

## FIBRES Terms of Service

### 1 Parties

- A) FIBRES Online Ltd, a company incorporated in Finland with its registered principal office at Fredrikinkatu 61 A 54, FI-00100 Helsinki, Finland, business identity code 2365512-2 (“**Supplier**”); and
- B) Customer, as defined below.

By clicking the “I accept” button displayed as part of the ordering process, or by signing a separate service agreement referring to these Terms of Service (“**Service Agreement**”), you agree to the following terms and conditions governing the Customer’s use of Supplier’s FIBRES online service (“**Service**”). You are entering into this agreement on behalf of a company or other legal entity and you represent that you have the authority to bind such entity to these terms and conditions, in which case the term “**Customer**” shall refer to such entity. If you do not have such authority, you are not representing a company or other legal entity, or if you do not agree with these terms and conditions, you must not click the “I accept” button or sign the Service Agreement and may not use the Service.

These Terms of Service (“**Terms of Service**”) for Service, together with a possible Service Agreement, where applicable, constitute a legal agreement between the Customer and Supplier, with respect to Service (hereinafter referred to as the “**Agreement**”).

Customer and Supplier are hereinafter individually referred to as “**Party**” and jointly as “**Parties**”.

### 2 Introduction

- 2.1 FIBRES (also the “**Service**”) is a software application for organizational strategic planning and management. It is a cloud-based application, i.e. enabled by a shared pool of third-party computing resources (such as networks, servers, and storage) connected to the Internet. FIBRES is owned and controlled by Supplier.
- 2.2 The Customer’s use of the Service is governed by this Agreement and the following attachments which form an integral part of this Agreement:
- 1) Data Processing Addendum
  - 2) FIBRES Terms of Use
- 2.3 In case of any discrepancies between the Agreement and any of the attachments, the order of precedence shall be as follows:
- 1) Data Processing Addendum
  - 2) the possible Service Agreement cover page
  - 3) Terms of Service
  - 4) FIBRES Terms of Use
- 2.4 The Agreement constitutes a binding agreement between the Customer and Supplier, defining the Customer’s and Supplier’s rights and responsibilities with respect to the Service.
- 2.5 The main features of the Service are described at the Supplier’s website. The Customer acknowledges and agrees that Supplier may or may not develop and change the Service upon its sole discretion.

- 2.6 The Service may contain information, data, text, photographs, videos, audio clips, written posts and comments, et cetera, generated, provided, or otherwise made accessible on or through the Service either by the Customer or users of the Service as well as by third parties in certain cases (collectively, “**Content**”).

