Data Processing Agreement - Users

Last Updated: October 11, 2020

In order to provide the Services to its Users, Wix.com Ltd. (together with its affiliated companies and subsidiaries worldwide ("Wix") processes data of customers or visitors of the Users' site or services (herein: "User Customers"). The processing of such data by Wix is hereinafter referred to as "Processing". The following Data Processing Agreement ("DPA") sets forth the terms of such Processing by Wix.

This DPA forms part of the [Wix Terms of Use](#), [Privacy Policy](#) and any other applicable Wix terms governing the use of the Services (herein the, "Terms of Use", "Privacy Policy" and, collectively, the "Wix Policies"). The terms of the Wix Policies shall apply to this DPA as applicable. In the event of contradiction between this DPA and any of Wix Policies, the provisions of this DPA shall govern. Any capitalized term not defined herein, shall have the meaning ascribed to it in the Wix Policies.

To the extent User Customer Data is Processed by Wix on behalf of the User, the User acknowledges and agrees that Wix will process personal data as necessary to provide the Services under the DPA and by using the Wix Services, the User has instructed Wix to process such Personal Data on his/her/its behalf pursuant to this DPA.

Definitions
For the purpose of this DPA, the following terms have the following meaning

- The terms "Controller", "Data Subject", "Personal Data", "Personal Data Breach", "Processing", and "Processor", as used in these DPA, have the meanings given in the GDPR and as specified in other applicable regulations as set forth in Annex 2 (together, the "**Applicable Data Protection Regulations**").

- "Standard Contractual Clauses" means the standard contractual clauses and related annex and appendices, which are hereby incorporated into and form part of this DPA, as may be amended from time to time (the "**Clauses**"), or with respect to onward transfers by Processor to any third party that processes personal data under the instructions and supervision of Wix pursuant to Sections 3 and 4 of this DPA, also the standard contractual clauses for the transfer of personal data to processors or sub-processors established in third countries, as

adopted by the European Commission from time to time under Directive 95/46/EC or the GDPR, as applicable.

- User Customer Data means the Personal Data of User Customers as Processed by Wix on behalf of the Users.

Terms of Personal Data Processing by Wix:

1. Wix shall:

    1.1 Process User Customer Data for the provision of the Services to Wix Users and according to the Wix Policies.
    1.2 Process User Customer Data only on the specific instructions of the User, including with regard to overseas transfers of Personal Data to a third country.
    1.3 Ensure that anyone acting on its behalf, will Process User Customer Data according to the provisions of this DPA, the Privacy Policy and any Applicable Data Protection Regulations.
    1.4 Ensure that its personnel have committed themselves to appropriate contractual or statutory obligations of confidentiality.
    1.5 Implement appropriate technical, organizational and security measures to protect the privacy and security of the User Customer Data.

2. Users shall:

    2.1 Collect, use and process Personal Data in accordance to the Applicable Data Protection Regulations.
    2.2 Have sole responsibility for the accuracy, quality, and legality of User Customer Data and the means by which it was obtained.
    2.3 Ensure the appropriate level of security when using Wix Services, taking into consideration any risks with respect to User Customer Data.
    2.4 Any storage and/or transfer of User Customer Data by User to any third-party or platform other than Wix shall be at the sole risk and responsibility of the User.

3. The User hereby grants Wix general authorization to engage sub-processors without obtaining any further written, specific authorization from the User. If the User objects to any sub-processing by Wix such User should immediately discontinue their use of the Services. Wix shall execute an agreement with each sub-processor ensuring compliance by such sub-processor with terms ensuring at least the same level of protection and security as those set out in this DPA. Wix shall also remain fully liable under the Applicable Data Protection Regulations to each User for the performance of its sub-processor's obligations.

4   To the extent that Wix is the recipient and Processor of Personal Data and is:

    4.1 established in a jurisdiction deemed to provide an adequate level of protection for Personal Data, the Clauses will apply solely on an onward data transfer of the Personal Data imported by Wix to sub-processors located in a jurisdiction *not* deemed as providing an adequate level of protection for Personal Data; or

    4.2 established in a jurisdiction *not* deemed to provide an adequate level of protection for Personal Data, Wix shall be the data importer for the purposes of the Clauses.

5   By using any of Wix's Services, the User agrees to the adequacy of the organizational, technical and security measures implemented by Wix to protect the Personal Data. Some of those measures are referred to herein and in appendix 2 to the Clauses.

6   If Wix becomes aware of any Personal Data Breach, Wix will, without undue delay, provide notification of such, to the affected Users, in accordance with Applicable Data Protection Regulations. Wix shall use reasonable efforts to include the following information in such notifications: details of the nature of such breach and number of records affected, the category and estimated number of affected data subjects, anticipated consequences and any actual or proposed measures to be taken by Wix (or on its behalf) in order to mitigate the potential negative effects of such breach.

Wix's notification of a Personal Data Breach will not be deemed as an acknowledgement by
Wix of any fault or liability with respect to such incident.

In the event of a Personal Data Breach, the User shall be obligated to take the measures required under Applicable Data Protection Regulations in connection with its User Customer Data.

7   Upon reasonable written request, Wix will:

    7.1 Make available to the User certifications demonstrating Wix's compliance with its obligations under this DPA and the Applicable Data Protection Regulations; and/or

    7.2 Make available to the User information necessary to demonstrate compliance with its obligations under this DPA and Applicable Data Protection Regulations.

