

## FATHOM CALIFORNIA DATA PROCESSING AGREEMENT

This California Data Processing Agreement (“**CDPA**”) amends and forms part of the Service and License Agreement (the “**Agreement**”) between Fathom Video Inc. (“**Fathom**”) and you (“**Customer**”) (each a “**Party**”; collectively the “**Parties**”). This CDPA prevails over any conflicting term of the Agreement but does not otherwise modify the Agreement.

1. **Definitions.** For the purposes of this CDPA--
  - 1.1. “**CCPA**” means the California Consumer Privacy Act of 2018 (California Civil Code §§ 1798.100 to 1798.199) and its implementing regulations, as amended or superseded from time to time.
  - 1.2. The capitalized terms used in this CDPA and not otherwise defined in this CDPA shall have the definitions set forth in the CCPA.
2. **Roles and Scope.**
  - 2.1. This CDPA applies only to the Collection, retention, use, disclosure, and Sale of Personal Information provided by Customer to, or which is Collected on behalf of Customer by, Fathom to provide Services to Customer pursuant to the Agreement or to perform a Business Purpose (“**Customer Personal Information**”).
  - 2.2. The Parties acknowledge and agree that Customer is a Business and appoints Fathom as a Service Provider to process Customer Personal Information on behalf of Customer.
3. **Restrictions on Processing.**
  - 3.1. Except as otherwise permitted by the CCPA, Fathom is prohibited from (i) retaining, using, or disclosing Customer Personal Information for any purpose other than for the specific purpose of performing the Services specified in the Agreement for Customer, as set out in this CDPA and (ii) further Collecting, Selling, or using Customer Personal Information except as necessary to perform the Services.
4. **Notice.**
  - 4.1. Customer represents and warrants that it has provided notice that Customer Personal Information is being used or shared consistent with Cal. Civ. Code 1798.140(t)(2)(C)(i).
5. **Consumer Rights.**
  - 5.1. Fathom shall provide commercially reasonable assistance to Customer for the fulfillment of Customer’s obligations to respond to CCPA-related Consumer rights requests regarding Customer Personal Information.
6. **Deidentified Information.**
  - 6.1. In the event that either Party shares Deidentified Information with the other Party, the receiving Party warrants that it: (i) has implemented technical safeguards that prohibit reidentification of the Consumer to whom the information may pertain; (ii) has implemented business processes that specifically prohibit reidentification of the information; (iii) has implemented business processes to prevent inadvertent release of Deidentified Information; and (iv) will make no attempt to reidentify the information.
7. **Security.**
  - 7.1. Fathom hereby represents and warrants that it shall implement and maintain no less than reasonable security procedures and practices, appropriate to the nature of the information, to protect Customer Personal Information from unauthorized access, destruction, use, modification, or disclosure.
8. **CCPA Exemption.**
  - 8.1. Notwithstanding any provision to the contrary of the Agreement or this CDPA, the terms of this CDPA shall not apply to Fathom’s processing of Customer Personal Information that is exempt from the CCPA, including under Cal. Civ. Code 1798.145(a).

## FATHOM EU DATA PROCESSING AGREEMENT

This EU Data Processing Agreement (“**EUDPA**”) amends and forms part of the Service and License Agreement (the “**Agreement**”) between Fathom Video Inc. (“**Fathom**”) and you (“**Customer**”). This EUDPA prevails over any conflicting term of the Agreement but does not otherwise modify the Agreement.