### **3 Subscription, Payments, and Termination**

- 3.1 In order to use the Service the Customer, by accepting this Agreement as a part of the subscription process or by signing a Service Agreement, subscribes to a restricted-access application (in technical terms, to a share of the underlying software instance) for a group of users authorized by the Customer (“**Account**”). The Customer may also choose to subscribe to several Accounts. Pricing, maximum authorized number of users and other specific terms relating to Customer’s different Accounts may vary. The specific pricing and other terms relating to each Account shall be separately agreed between the Parties in connection with the subscription process or in a separate Service Agreement, where applicable. Within the Accounts, the Customer may create new authorized users into the Account in question. Authorized users may be added to the Accounts by the Customer’s administrative users.
- 3.2 Content, applications, add-on services, features, power-ups or other services offered by external development partners and other third parties (“**Third-Party Content**”) may be included and/or integrated into the Service. The use of Third-Party Content maybe subject to third-party terms and conditions and, if so agreed between the Parties, a separate fee.
- 3.3 The Customer’s use of Service is subject to use fees defined in the price list presented on the Supplier’s website (“**Price List**”) or in the Service Agreement, if applicable. Supplier shall be entitled to make changes to the Price List. Customer will be informed of changes in the Price List in advance in writing at least 30 days prior to the end of the ongoing Subscription Period (as defined in the Service Agreement or as part of the ordering process) with the changes taking effect from the beginning of the Subscription Period following the Subscription Period during which the Price List changes were introduced. The Customer shall have a right to terminate this Agreement at the time of the pricing change becoming effective if the Customer does not accept the change. The Customer agrees to provide Supplier with correct and accurate billing information and keep such information up-to-date at all times.
- 3.4 The applicable Service Setup (as defined in the Service Agreement or as part of the ordering process) as well as applicable Subscription Periods are agreed separately between Customer and Supplier. Supplier may, at its sole discretion, set certain limitations to offered Service Setups and minimum fees for each Service Setup.
- 3.5 The service fees for the entire Subscription Period the Customer has chosen shall be charged by Supplier in advance by invoice or by credit card. All fees are non-refundable. The subscription shall renew automatically, with same terms, after each Subscription Period until the Customer has terminated the subscription, unless otherwise agreed upon between the Parties. In case the Customer opts for upgrades (such as added user accounts, premium features, or Third-Party Content) to the Service Setup during a Subscription Period, the applicable additional fees shall be charged prorated, i.e. in proportion to the time of the Subscription Period remaining at the time of the upgrade.
- 3.6 Unless otherwise agreed in writing, the fees specified in this Agreement are exclusive of value added tax. Value added tax shall be added to the fees in accordance with the then current regulations. Each Party shall be responsible for its own tax obligations towards the authorities and all payments will be made without deduction, withholding, counterclaim or set-off of any kind or nature. All payments shall be made in Euro, unless otherwise agreed by the Parties in writing. The payment term is 30 days net from the date

of invoice, unless otherwise agreed, or in the case the Customer pays with a credit card, the Customer's card will be billed immediately upon payment. Interest on delayed payments accrues in accordance with the Interest Act of Finland (633/1982, as amended).

- 3.7 Unless otherwise agreed between the Parties, the Customer's subscription and the right to use the Service shall be valid until the Customer terminates the subscription. The Customer may terminate the Customer's subscription of the Service at any time by cancelling the subscription, or part thereof, by written request (email is sufficient) to Supplier and/or depending on FIBRES development status, even via administrative functions of the Service. The Customer's subscription will end in total or partially at the end of the Subscription Period during which the Customer terminated the Customer's subscription or part thereof. Full or partial termination may also be carried out at a later date of the Customer's choosing.
- 3.8 Supplier may terminate, suspend or restrict the Customer's subscription or access to the Service if Supplier believes that the Customer has breached this Agreement or if Supplier for whatever reason is compelled to terminate, suspend or restrict the use of the Service. In such case, the Customer accepts and acknowledges that Supplier may terminate, suspend or restrict the use of the Service without any liability to the Customer.
- 3.9 If the Customer's payment is overdue, Supplier has the right to suspend or terminate the Customer's access to the Service, including disabling access by any and all previously enabled users in the Customer's Accounts of the Service. However, before suspending or terminating the Customer's access to the Service, Supplier shall give the Customer a notice of payment delays and a 14 days' period to cure the payment delay.
- 3.10 In the event of suspension or termination by either Party, the Customer's respective Accounts will be disabled and the Customer and the Customer's users may not be granted access to such Accounts or any Content in the Accounts, and Supplier may delete the Content, including Customer Content (as defined below in section 7.4), from the Accounts, although residual copies of information may remain in Supplier's systems for some time for backup purposes. In the event of such suspension or termination, Supplier will use reasonable efforts to deliver the Customer Content as an export file to the Customer at the Customer's request.
- 3.11 If the Customer terminates one or more of the Customer's Accounts, the Customer may request Supplier to delete Customer Content in the respective Accounts of the Service, and Supplier will make all reasonable efforts to do so.
- 3.12 Either Party may terminate this Agreement with immediate effect, if the other Party to this Agreement commits any material breach of this Agreement and fails to remedy such breach within thirty (30) days after written notice. In case this Agreement is terminated, cancelled, revoked or expired for whatever reason or cause, all Customer's Accounts and any related right to use the Service shall be terminated, cancelled or revoked accordingly and with immediate effect.
- 3.13 In case of termination, suspension, restriction, cancellation, or change in the subscription of the Service, for any reason, the Customer is not entitled to any refund of already made payments. Possible changes in use fees related to an aforementioned situation are only valid from its effective date onwards.

