

EU Data Act Addendum

This EU Data Act Addendum (the "**Data Act Addendum**") forms an integral part of the Agreement.

1. SCOPE. This Data Act Addendum applies to Customer's use of the Subscription Services provided and to the extent that Customer is a company incorporated in the European Union or otherwise subject to Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data (the "**Data Act**"). This Data Act Addendum does not apply to Consulting Services or On Premise Subscriptions offerings. Capitalized terms not defined herein shall have the meanings given to them in the Order or in the Agreement.

2. PRECEDENCE. In the event of a direct conflict between the Agreement, the terms of this Data Act Addendum, the Regulatory Addendum for the Financial Sector (if applicable), the Data Processing Agreement and any Order, the order of precedence is: (1) the Order; (2) this Data Act Addendum; (3) the Regulatory Addendum for the Financial Sector (if applicable); (4) the Data Processing Agreement and (5) the Agreement, but only to the extent required to resolve such conflict.

3. TERM. This Data Act Addendum commences on September 12, 2025 or on the Order Date, whichever is later, and will be in force and effect until the Order has been terminated or expires. In the event that after termination or expiration of the Order, BMC is required to perform certain obligations under the Order, the Agreement, the Data Processing Agreement or this Data Act Addendum, as applicable (the "**Surviving Obligations**"), the Surviving Obligations will continue to apply until the completion of the obligations set forth therein, as applicable.

4. SWITCHING TO A DIFFERENT SERVICE PROVIDER OR TRANSFERRING ALL CUSTOMER CONTENT.

4.1 Right of switching to a different service provider or transferring all Customer Content to on-premises information and communications technology ("ICT") infrastructure. Notwithstanding anything to the contrary in the Agreement or the applicable Order but subject to Section 4.5 below, Customer may switch from a Subscription Service to a data processing service offered by a different provider of data processing services or to port Customer Content to an on-premises ICT infrastructure by providing BMC with a sixty (60) days' prior written notice (the "**Switching or Transferring Notice Period**") by emailing at order_services@bmc.com. In such notice, Customer must inform BMC whether it intends:

- (a) to switch to a different provider of data processing services. In such a case Customer must provide necessary details of the destination provider;
- (b) to switch to an on-premises ICT infrastructure of Customer; or
- (c) not to switch but only erase Customer Content.

4.2 Transitional Period. Provided that Customer notifies BMC as set forth in Section 4.1 above, after the Switching or Transferring Notice Period is expired, a period of thirty (30) calendar days (the "**Transitional Period**") for switching or transferring shall begin. During the Transitional Period, the Order shall remain applicable under the same terms and conditions stated therein and in the Agreement, including the payment by Customer of the corresponding fee, if not already paid.

4.3 Extended Transitional Period. Provided that Customer notifies BMC as set forth in Section 4.1 above, Customer may decide to extend the Transitional Period once (and therefore extend the continuity of the Order under the same terms and conditions stated therein and in the Agreement, including the payment by Customer of the corresponding fee, if not already paid) for a period equal to the shorter of (i) 12 additional months or (ii) the remaining number of months until the expiration of the Order term (the "**Extended Transitional Period**"). In that case, Customer shall notify BMC of this extension before the end of the original Transitional Period.

4.4 Further Assurance. If the Transitional Period needs to extend beyond the end of the Order term, or if Customer is willing to receive the Subscription Service(s) (for which the rights of switching or transferring have been exercised) beyond the Extended Transitional Period, BMC and Customer will negotiate in good faith an extension of the Subscription Service(s) to allow for the continued provision of the Subscription Service(s) solely for the purpose of facilitating the orderly transition of such Subscription Service(s) to the successor service provider or to an on-premises ICT infrastructure of Customer. Any such extension will be subject to mutually agreed terms, including applicable fees.

4.5 Conditions for exercising the right of switching or transferring. Customer acknowledges and agrees that the switching or transferring right under this Section 4 is subject to payment by Customer to BMC, upon receipt of an invoice from BMC, of an early termination fee equal to the total fees that would have been payable for the period between the expiration of the Transitional Period (or the Extended Transitional Period, if applicable), and the end of the Term of the terminated Subscription Service(s) (the "**Remaining Term**") under the applicable Order. If applicable, BMC will apply any amounts prepaid by Customer for the Remaining Term toward satisfaction of the early termination fee. Any fees paid in advance by Customer are non-refundable.