### 1. Definitions

#### 1.1. In this EUDPA:

- a) “**Controller**”, “**Data Subject**”, “**Personal Data**”, “**Personal Data Breach**”, “**Processing**”, “**Processor**”, and “**Supervisory Authority**” have the meaning given to them in the GDPR;
- b) “**Customer Personal Data**” means any data of Customer provided to Fathom that constitutes Personal Data, the Processing of which is subject to Data Protection Law, for which Customer is the Controller, and which is Processed by Fathom to provide the Services;
- c) “**Data Protection Law**” means General Data Protection Regulation (EU) 2016/679 (“**GDPR**”) and e-Privacy Directive 2002/58/EC (as amended), and all other data protection laws of the European Union, the European Economic Area (“**EEA**”), and their respective member states, Switzerland and the United Kingdom (“**UK**”), and any legal instrument for International Data Transfers, each as applicable, and as may be amended or replaced from time to time;
- d) “**Data Subject Rights**” means Data Subjects’ rights to information, access, rectification, erasure, restriction, portability, objection, and not to be subject to automated individual decision-making in accordance with Data Protection Law;
- e) “**International Data Transfer**” means any transfer of Customer Personal Data from the EEA, Switzerland or the United Kingdom to an international organization or to a country outside of the EEA, Switzerland and the UK and includes any onward transfer of Customer Personal Data from the international organization or the country outside of the EEA, Switzerland or the UK to another international organization or to another country outside of the EEA, Switzerland and the UK;
- f) “**Services**” means the services provided by Fathom to Customer under the Agreement;
- g) “**Subprocessor**” means a Processor engaged by Fathom to Process Customer Personal Data;
- h) “**Standard Contractual Clauses**” means the clauses annexed to the EU Commission Implementing Decision 2021/914 of June 4, 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council as amended or replaced from time to time; and
- i) “**UK Standard Contractual clauses**” means the clauses annexed to EU Commission Decision 2010/87/EU, of February 5, 2010, on standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC of the European Parliament and of the Council, as applicable in the UK, and as amended or replaced from time to time.

1.2. Capitalized terms used but not defined herein have the meaning given to them in the Agreement.

### 2. Scope and applicability

- 2.1. This EUDPA applies to Processing of Customer Personal Data by Fathom to provide the Services.
- 2.2. The subject matter, nature and purpose of the Processing, the types of Customer Personal Data and categories of Data Subjects are set out in **Annex I**.
- 2.3. Customer is a Controller and appoints Fathom as a Processor on behalf of Customer. Customer is responsible for compliance with the requirements of Data Protection Law applicable to Controllers, including providing adequate notice to Data Subjects or obtaining consent from Data Subjects where required for Fathom’s Processing of Personal Data envisaged by the Agreement and this EUDPA.

- 2.4. If Customer is a Processor on behalf of other Controller(s), then Customer: is the single point of contact for Fathom; must obtain all necessary authorizations from such other Controller(s); undertakes to issue all instructions and exercise all rights on behalf of such other Controller(s); and is responsible for compliance with the requirements of Data Protection Law applicable to Processors.
- 2.5. Customer acknowledges that Fathom may Process Personal Data in aggregated and de-identified form relating to the operation, support, or use of the Services for its own business purposes, such as billing, account management, data analysis, benchmarking, technical support, product development, and compliance with law. Fathom is the Controller for such Processing and will Process such data in accordance with Data Protection Law.

### 3. Instructions

- 3.1. Fathom will Process Customer Personal Data to provide the Services and in accordance with Customer's documented instructions.
- 3.2. The Controller's instructions are documented in this EUDPA, the Agreement, and any applicable statement of work.
- 3.3. Customer may reasonably issue additional instructions as necessary to comply with Data Protection Law. Fathom may charge a reasonable fee to comply with any additional instructions.
- 3.4. Unless prohibited by applicable law, Fathom will inform Customer if Fathom is subject to a legal obligation that requires Fathom to Process Customer Personal Data in contravention of Customer's documented instructions.

### 4. Personnel

- 4.1. Fathom will ensure that all personnel authorized to Process Customer Personal Data are subject to an obligation of confidentiality.

### 5. Security and Personal Data Breaches

- 5.1. 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 for the rights and freedoms of natural persons, Fathom will implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk, including the measures listed in **Annex II**.
- 5.2. Customer acknowledges that the security measures in **Annex II** are appropriate in relation to the risks associated with Customer's intended Processing and will notify Fathom prior to any intended Processing for which Fathom's security measures may not be appropriate.
- 5.3. Fathom will notify Customer without undue delay after becoming aware of a Personal Data Breach involving Customer Personal Data. If Fathom's notification is delayed, it will be accompanied by reasons for the delay.