## 4 Right to Use

- 4.1 Supplier grants to the Customer a non-exclusive, non-transferable, revocable right to use the Service strictly in accordance with this Agreement during the validity of the Customer's subscription to the Service.
- 4.2 The Customer shall be responsible for the Customer's use of the Service and compliance with this Agreement.
- 4.3 The Customer agrees to use the Service only for purposes permitted by this Agreement and any applicable laws, regulations and guidelines.
- 4.4 The above mentioned notwithstanding, the right to use any third party open source software included in the provision of the Service is subject to respective open source terms, as further defined within Section 7.2 below.
- 4.5 When using the Service the Customer agrees to:
- a. comply with applicable laws, this Agreement, relevant guidelines as issued by Supplier and good manners; and
  - b. be responsible for all users in the Customer's Accounts understanding and complying with the terms of this Agreement (including attachments incorporated herein).
- 4.6 The Customer agrees not to reproduce, duplicate, copy, sell or resell any portion of the Service, without the express permission by Supplier.
- 4.7 The Customer shall be solely liable for all Customer Content (as defined below in section 7.4) and shall ensure that such Content does not breach any applicable laws or any intellectual property rights of third parties.

## 5 Restrictions to the Use of Service

- 5.1 The Customer may use the Service only and strictly in accordance with the terms of this Agreement.
- 5.2 Unless otherwise permitted in this Agreement, the Customer may not:
- a. circumvent or attempt to circumvent any usage control features of the Service;
  - b. probe, scan or test the vulnerability of the Service; or
  - c. disrupt other users of the Service or use the Service for phishing or spamming.
- 5.3 Only users authorized by the Customer are allowed to access and use the Service. The Customer shall use all reasonable endeavours to prevent unauthorized access to, or use of, the Service. In the event of or if the Customer has reason to suspect any unauthorized access or use of the Service, or if any password has been revealed to a third party, the Customer shall promptly notify Supplier.
- 5.4 Each Party shall comply with the export laws and regulations of applicable jurisdictions in providing and using Service. Without limiting the generality of the foregoing, the Customer shall not make Service available to any person or entity that: (i) is located in a country that is subject to a European Union, United Nations or U.S. government restriction or embargo, including being identified as prohibited or restricted parties on a European Union, United Nations or U.S. government list; or (ii) is engaged in activities directly or indirectly related to the proliferation of weapons of mass destruction.

## 6 Customer Service and Support

- 6.1 The Customer may contact Supplier in order to receive support and answers regarding problems or questions concerning the Service. Unless otherwise expressly agreed, Supplier uses reasonable efforts to answer to the Customer's initial contact as soon as possible after receiving the Customer's message (answers will be provided during ordinary business days and hours in Finland), however answer or solution to any issue is not guaranteed.
- 6.2 By submitting ideas, feedback or proposals, excluding any questions or support requests which are done by the Customer solely for the purpose of receiving support for the use of the Service, ("**Feedback**") to Supplier, the Customer acknowledges and agrees that (i) Supplier may have similar development ideas to the Feedback; (ii) the Customer's Feedback does not contain confidential or proprietary information of the Customer or any third party; (iii) Supplier is not under any obligation of confidentiality with respect to the Feedback; (iv) Supplier may freely use, distribute, exploit, and further develop and modify the Feedback for any purpose; and (v) the Customer shall not be entitled to any compensation of any kind from Supplier.
- 6.3 The Service may include certain communications from Supplier and its partners, such as service announcements, administrative messages, and possible promotional messages, etc.. These communications are considered part of the Service and the users will not be able to opt out of receiving them.

