regulation.
- D. "**Privacy Shield**" means the EU-US Privacy Shield framework and Swiss-US Privacy Shield framework.

- E. **"Process(es)"** or **"Processing"** of EU Personal Data means any operation or set of operations that is performed on EU Personal Data, whether by automated means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure or dissemination, and erasure or destruction.
- F. **"Processor"** means any natural or legal person, public authority, agency, or other body that Processes EU Personal Data on behalf of Controller.

Section II—Privacy, Confidentiality, and Information Security

A. Authority to Process EU Personal Data

- i. Customer and e3 Software agree that Customer is the Controller and e3 Software is the Processor of EU Personal Data, except when Customer is a Processor of EU Personal Data, then e3 Software is a subprocessor.
- ii. These Addendum terms do not apply where e3 Software is a Controller of EU Personal Data (e.g., EU Personal Data received and Processed by e3 Software as needed for account setup, authorization, and sign on).
- iii. e3 Software will Process EU Personal Data only with Customer's written instructions, (a) on behalf of and for the benefit of Customer; (b) for the purposes of Processing EU Personal Data in connection with the Agreement; and (c) to carry out its obligations pursuant to this Addendum, the Agreement, and by law.
- iv. Customer will have the exclusive authority to determine the purposes for and means of Processing EU Personal Data.
- v. This Addendum and the Agreement are Customer's complete instructions to e3 Software for the Processing of EU Personal Data. Any alternative or additional instructions may only be by written amendment to this Addendum.

B. Disclosure of and Access to EU Personal Data

- i. e3 Software will hold in confidence all EU Personal Data.
- ii. e3 Software will (a) provide at least the same level of privacy protection for EU Personal Data received from Customer, as is required by the GDPR, and the Privacy Shield principles that may be found on the Privacy Shield website (<https://www.privacyshield.gov>); (b) promptly notify Customer if at any time e3 Software determines that it can no longer meet its obligation to provide the same level of protection as is required by the GDPR; and (c) take reasonable and appropriate steps to remediate the Processing of such EU Personal Data if, at any time, Customer notifies e3 Software that

Customer has reasonably determined e3 Software is not Processing the EU Personal Data in compliance with the GDPR.

- iii. e3 Software will only transfer EU Personal Data outside the country in which Customer or its personnel originally delivered it to e3 Software for Processing (or, if it was originally delivered to a location inside the European Economic Area [EEA] or Switzerland), outside the EEA or Switzerland where adequate data privacy safeguards are in place, such as binding corporate rules, the Model Clauses, or the Privacy Shield principles, unless required by law, in which case, e3 Software will, unless such prior disclosure is prohibited, notify Customer of such requirement before Processing.
- iv. e3 Software will not share, transfer, disclose, or otherwise provide access to any EU Personal Data to any third party or contract any of e3 Software's rights or obligations concerning EU Personal Data to a third party, unless Customer has authorized e3 Software to do so in writing, except as required by law. Where e3 Software, with the consent of Customer, provides to a third party access to EU Personal Data or contracts such rights or obligations to a third party, e3 Software will, with each third party, (a) enter into a written agreement that imposes obligations on the third-party that are consistent with the GDPR, (b) transfer the EU Personal Data to the third party only for the limited and specified purposes as instructed by Customer, (c) require the third party to notify e3 Software if the third party determines that it can no longer meet its obligation to provide the same level of protection as is required by the GDPR; and (d) upon notice, take reasonable and appropriate steps to stop and remediate unauthorized Processing. Customer hereby provides its consent for e3 Software to use subprocessors as necessary to provide the services including, but not limited to, Amazon Web Services, Braintree, and Manuscript. To the extent that e3 Software makes any changes with regard to the use of its subprocessors, it shall inform Customer and provide Customer with the right to object to such change. To the extent Customer has a reasonable objection to such change in subprocessors, the parties shall cooperate to address the objection in a reasonable manner.
- v. e3 Software will promptly inform Customer in writing of any requests with respect to EU Personal Data received from Customer's customers, consumers, employees, or other associates. Customer will be responsible for responding to any such request, but e3 Software will reasonably cooperate with Customer to address any such request or a request by an

individual about whom e3 Software holds EU Personal Data for access, rectification, objection, portability, restriction, erasure, or export of his or her EU Personal Data.

- vi. Taking into account the state of the art; the costs of implementation; and the nature, scope, context, and purposes of Processing, as well as the risk of varying likelihood and severity of the rights and freedoms of natural persons, e3 Software will implement appropriate technical and organizational measures to protect the EU Personal Data from loss; misuse; and unauthorized access, disclosure, alteration, and destruction. To this effect, e3 Software will limit internal access to EU Personal Data so that it is only accessible on a need-to-know basis to fulfill e3 Software's performance of services for or on behalf of Customer, by employees who have agreed to comply with privacy and security obligations that are substantially similar to those required by this Addendum.
 - vii. Subject to applicable law, e3 Software will notify Customer immediately in writing of any subpoena or other judicial or administrative order by a government authority or proceeding seeking access to or disclosure of EU Personal Data. Customer may, if it so chooses, seek a protective order, and e3 Software will reasonably cooperate with Customer in such action, provided Customer reimburses e3 Software for all costs, fees, and legal expenses associated with the action. e3 Software will have the right to approve or reject any settlements that affect e3 Software.
- C. e3 Software will comply with applicable data protection and privacy laws, including, but not limited to, the GDPR, to the extent such laws apply to e3 Software in its role as a Processor.
- D. Customer certifies that it has:
- i. Obtained the written consent, affirmative opt-in, other written authorization ("**Consent**") from applicable individuals in the European Union or has another legitimate, legal basis for delivering or making accessible EU Personal Data to e3 Software (as well as its subsidiaries, affiliates, and subprocessors), and such Consent or other legitimate basis allows e3 Software (and its subsidiaries, affiliates, and subprocessors) to Process the EU Personal Data pursuant to the terms of the Agreement and this Addendum, and
 - ii. Ensured that the delivery and disclosure to Esri of EU Personal Data is in compliance with the GDPR as Controller and all laws applicable to Customer and otherwise complies with applicable privacy and data protection laws.

- E. e3 Software will assist Customer in ensuring that its secure Processing obligations, as Controller, under the GDPR are met, which may include assisting Customer in a consultation with a supervisory authority where a data protection impact assessment indicates that the intended Processing would result in a high risk. Upon request, e3 Software shall make available to Customer the information necessary to demonstrate compliance with the GDPR and will allow for and contribute to audits, including inspections, to confirm e3 Software's compliance with this Addendum by Controller or another auditor mandated by Controller. All expenses resulting from this Subsection E will be incurred by Customer, unless e3 Software is found materially noncompliant.
- F. Upon termination of the Agreement, e3 Software shall either return all EU Personal Data Processed on behalf of Customer or delete or destroy the EU Personal Data, including any existing copies, at Customer's expense, if any, unless e3 Software has a legal obligation to maintain such EU Personal Data.

IN WITNESS WHEREOF, the parties acknowledge their agreement to the foregoing by due execution of this Addendum by their respective authorized representatives. The Addendum cannot be modified or amended by either party except with a separate written document signed by both parties.

	E3 SOFTWARE, LLC
Customer	e3 Software
Authorized Signature	Authorized Signature
Printed Name	Printed Name
Title	Title
Date	Date