### 6. Subprocessing

- 6.1. Customer hereby authorizes Fathom to engage Subprocessors. A list of Fathom's current Subprocessors is available here: <https://bit.ly/fathom-subprocessors>
- 6.2. Fathom will enter into a written agreement with Subprocessors which imposes the same obligations as required by Data Protection Law.
- 6.3. Fathom will notify Customer prior to any intended change to Subprocessors. Customer may object to the addition of a Subprocessor based on reasonable grounds relating to a potential or actual violation of Data Protection Law by providing written notice detailing the grounds of such objection within thirty (30) days following Fathom's notification of the intended change. Customer and Fathom will work together in good faith to address Customer's objection. If Fathom chooses to retain the Subprocessor, Fathom will inform Customer at least thirty (30) days before authorizing the Subprocessor to Process Customer Personal Data, and Customer may immediately discontinue

using the relevant parts of the Services, and may terminate the relevant parts of the Services within thirty (30) days.

## 7. Assistance

- 7.1. Taking into account the nature of the Processing, and the information available to Fathom, Fathom will assist Customer, including, as appropriate, by implementing technical and organizational measures, with the fulfilment of Customer's own obligations under Data Protection Law to: comply with requests to exercise Data Subject Rights; conduct data protection impact assessments, and prior consultations with Supervisory Authorities; and notify a Personal Data Breach.
- 7.2. Fathom will maintain records of Processing of Customer Personal Data in accordance with Data Protection Law.
- 7.3. Fathom may charge a reasonable fee for assistance under this **Section 7**. If Fathom is at fault, Fathom and Customer shall each bear their own costs related to assistance.

## 8. Audit

- 8.1. Upon reasonable request, Fathom must make available to Customer all information necessary to demonstrate compliance with the obligations of this EUDPA and allow for and contribute to audits, including inspections, as mandated by a Supervisory Authority or reasonably requested no more than once a year by Customer and performed by an independent auditor as agreed upon by Customer and Fathom. The foregoing shall only extend to those documents and facilities relevant and material to the Processing of Customer Personal Data and shall be conducted during normal business hours and in a manner that causes minimal disruption.
- 8.2. Fathom will inform Customer if Fathom believes that Customer's instruction under **Section 8.1** infringes Data Protection Law. Fathom may suspend the audit or inspection or withhold requested information until Fathom has modified or confirmed the lawfulness of the instructions in writing.
- 8.3. Fathom and Customer each bear their own costs related to an audit.

## 9. International Data Transfers

- 9.1. Customer hereby authorizes Fathom to perform International Data Transfers to any country deemed adequate by the relevant authorities, such as the EU Commission or the UK Government; on the basis of appropriate safeguards in accordance with Data Protection Law; or pursuant to the Standard Contractual Clauses referred to in **Section 9.2** or the UK Standard Contractual Clauses referred to in **Section 9.3**.
- 9.2. By signing this EUDPA, Fathom and Customer conclude module 2 (controller-to-processor) of the Standard Contractual Clauses, which apply to International Data Transfers outside of the EEA or Switzerland, and which are hereby incorporated and completed as follows: the "data exporter" is Customer; the "data importer" is Fathom; the optional docking clause in Clause 7 is implemented; Clause 9(a) option 1 is implemented and the time period therein is specified as thirty (30) days; the optional redress clause in Clause 11(a) is struck; if Customer is established in the EU, Clause 13, (a) paragraph 1 is implemented, otherwise Clause 13, (a) paragraph 2 or 3 is implemented as appropriate; Clause 17 option 1 is implemented and the governing law is the law of Ireland; the court in Clause 18(b) are the Courts of Ireland; Annex I, II and III to module 2 of the Standard Contractual Clauses are **Annex I, II and III** to this EUDPA respectively.
- 9.3. By signing this EUDPA, Fathom and Customer conclude the UK Standard Contractual Clauses, which apply to International Data Transfers outside of the UK, and which are hereby incorporated and completed as follows: the "data exporter" is Customer; the "data importer" is Fathom; the governing law in Clause 9 and Clause 11.3 of the UK Standard Contractual Clauses is the law of England and Wales; the information in Appendix 1 to the UK Standard Contractual Clauses is provided in **Annex I** to this EUDPA; Appendix 2 to the UK Standard Contractual Clauses is **Annex II** to this EUDPA; and the optional indemnification clause is struck. In addition, the following changes apply: (i) references to Data Protection Law are replaced with references to applicable UK data