## 7 Intellectual Property Rights

- 7.1 The Customer acknowledges and agrees that Supplier and its licensors own all rights, title and interest, including any copyright, patent, design right, trademark, database right and any other intellectual property rights (whether registered or not, and wherever in the world those rights may exist) ("**Intellectual Property Rights**") in and to the Service. Except for the Customer's limited right to use the Service in accordance with this Agreement, Supplier and its licensors reserve all rights, title and interest in and to the Service, including all Intellectual Property Rights pertaining to the Service.
- 7.2 The Service may include, or be accompanied with, certain third party software and materials licensed under open source license terms and the Service may include, incorporate, refer to or link to Third-Party Content. The Customer accepts and acknowledges that Intellectual Property Rights to such software and materials as well as to Third-Party Content belong to third parties. Supplier shall not be liable for the legality, noninfringement, reliability, integrity, accuracy and quality of such software and materials as well as of the Third-party Content. Rights and obligations relating to such software and materials, including warranties, the rights to use, modify and redistribute are governed by the terms and conditions of each respective license terms.
- 7.3 Nothing in this Agreement (or any other terms and conditions referred to in this Agreement) grants the Customer any right or license to use, in any manner whatsoever, any Supplier or its licensors' trade names, trademarks, service marks, logos, domain names or any other commercial designations or distinctive brand features.
- 7.4 All title to and interest in intellectual property rights relating to the Content Customer or Customer's users enter, upload, scrape or link (e.g. by using the so-called web clipper of the Service) into the Service ("**Customer Content**") shall remain with the Customer or a third party licensor, as the case may be. Customer shall have sole responsibility for the legality, noninfringement, reliability, integrity, accuracy and quality of Customer Content. Supplier does not have any duty to monitor any Customer Content. The Customer hereby grants to Supplier and its subcontractors a non-exclusive, worldwide, royalty free and

irrevocable right to use the Customer Content for the purpose of providing the Service to the Customer and the Customer's users. Supplier shall not share or disclose Customer Content to third parties outside Customer's users without Customer's request or prior written approval. In addition, the Customer hereby grants to Supplier a non-exclusive, worldwide, royalty free, perpetual and irrevocable right to use any anonym and aggregate data included in Customer Content and/or related to the Customer's use of the Service and the Content, for the purposes of further developing the Service, creating statistics, analyses and other material and Content on the basis of such data and for offering such statistics, analyses and materials and Content within and via the Service. Notwithstanding the foregoing, Supplier shall not share or disclose to third parties any Customer Content which is considered to be confidential.

## 8 Indemnification

- 8.1 The Customer agrees to defend and indemnify Supplier, its directors, employees, subcontractors, partners and agents from and against all third party claims and all liabilities, assessments, losses, costs or damages resulting from or arising out of (i) the Customer's infringement or violation of any Intellectual Property Rights or privacy of a third party, (ii) misuse of the Service by a third party where the misuse was made possible by the Customer's failure to take reasonable measures to protect the Customer's subscription to the Service against misuse, or (iii) the Customer Content.
- 8.2 Supplier shall at its own cost defend, indemnify and hold the Customer harmless against all claims, suits, actions and proceedings that are attributable to or based on the infringement or alleged infringement of intellectual property rights or other rights of a third party by the Service ("**Claim**"), for clarity, always excluding Third Party Content and Customer Content. In addition, the Supplier shall (i) pay any and all compensations, liabilities, damages, costs and expenses finally awarded by a court of competence and/or agreed to by the Supplier as a part of a settlement to be paid by the Customer, as well as (ii) compensate to the Customer reasonable attorneys' fees and other reasonable out-of-pocket expenses incurred by the Customer as a result of or in connection with the Claim.
- 8.3 The Customer shall without unreasonable delay inform the Supplier of a Claim and give to the Supplier necessary authorisations and reasonably available information and assistance, at the Supplier's expense, to defend the Claim. If the use of the Service by the Customer is limited or prohibited by a preliminary or permanent injunction by a court of competent jurisdiction, the Supplier shall at its own expense and with no additional cost to the Customer either:

(a) procure for the Customer the right of continued use of the Service;

or

(b) replace or modify the Service in order to eliminate the infringement, as is necessary for a non-infringing continued use by the Customer of the Service in accordance with the Agreement.

