

NEMO.AI INC DATA PROCESSING ADDENDUM

March 23, 2018

This Data Processing Addendum (this "**DPA**") applies to all customers using nemo.ai inc's Service and / or any Additional Services ("**Customer**", "**you**"). This DPA should be read carefully in order to understand your rights and responsibilities, as well as ours.

By accessing or using the Service you acknowledge and agree that you have read, understood, and agree to be bound by this DPA. We may update this DPA from time to time; by continuing to use the Service after nemo.ai inc publishes notice of a modification on www.visely.io you thereby accept the modification. If you do not agree with the terms outlined in this DPA, you should immediately discontinue using the Service.

This DPA includes Sections 1, 2 and 3 and shall be considered an integral part of nemo.ai inc's Terms of Use (available at <https://visely.io/terms-of-service>, as updated from time to time) between the Customer and nemo.ai inc, or any other agreement between the Customer and nemo.ai inc governing Customer's use of the Service provided by nemo.ai inc (the "**Service Agreement**").

1. Effectiveness

- 1.1. For the avoidance of doubt, this DPA applies only to nemo.ai inc Service purchased from nemo.ai inc and does not apply to a service the Customer purchases from any seller of record other than nemo.ai inc
- 1.2. The Customer represents and warrants to nemo.ai inc that he or she has the legal authority to bind and lawfully enter the Customer into the Service Agreement
- 1.3. This DPA will terminate automatically upon termination of the Service Agreement or Terms of Use (as the case may be), or as earlier terminated pursuant to the terms of this DPA.

Section 1

Data Processing Terms

1. Definitions

Unless otherwise defined in the Service Agreement, all capitalized terms used in this DPA will have the meanings outlined below:

- 1.1. **"nemo.ai inc Infrastructure"** is defined as nemo.ai inc and its service providers and / or subcontractor's data center facilities, servers, networking equipment, and host software systems (e.g., virtual firewalls) that are within nemo.ai inc's control and are used to provide the Services.
- 1.2. **"nemo.ai inc Security Standards"** is defined as the security standards attached to this DPA as Section2.
- 1.3. **"Customer Data"** is defined as the "personal data" (as defined in Regulation) that is processed within nemo.ai inc Infrastructure under the Customer's accounts.
- 1.4. **"Regulation"** is defined as Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
- 1.5. **"EEA"** is defined as the European Economic Area.
- 1.6. **"Processing"** has the meaning given to it in the Regulation and "process", "processes" and "processed" will be interpreted accordingly.
- 1.7. **"Standard Contractual Clauses"** is defined as agreement pursuant to the European Commission Decision of 5 February 2010 on standard contractual clauses for the transfer of personal data to processors established in third countries under the Regulation forming part of this DPA.

2. Data Processing

- 2.1. **“Scope and Roles”**. This DPA applies when Customer Data is processed by nemo.ai inc and its subcontractors. In this context, Customer shall act as "controller", nemo.ai inc shall act as "processor" and nemo.ai inc’s subcontractor(s) shall act as “Sub-processor” with respect to Customer Data (as each term is defined in the Regulation). Notwithstanding the foregoing, nemo.ai inc shall act as the data controller with respect of the personal data we may have collected from you during registration or provision of support services, if any.
- 2.2. **“Details of the Data Processing”**. The details of the data processing such as subject matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects are specified in the Section 3 “Data Processing Details”.
- 2.3. **“Compliance with Applicable Laws”**. Each party will comply with laws, rules and regulations applicable to it and binding on it in the performance of this DPA, especially including Regulation. As controller, the Customer shall be liable that it has the necessary rights and that it has obtained the necessary consents from the data subjects for nemo.ai inc’s (and its Sub-processors’) processing of personal data. The Customer shall also be liable for drafting the relevant privacy statement and cookie policy or otherwise informing the data subjects of the processing of personal data in accordance with the Regulation. By using the Service, you represent and warrant that you have informed and obtained necessary consents from your employees and the end user of your Online Store needed for the processing of their personal data.
- 2.4. **“Special Categories of Personal Data”**. Customer hereby acknowledges and agrees that sending or storing any personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of 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 “Special Categories of Personal Data” in the Service is strictly forbidden. By using the Service, you represent and warrant that you will not send or store any Special Categories of Personal Data in the Service.
- 2.5. **“Instructions for Data Processing”**. nemo.ai inc (and its subcontractors) will process Customer Data only in accordance with Customer's