protection law, (ii) references to the EU or Member States are replaced with references to the UK, (iii) references to EU authorities are replaced with references to the competent UK authorities.

9.4. If Fathom's compliance with Data Protection Law applicable to International Data Transfers is affected by circumstances outside of Fathom's control, including if a legal instrument for International Data Transfers is invalidated, amended, or replaced, then Customer and Fathom will work together in good faith to reasonably resolve such non-compliance. In the event that additional, replacement or alternative Standard Contractual Clauses or UK Standard Contractual Clauses are approved by Supervisory Authorities, Fathom reserves the right to amend the Agreement and this EUDPA by adding to, changing or replacing, the Standard Contractual Clauses or UK Standard Contractual Clauses that form part of it at the date of signature in order to ensure continued compliance with Data Protection Law.

## **10. Notifications**

10.1. Customer will send all notifications, requests and instructions under this EUDPA to Fathom's Legal Department via email to [help@fathom.video](mailto:help@fathom.video). Fathom will send all notifications under this EUDPA to Customer's email address available on file.

## **11. Liability**

11.1. Subject to any limitation of liability set out in the Agreement, to the extent permitted by applicable law, where Fathom has paid damages or fines, Fathom is entitled to claim back from Customer that part of the compensation, damages or fines, corresponding to Customer's part of responsibility for the damages or fines.

## **12. Termination and return or deletion**

12.1. This EUDPA is terminated upon the termination of the Agreement.

12.2. Customer may request return of Customer Personal Data up to ninety (90) days after termination of the Agreement. Unless required or permitted by applicable law, Fathom will delete all remaining copies of Customer Personal Data within one hundred eighty (180) days after returning Customer Personal Data to Customer.

## **13. Modification of this EUDPA**

13.1. This EUDPA may only be modified by a written amendment signed by both Fathom and Customer.

## **14. Invalidity and severability**

14.1. If any provision of this EUDPA is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, then the invalidity or unenforceability of such provision does not affect any other provision of this EUDPA and all provisions not affected by such invalidity or unenforceability will remain in full force and effect.

## ANNEX I

### A. LIST OF PARTIES

Data exporter:

- Name: Customer
- Address: As indicated in the Agreement and the Team Account
- Contact person's name, position and contact details: As indicated in the Agreement and the Team Account
- Activities relevant to the data transferred under these Clauses: As described in the EUDPA and the Agreement
- Signature and date: Same as when Agreement enters into force
- Role (controller/processor): Controller

Data importer:

- Name: Fathom Video Inc.
- Address: 2261 Market Street #4156, San Francisco, CA 94114
- Contact person's name, position and contact details: Richard White, CEO - help@fathom.video
- Activities relevant to the data transferred under these Clauses: Fathom provides an audiovisual recording service that integrates with Zoom, Microsoft Outlook, and Google Calendar. People use Fathom's Services to record, transcribe, and take notes during their Zoom calls.
- Signature and date: Richard White, Oct 28, 2021
- Role (controller/processor): Processor

### B. DESCRIPTION OF TRANSFER

- Categories of Data Subjects whose personal data is transferred

#	Category
1	Authorized Users of the Services
2	

- Categories of personal data transferred

#	Category
1	Please see the section "Information we collect" in Fathom's privacy policy available at <a href="https://fathom.video/privacy">https://fathom.video/privacy</a>

- Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.