If it is impossible for the Supplier to comply with either of the above alternatives (a) or (b), the Customer shall at the written request of the Supplier cease using the Service and the Supplier shall return to the Customer any payments made by the Customer for the Service in advance and pertaining to the period during which Customer is not able to use the Service, if applicable.

## **9 No Warranty and Limitation of Liability**

- 9.1 Supplier has no other obligations or liabilities than those that have expressly been agreed upon in this Agreement or otherwise between the Parties.
- 9.2 Neither Party shall be liable for any indirect or consequential damages, including, without limitation, loss of profits. Supplier's total aggregate liability under or in connection with this Agreement shall be limited to the aggregate fees paid by the Customer for Service for the last 6 months preceding the occurrence for which damages are claimed.
- 9.3 Nothing contained herein shall be deemed to limit the Parties' liability towards the other Party in the event of and to the extent that the liability results from wilful misconduct or gross negligence.
- 9.4 The limitations of liability set out in this section shall not apply to damages that result from indemnity obligations set out in Section 8 or from breach of confidentiality obligations set out in this Agreement or breaches of Section 7 (Intellectual Property Rights) or in cases of Supplier's breach of Supplier's obligations regarding processing of personal data contained in Section 10 of this Agreement. In case of breach of confidentiality obligations or breach of obligations relating to processing of personal data, Supplier's total aggregate liability shall be limited to aggregate fees paid by the Customer for Service for the last 24 months preceding the occurrence for which damages are claimed.
- 9.5 The Service may create or generate certain reports, statistics and materials on the basis of Customer Content. For clarity, Supplier shall not be liable towards the Customer for accuracy, reliability or validity of such reports, statistics and materials. Any decisions the Customer makes on the basis of the use of the Service or any reports, statistics, materials and content created or generated by the Service or available via the Service shall be the sole responsibility and liability of Customer.

## **10 Personal Data Protection**

- 10.1 In connection with the use of the Service, the Customer or the Customer's users may enter various personal data into the Service as a part of Customer Content. Such personal data may include for example personal data on users authorized by the Customer, such as Customer's employees or those of Customer's customers, clients, suppliers, business partners, and other third parties.
- 10.2 In addition to processing of personal data included in Customer Content which Supplier processes on behalf of Customer as a data processor, Supplier and its subcontractors may also process personal data such as contact details, payment information and identification data relating to the Customer's employees and other representatives. Supplier processes such personal data as data controller pursuant to FIBRES Privacy Policy available on Supplier's website.
- 10.3 When processing personal data included in Customer Content, Supplier undertakes to comply with the confidentiality obligations set forth in this Agreement and undertakes to ensure that persons authorized to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 10.4 If and to the extent Supplier processes data considered as personal data as a part of Customer Content on behalf of the Customer, the terms and conditions of a separate Data Processing Addendum concluded between the Parties and incorporated herein shall be applied with respect to such personal data processing.