documented instructions, including with regard to transfers of personal data to a third country, unless required to do so by Union or Member State law to which the processor is subject, in which case nemo.ai inc shall inform the Customer of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest. The parties agree that this DPA is Customer's complete and final instructions to nemo.ai inc in relation to processing of Customer Data. Processing outside the scope of this DPA (if any) will require prior written agreement between nemo.ai inc and Customer on additional instructions for processing, including agreement on any additional fees Customer will pay to nemo.ai inc for carrying out such instructions. Customer may terminate this DPA, including the Service Agreement, according to the provisions set forth in Terms of Use if nemo.ai inc declines to follow instructions requested by Customer that are outside the scope of this DPA.

- 2.6. **“Access or Use”**. nemo.ai inc will not access or use Customer Data, except as necessary to provide the Service as defined in Service Agreement applicable between nemo.ai inc and Customer. nemo.ai inc may also use statistical, aggregated or otherwise anonymized data collected by the Service, provided that such data will not be directly or indirectly identifiable to the Customer or its customers.
- 2.7. **“Disclosure”**. nemo.ai inc will not disclose Customer Data to any government, except as necessary to comply with the law or a valid and binding order of a law enforcement agency (such as a subpoena or court order). If a law enforcement agency sends nemo.ai inc a demand for Customer Data, nemo.ai inc will attempt to redirect the law enforcement agency to request that data directly from Customer. As part of this effort, nemo.ai inc may provide the Customer's basic contact information to the law enforcement agency. If compelled to disclose Customer Data to a law enforcement agency, then nemo.ai inc will give the Customer reasonable notice of the demand to allow the Customer to seek a protective order or other appropriate remedy unless nemo.ai inc is legally prohibited from doing so.
- 2.8. **“nemo.ai inc Personnel”**. nemo.ai inc restricts its personnel from processing Customer Data without authorization as described in the Section 2 “nemo.ai inc Security Standards”. nemo.ai inc will impose

appropriate contractual obligations upon its personnel, including relevant obligations regarding confidentiality, data protection and data security.

- 2.9. **“Customer Controls”**. The Service provides the Customer with controls to enable the Customer to delete or block Customer Data as described within the Service. nemo.ai inc makes available a number of features and functionalities that the Customer may elect to use. The Customer is responsible for properly (a) configuring and using the Service, (b) using the controls available in connection with the Service, and (c) taking such steps as the Customer considers adequate to maintain appropriate security, protection, deletion and backup of Customer Data. The Customer may use these control as nemo.ai inc’s assistance by appropriate technical and organizational measures for the fulfilment of the Customer's obligation as a controller under the Regulation to respond to requests for exercising the data subject's rights.
- 2.10. **“Assistance with Prior Consultation and Security of Processing”**. The information made available by nemo.ai inc under Section 2 “nemo.ai inc Security Standards” is intended to assist the Customer in complying with the Customer’s obligations under the Regulation articles 32 to 36, taking however into account the nature of processing and the information available to nemo.ai inc.
- 2.11. **“Customer Indemnification”**. You agree to indemnify and hold nemo.ai inc (and our subsidiaries, officers, directors, employees) harmless from any claim or demand, including reasonable attorneys’ fees, made by any third party due to or arising out of your breach of the above sub-section 2.3 and 2.4 of the Section 1 “Data Processing Terms”.

3. Transfers of Personal Data

- 3.1. **“Regions”**. While providing the Service to the Customer, nemo.ai inc uses third party service providers and subcontractors (**“Sub-processors”**) located in USA. Therefore, it is necessary for nemo.ai inc to transfer Customer Data to Sub-processors based on the Data Processing Agreements which incorporate the Standard Contractual Clauses. By accepting the Terms of Use and / or the Service Agreement, the Customer authorizes nemo.ai inc to enter into the required Data Processing Agreement(s), including where applicable the Standard Contractual Clauses, with Sub-processors on behalf of the Customer.

nemo.ai inc has implemented technical and organizational precautions defined in this DPA to protect the security and integrity of Customer Data processed by nemo.ai inc Infrastructure.