Customer will not be entitled to the Transitional Period and/or the Extended Transitional Period when (i) there are unpaid fees, charges or costs that are payable by Customer for the terminated Subscription Service(s), (ii) Customer is in breach of the confidentiality, proprietary rights and/or export controls clauses in the Agreement, or (iii) there is a conflict of applicable laws, and the Extended Transitional Period and/or the Extended Transitional Period would cause BMC to be in breach of such applicable laws.

4.6 Effects of switching or transferring. All rights granted to Customer under the Agreement and the Order in respect of a Subscription Service for which the rights of switching or transferring have been exercised as set forth herein, shall be considered to be terminated at the expiration of the Transitional Period (or the Extended Transitional Period, if applicable) and Customer will make no further use of such Subscription Service. No switch or transfer will relieve Customer of the obligation to pay any fees accrued or payable to BMC pursuant to any Order or this Data Act Addendum. Upon termination of the Transitional Period or, where applicable, of the Extended Transitional Period, BMC will make Customer Content available to Customer for retrieval in an industry standard format during the retrieval period set forth in the Agreement. After such retrieval period, BMC shall have no obligation to maintain any Customer Content and will thereafter delete Customer Content. Further details regarding data export procedures, structures and formats are available in the User Guide. For the avoidance of doubt, any migration of Customer Content to a successor service provider or to an on-premises ICT infrastructure of Customer will be performed solely by Customer and at its own risk and liability.

4.7 Obligations of Customer during the switching process. Customer undertakes to take all reasonable measures to achieve effective switching. Customer is responsible for the import and implementation of Customer Content in its own systems or in the systems of the destination provider, including where Customer uses the services of a third party for these actions.

If applicable and without prejudice to Article 30(6) of the Data Act, Customer and BMC, or third parties mandated by them, undertake to respect the intellectual property rights of any materials provided in the switching process by BMC, as well as BMC's trade secrets. Customer undertakes to provide access to and enable the use of these materials to third parties mandated by them only insofar as necessary to complete the switching process and only upon BMC's explicit authorization. The access to and use of the BMC's materials related to the switching process which are protected by intellectual property rights and/or trade secrets related to the switching process will be terminated no later than at the end of the Transitional Period, or if applicable the Extended Transitional Period, in full compliance with the confidentiality commitments and the intellectual property rights granted by BMC.

Customer shall act in good faith to implement any instructions related to the switching process shared by BMC.

4.8 Post-termination Assistance. Upon Customer's request and upon the termination of the Agreement and the Order in respect of a Subscription Service as set forth in this Section 4, BMC shall perform such additional services as the parties in good faith agree are reasonably necessary to facilitate the orderly transition of the terminated Subscription Service to the successor service provider or to an on-premises ICT infrastructure of Customer. BMC will provide any such services under the terms and conditions of the then-current Agreement, and subject to payment of the then-current fees and charges, generally applicable to BMC's performance of such services, as agreed between the parties at such time.

5. REQUEST FOR DISCLOSURE. BMC will ensure that where it receives a decision or judgment of a court, tribunal or administrative authority requiring BMC to transfer or give access to Customer Content ("**Request for Disclosure**"), BMC will (a) notify Customer of the existence of the Request for Disclosure before complying with such request, unless prohibited from doing so by a law enforcement authority or agency; and (b) assess the validity and enforceability of the Request for Disclosure under (i) applicable law and (ii) the law applicable to the BMC entity that such the Order for which a law enforcement authority or agency is seeking the Request for Disclosure ("**Legal Review**"). Upon Legal Review, BMC will use all reasonable legal means to challenge the Request for Disclosure and will ensure that, if disclosure is unavoidable, disclosure is limited to the minimum amount of Customer Content permissible in response to the Request for Disclosure, on the basis of the reasonable interpretation of that Request for Disclosure.

6. ADDITIONAL INFORMATION. Further information on the topics listed below can be found in the documents referenced therein:

Topics	Documents
Customer Content export procedures, structures and formats	User Guide
Jurisdictions where the Subscription Services are hosted	Order
Measures preventing international governmental access to or transfer of Customer Content	Information Security Requirements Data Processing Agreement