## 11 Other Terms

- 11.1 Unless otherwise agreed, the Service will be available for use (system uptime) 24 hours a day, 365 days a year with 97% availability on average ("**SLA**"). If maintenance work is necessary and if the Service is not available for maintenance reasons, we will duly inform the Customer. Disruptions to the Service for maintenance reasons will not be counted as part of SLA time. Supplier will not be responsible for internet/network-related downtimes and, in particular, for downtimes in which the Service cannot be accessed due to technical or other problems outside our area of influence, e.g. force majeure, or fault of third parties.
- 11.2 This Agreement (including the attachments set out in section 2.2) constitute the whole legal agreement between the Customer and Supplier and governs the Customer's use of the Service, and completely replaces any prior agreements between the Customer and Supplier in relation to the Service. Each Party confirms that, in entering into this Agreement it has not relied upon any representations or statements not expressly incorporated herein.
- 11.3 Neither Party shall be liable for delays and damages caused by an impediment beyond its control, which it could not have taken into account at the time of the conclusion of this Agreement, and the consequences of which could not reasonably have been avoided or overcome by such Party. Strike, lock-out, boycott and other industrial action shall constitute a force majeure event also when the Party concerned is the object or a party to such an action.
- 11.4 The Supplier agrees to take out and maintain a market standard liability insurance covering damages occurring in Supplier's service provision for the full duration of the Supplier's liability under the Agreement.
- 11.5 The Customer agrees that if Supplier does not exercise or enforce any legal right or remedy which is contained in this Agreement (or which Supplier has the benefit of under any applicable law), this will not be taken to be a formal waiver of Supplier's rights and that those rights or remedies will still be available to Supplier.
- 11.6 If any court of law, having the jurisdiction to decide on this matter, rules that any provision of this Agreement is invalid, then that provision will be removed from this Agreement without affecting the rest of this Agreement. The remaining provisions of this Agreement will continue to be valid and enforceable.
- 11.7 Each Party shall keep in confidence all material and information received from the other Party and marked as confidential or which should be understood to be confidential, and may not use such material or information for any purposes other than those set out in this Agreement. The confidentiality obligation shall, however, not apply to material or information, (a) which is generally available or otherwise public; (b) which the receiving Party has received from a third party without any obligation of confidentiality; (c) which was in the possession of the receiving Party prior to receipt of the same from the other Party without any obligation of confidentiality related thereto; (d) which the receiving Party has independently developed without using material or information received from the other Party; or (e) which the receiving Party is required to provide due to law or regulation by the authorities.
- 11.8 The Service may include links to third party sites (i.e. other sites than the Service) and services on the Internet that enable the Customer to interact with sites or services that are owned and controlled by third parties and that are not part of the Service. The Customer must review and agree to the terms and conditions of these sites and services before using these sites or services. The Customer accepts and acknowledges that Supplier has no control over the third party sites or services and assumes no responsibility for the



services provided or material created or published on these third party sites or services. A link to a third party site does not imply that Supplier endorses the site or the products or services referenced in the site.

- 11.9 This Agreement and the rights granted in this Agreement may not be assigned or transferred by the Customer without the prior written approval of Supplier. Supplier may transfer this Agreement fully or partially to a third party in case of sale or transfer of business to which this Agreement relates to.
- 11.10 Supplier reserves the right, at its sole discretion, to modify the Service, these Terms of Service, FIBRES Terms of Use and FIBRES Privacy Policy at any time with or without prior notice. In case Supplier makes substantial changes to the Service, these Terms of Service, Terms of Use or Privacy Policy, Supplier will provide the Customer with a prior notice of such changes. The Customer's continued use of the Service constitutes the Customer's consent to any changes or modifications in the Service, these Terms of Service, Terms of Use and Privacy Policy.
- 11.11 Supplier has the permission to use the Customer's trade name and logo as a reference in its marketing related to the Service, but unless otherwise separately agreed, only as part of simple customer lists on the Supplier's websites and presentations.
- 11.12 This Agreement shall be governed by the laws of Finland, excluding its choice of law provisions. The Convention of contracts for the International Sale of Goods (CISG) shall not apply to this Agreement.
- 11.13 Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or validity thereof, shall be primarily solved through negotiations. If the Parties fail to resolve the dispute through negotiations within 14 days from the start of the negotiations, the dispute shall be finally settled by arbitration in accordance with the Arbitration Rules of the Finland Chamber of Commerce. The seat of arbitration shall be Helsinki, Finland. The language of the arbitration shall be English. The number of arbitrators shall be one (1).

Either Party, before or during any legal proceedings, may apply to a court having jurisdiction for a temporary restraining order or preliminary injunction where such relief is necessary to protect its interests pending completion of the legal proceedings.

Either Party may file a suit for a claim based on undisputed receivables to the District Court of Helsinki.