- 3.2. **“Application of Standard Contractual Clauses”**. The Standard Contractual Clauses will apply to Customer Data that is transferred, either directly or via onward transfer, to Sub-processor located in USA. The Standard Contractual Clauses will not apply to Customer Data that is not transferred, either directly or via onward transfer, outside the EEA. Notwithstanding the foregoing, the Standard Contractual Clauses will not apply: if Sub-processor in question has adopted an alternative recognized compliance standard for the lawful transfer of personal data (such as Privacy Shield) outside the EEA.

4. Security Responsibilities of nemo.ai inc

- 4.1. nemo.ai inc is responsible for implementing and maintaining the technical and organizational measures for the Facilities as described in the nemo.ai inc Security Standards and clause 3.2 of the Section 1 Data Processing Terms designed to help the Customer secure Customer Data against unauthorized processing and accidental or unlawful loss, access or disclosure.
- 4.2. The technical and organizational measures include the following:
- 4.2.1. nemo.ai inc has implemented and will maintain measures to ensure the physical security of the Facilities as set out in clause 1.2. of the Section 2 nemo.ai inc Security Standards;
 - 4.2.2. nemo.ai inc has implemented and will maintain measures to ensure the security of the nemo.ai inc Infrastructure as set out in clause 1.1 of the Section 2 nemo.ai inc Security Standards;
 - 4.2.3. nemo.ai inc has implemented and will maintain measures to control access rights for nemo.ai inc employees and contractors in relation to the nemo.ai inc Infrastructure as set out in clause 1.1 of the Section 2 nemo.ai inc Security Standards. The Customer has implemented and will maintain measures to control access rights to Customer Data;

- 4.2.4. and nemo.ai inc will process Customer Data in accordance with the Customer's instructions as described in clause 2.5 of the Section 1 Data Processing Terms.

5. Audit rights of the Customer

- 5.1. nemo.ai inc shall make available to the Customer all information necessary to demonstrate nemo.ai inc's compliance with its obligations set out in this DPA and in the Regulation.
- 5.2. nemo.ai inc will use best endeavors to enter into contractual arrangement with nemo.ai inc's Sub-processors which entitle the Customer to contribute to audits, including inspections, with respect to nemo.ai inc Infrastructure. Notwithstanding the foregoing, the Customer acknowledges and agrees that nemo.ai inc cannot guarantee that the Customer will be entitled to audit nemo.ai inc's Sub-processors (or their Sub-processors) directly. Accordingly, upon the Customer's request (and at the Customer's sole cost) nemo.ai inc may engage independent external auditors to audit that the processing of personal data within nemo.ai inc Infrastructure complies with its data protection obligations. To prove compliance with its obligations, nemo.ai inc will provide the report to the Customer subject to separate non-disclosure agreement. To the extent not covered by the independent audit reports, the Customer or an external auditor mandated by the Customer may audit nemo.ai inc's compliance with the data protection obligations under this DPA. For the sake of clarity, in no event shall nemo.ai inc's competitor to be qualified to audit nemo.ai inc or nemo.ai inc Infrastructure.
- 5.3. The Parties shall agree on the time and other details of the audit at least 30 business days before the audit or inspection. The audit or inspection shall be conducted so that the time, work, costs and the harm caused to nemo.ai inc's business is minimized (including but not limited to any harm to nemo.ai inc's customers, partners, Sub-processors and vendors). nemo.ai inc confidentiality obligations towards third parties shall be respected. All Customer's representatives or external auditors participating in the Audit shall sign separate confidentiality agreements.

- 5.4. nemo.ai inc shall correct reported deficiencies without undue delay. Only if the audit reveals material deficiencies in nemo.ai inc's performance, nemo.ai inc shall bear its own costs for the audit.