8 Wix shall assist its Users, within reasonable timetables, by the appropriate measures and, as reasonably possible (considering the nature of the Processing), in complying with data subject rights and all other relevant obligations under the Applicable Data Protection Regulations.

9 Wix shall also reasonably assist its Users, in ensuring compliance with the obligations to (i) implement appropriate technical and organisational security measures; (ii) notify (if required) Personal Data breaches to regulators and/or individuals; and (iii) conduct data protection impact assessments (including assessment of the adequacy of the Clauses) and, if required, prior consultation with regulators.

10 The Processing of the User Customer Data shall take place within the territory of the European Union, Israel or a third country, territory or one or more specified sectors within that third country of which the European Commission has decided that it ensures an adequate level of protection. Any transfer to and Processing in a third country outside the European Union that does not ensure an adequate level of protection according to the European Commission, shall be undertaken in accordance with the Clauses (depending on the nature of the data exporter and data importer as controller or processor).

11 This DPA shall be in effect in relation to each User, for as long as such User, uses any of the Wix Services; provided, however, that in the event Wix is obligated, according to the terms of this DPA or any Wix Policies, to keep Personal Data of a User Customer following the termination of the Services, this DPA shall continue to be in effect for as long as Wix holds such Personal Data.

12 Upon termination of the use by the User of the Services, and unless Wix is required to retain such User Customer Data under Wix Policies, any other agreement or Applicable Data Protection Regulations, Wix shall, including upon written request by the User, delete the User's Personal Data as soon as reasonably practicable and according to Wix Policies and applicable laws.

13 Wix shall have the right to amend and/or adjust any of the terms of this DPA as may be required from time-to-time, in order to comply with any applicable laws or regulations.

14 Any questions regarding this DPA or requests from Users to exercise Data Subject Rights as described herein, in the GDPR, or other applicable reguation, should be addressed to the Wix Data Protection Officer at privacy@wix.com. Wix will attempt to resolve any complaints regarding the use of your User Customer Data in accordance with this DPA and Wix Policies.
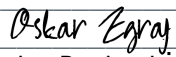
Wix.com
Signature: _____
Name: Eitan Israeli
Title: VP & General Counsel

Controller: _____Oskar Zgraj_____
Signature: _____
Title: _____Controller, Data Protection Officer____
Date: _____2/15/2021_____

Annex 1 - 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

The entity identified as "User" in the DPA (the "data exporter") And Wix.com Ltd 40 Namal Tel Aviv St., Tel Aviv 6350671, Israel (the "data importer") each a 'party'; together 'the parties',

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce 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.

Clause 1 - Definitions

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;

Mandatory requirements of the national legislation applicable to the data importer which do not go beyond what is necessary in a democratic society on the basis of one of the interests listed in Article 13(1) of Directive 95/46/EC, that is, if they constitute a necessary measure to safeguard national security, defence, public security, the prevention, investigation, detection and prosecution of criminal offences or of breaches of ethics for the regulated professions, an important economic or financial interest of the State or the protection of the data subject or the rights and freedoms of others, are not in contradiction with the standard contractual clauses. Some examples of such mandatory requirements which do not go beyond what is necessary in a democratic society are, inter alia, internationally recognised sanctions, tax-reporting requirements or anti-money-laundering reporting requirements.

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 of 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 Clauses3. 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.

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 the entity identified as the "User" in the DPA.

Data importer

The data importer is Wix.com Ltd., the provider of the services.

Data subjects

Data subjects are defined as User Customers in the DPA.

Categories of data

The personal data is as defined in the DPA.

Processing operations

The personal data transferred will be subject to the following basic processing activities:
The objective of Processing of Personal Data by data importer is the performance of the Services pursuant to the Agreement.

Wix.com
Signature: _____
Name: Eitan Israeli
Title: VP & General Counsel

Controller: ___Oskar Zgraj_____
Signature: _____Oskar Zgraj_____
Title: ____Controller, Data Protection Officer___
Date: ___2/15/2021_____

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):

The technical and organizational security measures implemented by the data importer are as described in: security- https://support.wix.com/en/about-wix/security

Wix.com
Signature: _____
Name: Eitan Israeli
Title: VP & General Counsel

Controller: Oskar Zgraj
Signature: _____
Title: Controller, Data Protection Officer
Date: 2/15/2021

Annex 2 – Applicable Regulations

1. California:

1.1 The definition of "Applicable Regulation" includes the California Consumer Privacy Act ("CCPA").

1.2 The definition of (i) "Personal Data" includes "Personal Information", (ii) "Data Subject" includes "Consumer", (iii) "Controller" includes "Business", (iv) "Processor" includes "Service Provider", as defined under CCPA.

1.3 Wix will process, retain, use, and disclose personal data only as necessary to provide its Services, which constitutes a business purpose.

1.4 Wix agrees not to: (i) sell (as defined by the CCPA) User Customer Data; (ii) retain, use, or disclose User Customer Data for any commercial purpose (as defined by the CCPA) other than providing the Services; or (c) retain, use, or disclose User Customer Data outside of the scope of the Wix Policies.

1.5 Wix certifies that its sub-processors, as described in Section 3 of the Addendum, are Service Providers under CCPA, with whom Wix has entered into a written contract that includes terms ensuring at least the same level of protection and security as those set out in this DPA.