## DATA PROCESSING ADDENDUM

**THIS DATA PROTECTION ADDENDUM** (the “**Addendum**”) forms an integral part of the Agreement (as defined in the FIBRES Terms of Service).

The capitalized terms used in this Addendum shall have the meanings set forth in this Addendum. Capitalized terms not otherwise defined herein shall have the meaning given to them in the Agreement. Except as modified below, the terms of the Agreement shall remain in full force and effect.

In case of discrepancies between this Addendum and the Agreement, the terms and conditions of this Addendum shall prevail.

The terms and conditions set forth in this Addendum concern the Processing activities of the Supplier as Data Processor and/or data sub-processor with respect to the Customer Personal Data it processes on behalf of the Customer acting as Data Controller.

The detailed context and description of the data processing hereunder is the following:

- 1) Subject matter and duration: Processing of Customer Personal Data during term of Agreement
- 2) Nature and purpose of the Processing: collection, storage, and use of Customer Personal Data in Service in order to provide the Service
- 3) Type of personal data: full name, e-mail address, personal photo, employment details such as job title and organizational unit, areas of personal expertise and interest, and other personal data users may provide of themselves or other individuals
- 4) Categories of data subjects: as a rule, employees of the Customer and other individuals the Customer or users authorized by the Customer choose to grant access to the Customer’s Account; and, in addition, other individuals whose personal data such users may enter into the Account as part of Customer Content.

## 1 DEFINITIONS

1.1 In this Addendum, the following terms shall have the meanings set out below and cognate terms shall be construed accordingly:

- (i) “**Process/Processing**”, “**Personal Data**”, “**Data Controller**”, “**Data Processor**”, “**Data Subject**” and “**Personal Data**” shall have the same meaning as in the Data Protection Laws, and “Data Controller” and “Data Processor” shall be interpreted as in accordance with the terms “Controller” and “Processor”;
- (ii) “**Affiliate**” means an entity that owns or controls, is owned or controlled by or is under common control or ownership with a Party, whereby control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of an entity, whether through ownership of voting securities, by contract or otherwise;

- (iii) “**Applicable Laws**” means (i) European Union or Member State laws with respect to any Customer Personal Data in respect of which Customer is a Controller under EU Data Protection Laws; and (ii) any other applicable law, rule, code, treaty, ordinance, decisions, injunction, award or regulation, including from any competent court or regulatory and governmental authority with respect to any Customer Personal Data to which Customer is subject;
- (iv) “**Customer Personal Data**” means the data of the Customer disclosed, transferred or where access is otherwise granted to the Supplier under the Agreement, as well as any other Personal Data Processed by the Supplier on behalf of the Customer pursuant to or in connection with the Agreement;
- (v) “**Data Protection Laws**” shall mean EU General Data Protection Regulation 2016/679 of the European Parliament and of the Council (“**GDPR**”) and Directive 2002/58/EC, in each case as transposed into domestic legislation of each member state of the EEA and in each case as amended, replaced or superseded from time to time (GDPR and Directive 2002/58/EC collectively as “**EU Data Protection Laws**”) and to the extent applicable, the data protection or privacy laws of any third country not member of the EEA;
- (vi) “**End Date**” means the date falling on the earlier of (i) the cessation of Processing of the Customer Personal Data by the Supplier; or (ii) termination of the Agreement;
- (vii) “**Party**” means Customer or Supplier individually and “**Parties**” means Customer and Supplier jointly;
- (viii) “**Personal Data Breach**” means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Customer Personal Data transmitted, stored or otherwise Processed;
- (ix) “**Service**” means the services to be supplied by Supplier and/or Supplier Affiliates to Customer pursuant to the Agreement;
- (x) “**Subprocessor**” means any Data Processor (including any third party and any Supplier Affiliate) appointed by Supplier to Process Customer Personal Data on behalf of the Customer;
- (xi) “**Supervisory Authority**” means (a) an independent public authority which is established by a Member State pursuant to article 51 GDPR; and (b) any similar regulatory authority responsible for the enforcement of Data Protection Laws.