6. Security Breach Notification

- 6.1. If nemo.ai inc becomes aware of either (a) any unlawful access to any Customer Data stored on nemo.ai inc's equipment or in nemo.ai inc Infrastructure; or (b) any unauthorized access to such equipment or facilities, where in either case such access results in loss, disclosure, or alteration of Customer Data (each a "**Security Incident**"), nemo.ai inc will promptly: (a) notify the Customer of the Security Incident; and (b) take reasonable steps to mitigate the effects and to minimize any damage resulting from the Security Incident.
- 6.2. Customer agrees that:
 - 6.2.1. an unsuccessful Security Incident will not be subject to this clause 4. An unsuccessful Security Incident is one that results in no unauthorized access to Customer Data or to any of nemo.ai inc Infrastructure or Facilities storing Customer Data, and may include, without limitation, pings and other broadcast attacks on firewalls or edge servers, port scans, unsuccessful log-on attempts, denial of service attacks, packet sniffing (or other unauthorized access to traffic data that does not result in access beyond IP addresses or headers) or similar incidents; and
 - 6.2.2. nemo.ai inc's obligation to report or respond to a Security Incident under this clause 4 is not and will not be construed as an acknowledgement by nemo.ai inc of any fault or liability of nemo.ai inc with respect to the Security Incident.
- 6.3. Notification(s) of Security Incidents, if any, will be delivered to one or more of the Customer's administrators by any means nemo.ai inc selects, including via email. It is the Customer's sole responsibility to ensure the Customer's administrators maintain accurate contact information on the nemo.ai inc management console at all times.

7. Sub-processing

7.1. **Authorized Sub-processing.** The Customer agrees that nemo.ai inc may use Sub-processors to fulfil its contractual obligations under this DPA and / or Service Agreement or to provide certain services on its behalf, such as providing support services. The section 3 “Data Processing Details” lists Sub-processors that are currently authorized by nemo.ai inc to access Customer Data. nemo.ai inc will inform at least 14 days before nemo.ai inc authorizes and permits any new Sub-processors to access Customer Data. The Customer hereby consents to nemo.ai inc's use of Sub-processors described in the clause 5 of the Section 1 “Data Processing Terms”. Except as set forth in this DPA, or as the Customer may otherwise authorize, nemo.ai inc will not permit any Sub-processors to access Customer Data.

7.2. **Sub-processors Obligations.** When nemo.ai inc authorizes any Sub-processors as described in the above clause 5.1 of the Section 1 Data Processing Terms:

7.2.1. nemo.ai inc will restrict the subcontractor's access to Customer Data only to what is necessary to maintain or to provide the Service to the Customer in accordance with the Service Agreement and nemo.ai inc will prohibit the Sub-processor from accessing Customer Data for any other purpose;

7.2.2. nemo.ai inc will impose appropriate contractual obligations in writing upon the subcontractor that are no less protective than this DPA, including relevant contractual obligations regarding confidentiality, data protection, data security and audit rights; and

7.2.3. nemo.ai inc will remain responsible for its compliance with the obligations of this DPA and for any acts or omissions of the Sub-processors that cause nemo.ai inc to breach any of nemo.ai inc's obligations under this DPA.

8. Duties to Inform

Where Customer Data becomes subject to confiscation during bankruptcy or insolvency proceedings, or similar measures by third parties while being

processed by nemo.ai inc, nemo.ai inc will inform the Customer without undue delay. nemo.ai inc will, without undue delay, notify all relevant parties in such action (e.g. creditors, bankruptcy trustee) that any Customer Data subjected to those proceedings is the Customer's property and area of responsibility and that Customer Data is at Customer's sole disposition.

9. Nondisclosure

The Customer agrees that the details of this DPA are not publicly known and constitute nemo.ai inc's Confidential Information under the confidentiality provisions of the Service Agreement. If the Service Agreement does not include a confidentiality provision protecting nemo.ai inc's Confidential Information and the Customer and nemo.ai inc or its affiliates do not have a non-disclosure agreement in place covering this DPA, then the Customer will not disclose the contents of this DPA to any third party except as required by law.