#	Category
1	The Services are not intended to Process special categories of data.

- The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).

On a continuous basis.

- Nature of the processing

The data will be transferred for the provision of the Services as set out in the Agreement.

- Purpose(s) of the data transfer and further processing

#	Operation
1	To provide the Services to Customer.

- The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period

Personal Data will be retained for as long as necessary taking into account the purpose of the Processing, and in compliance with applicable laws, including laws on the statute of limitations and Data Protection Law.

- For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing

For the subject matter and nature of the Processing, reference is made to the Agreement and this EUDPA. The Processing will take place for the duration of the Agreement.

### **C. COMPETENT SUPERVISORY AUTHORITY**

The supervisory authority in the country where the Customer is based shall act as competent supervisory authority.

## ANNEX II

### TECHNICAL AND ORGANIZATIONAL MEASURES INCLUDING TECHNICAL AND ORGANIZATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

Fathom will implement the following types of security measures:

#### 1. Physical access control

Technical and organizational measures to prevent unauthorized persons from gaining access to the data processing systems available in premises and facilities (including databases, application servers and related hardware), where Customer Personal Data are Processed, include:

- **Securing decentralized data processing equipment and personal computers.**

#### 2. Virtual access control

Technical and organizational measures to prevent data processing systems from being used by unauthorized persons include:

- **User identification and authentication procedures;**
- **ID/password security procedures (special characters, minimum length, change of password);**
- **Automatic blocking (e.g. password or timeout);**
- **Monitoring of break-in-attempts and automatic turn-off of the user ID upon several erroneous passwords attempts;**
- **Creation of *one* master record per user, user-master data procedures per data processing environment; and**
- **Encryption of archived data media.**

#### 3. Data access control

Technical and organizational measures to ensure that persons entitled to use a data processing system gain access only to such Customer Personal Data in accordance with their access rights, and that Customer Personal Data cannot be read, copied, modified or deleted without authorization, include:

- **Internal policies and procedures;**
- **Control authorization schemes;**
- **Differentiated access rights (profiles, roles, transactions and objects);**
- **Monitoring and logging of accesses;**
- **Disciplinary action against employees who access Customer Personal Data without authorization;**
- **Reports of access;**
- **Access procedure;**
- **Change procedure;**
- **Deletion procedure; and**
- **Encryption.**

#### 4. Disclosure control

Technical and organizational measures to ensure that Customer Personal Data cannot be read, copied, modified or deleted without authorization during electronic transmission, transport or storage on storage



media (manual or electronic), and that it can be verified to which companies or other legal entities Customer Personal Data are disclosed, include:

- **Encryption/tunneling;**
- **Logging; and**
- **Transport security.**

#### **5. Entry control**

Technical and organizational measures to monitor whether Customer Personal Data have been entered, changed or removed (deleted), and by whom, from data processing systems, include:

- **Logging and reporting systems; and**
- **Audit trails and documentation.**

#### **6. Control of instructions**

Technical and organizational measures to ensure that Customer Personal Data are Processed solely in accordance with the instructions of the Controller include:

- **Unambiguous wording of the contract;**

#### **7. Availability control**

Technical and organizational measures to ensure that Customer Personal Data are protected against accidental destruction or loss (physical/logical) include:

- **Backup procedures;**
- **Mirroring of hard disks (e.g. RAID technology);**
- **Uninterruptible power supply (UPS);**
- **Remote storage;**
- **Anti-virus/firewall systems; and**
- **Disaster recovery plan.**

#### **8. Separation control**

Technical and organizational measures to ensure that Customer Personal Data collected for different purposes can be Processed separately include:

- **Separation of databases;**
- **“Internal client” concept / limitation of use;**
- **Segregation of functions (production/testing); and**
- **Procedures for storage, amendment, deletion, transmission of data for different purposes.**

Fathom will contractually require its Subprocessors to implement the same or at least equivalent technical and organizational measures to be able to provide assistance to Customer.