10. Entire Agreement; Conflict

Except as amended by this DPA, the Agreement will remain in full force and effect. Unless otherwise namely stated in the Service Agreement, in case of a conflict between the Service Agreement and / or Terms of Use available at <https://visely.io/terms-of-service> and this DPA, the terms of this DPA will control.

Section 2

nemo.ai inc Security Standards

1. Information Security Program

nemo.ai inc will maintain an information security program in accordance with article 32 of the Regulation (including the adoption and enforcement of internal policies and procedures) designed to (a) help the Customer secure Customer Data against accidental or unlawful loss, access or disclosure, (b) identify reasonably foreseeable and internal risks to security and unauthorized access to the nemo.ai inc Infrastructure, and (c) minimize security risks, including through risk assessment and regular testing. nemo.ai inc will designate one or more employees to coordinate and be accountable for the information security program. The information security program will include the following measures:

- 1.1.1. the pseudonymization and encryption of personal data;
- 1.1.2. the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- 1.1.3. the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
- 1.1.4. a process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing.

1.2. Security of nemo.ai inc Infrastructure

- 1.2.1. **Data Center and Secure environment.** All servers are hosted by Amazon Web Services (AWS) which is among the biggest cloud computing providers and has long track record running data centers reliably and securely. AWS manages data center infrastructure, physical security and continuity as a data center provider. For more details, see AWS security whitepaper. Service is being run in virtual private cloud (VPC) where access to each subsystem is limited with firewall and accessing them requires VPN connection with TOTP multi-factor authentication. Accessing AWS resources via API's

requires authentication to AWS IAM with access key and secret access key. Authentication to IAM using username and password requires TOTP multifactor authentication.

- 1.2.2. **Access to nemo.ai inc Infrastructure.** The nemo.ai inc Infrastructure Network will be accessible to nemo.ai inc Personnel, contractors and any other persons as necessary to provide the Services (such as Sub-processors). nemo.ai inc will maintain access controls as described in clause 1.2.1. of the nemo.ai inc Security Standards and policies to manage what access is granted to the nemo.ai inc Infrastructure from each network connection and for each user. Access permissions are limited to minimal resources and actions as required by job responsibilities.
- 1.2.3. **Auditing.** Audit logging of the nemo.ai inc Infrastructure is done on multiple levels, including activities performed by nemo.ai inc Personnel, Customers or system components. Attempts to do modifications to audit configuration occurring while the audit collection functions are operating are logged. These logs are forwarded to a remote and centralized logging system where they can be monitored. Logs are saved in dedicated database cluster that is replicated for redundancy and availability. Configuration changes to AWS resources are tracked; these logs include detailed information about API calls to AWS resources.

2. Continued Evaluation

nemo.ai inc will conduct periodic reviews of the security of its Infrastructure and adequacy of its information security program as measured against industry security standards and its policies and procedures. nemo.ai inc will continually evaluate the security of its Infrastructure and associated Services to determine whether additional or different security measures are required to respond to new security risks or findings generated by the periodic reviews.

SECTION 3
Data Processing Details

Subject matter of processing	The subject matter of the data processing under this Addendum is the Customer Data.
Duration of the processing	As between nemo.ai inc and the Customer, the Customer (as a controller) has the obligation to determine the duration of the data processing under this Addendum. After the end of the provision of the Services, the Customer shall delete the Customer Data using the controls available in connection with the Service or request nemo.ai inc to delete the Customer Data or have the Customer Data returned by nemo.ai inc at Customer's cost.
Nature of processing	The Service analyzes the behavior of visitors in the Customer's Online Store in order to provide the visitors with meaningful purchase recommendations. Depending on the feature set used by the Customer, these recommendations may be displayed onsite or through emails.
Purpose of processing	The purpose of the data processing under this Addendum is the provision of the Services initiated by the Customer.
Type of personal data	Email address, user agent (browser), IP address, events, viewed products, order events, cart content, clicked recommendations, order information.
Categories of the data subjects	The data subjects include the Customer's customers
Sub-processors	Amazon Web Services, Inc.; Google Cloud by Google, Inc.