## **2 DATA PROCESSING TERMS**

- 2.1 In the course of providing the Service to Customer pursuant to the Agreement, Supplier may Process Customer Personal Data on behalf of the Customer. Supplier agrees to comply with Data Protection Laws and the provisions set out in this Addendum with respect to any Customer Personal Data Processed by the Supplier in connection with the Service or otherwise Processed for the Customer by the Supplier.

## **3 PROCESSING OF CUSTOMER PERSONAL DATA**

- 3.1 The Supplier shall only Process such Customer Personal Data necessary for the provision of the Service or otherwise in connection with the purposes of the Agreement. The Supplier undertakes not to Process the Customer Personal Data except in accordance with the Customer's written instructions given in the Agreement or this Addendum, unless such Processing is required by Applicable Laws to which Supplier is subject.
- 3.2 Customer shall warrant that the Customer is, and for the duration of the Agreement remains, in compliance with any and all responsibilities set for Data Controllers under Data Protection Laws towards Data Subjects, the Supplier and relevant third parties.
- 3.3 Customer shall especially warrant that Customer is entitled to disclose or transfer Customer Personal Data to the Supplier for lawful Processing hereunder.
- 3.4 Customer acknowledges that due to the nature of the Service, Supplier cannot control and has no obligation to verify Customer Personal Data transferred or made available to Supplier for Processing under the Agreement.

## **4 SUPPLIER PERSONNEL**

- 4.1 Supplier shall take reasonable steps to ensure the reliability of any employee, agent or contractor who may have access to Customer Personal Data, ensuring that access is strictly limited to those individuals who need to access the relevant Customer Personal Data for the agreed purposes, ensuring that all such individuals:
- (i) are informed of the confidential nature of the Customer Personal Data and are aware of Supplier's obligations under this Addendum and the Agreement in relation to the Customer Personal Data;
  - (ii) have undertaken training in relation to the Data Protection Laws; and
  - (iii) are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

## **5 SECURITY**

- 5.1 The Supplier implements appropriate technical and organizational measures to ensure appropriate level of security, such as the measures described in article 32 of the GDPR.
- 5.2 In assessing the appropriate level of security, the Supplier shall take into account the risks that are presented by Processing, in particular relating to accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to the Customer Personal Data Processed.

## **6 SUBPROCESSING**

- 6.1 Customer acknowledges and hereby authorizes the Supplier to engage Subprocessors in connection with the performance of the Supplier's obligations under the Agreement.
- 6.2 Supplier undertakes to inform Customer regarding changes (additions or replacements) in its Subprocessors used by Supplier for the purposes of Processing Customer Personal Data in connection with the Agreement. Customer may, for a justifiable reason pertaining to privacy and data protection, object the use of a certain Subprocessor. In such case, the Parties shall strive to find an alternative solution pertaining to the Processing of Customer Personal Data for the purposes of providing the Service under the Agreement. If such solution is not found, Supplier may terminate or suspend the Processing of Customer Personal Data without being in breach of the Agreement.
- 6.3 With respect to each Subprocessor, the Supplier shall:
- (i) only use Subprocessors that, to the Supplier's reasonable knowledge, are capable of providing the level of protection for Customer Personal Data as is required by this Addendum in such a manner that Processing will meet the requirements of GDPR and this Addendum;
  - (ii) include terms in the contract between the Supplier and each Subprocessor which are substantially similar to those set out in this Addendum; and
  - (iii) remain liable (subject to the GDPR) for the actions of its Subprocessors as it is of its own.

## **7 DATA SUBJECT RIGHTS**

- 7.1 The Supplier agrees to reasonably and insofar as practically possible assist the Customer in the fulfilment of the Customer's obligations (as a Controller in each case) to respond to requests for exercising Data Subject rights established by the GDPR. The Supplier shall without undue delay notify the Customer if it receives a request from a Data Subject under any Data Protection Laws in respect of Customer Personal Data.
- 7.2 The Supplier agrees to reasonably and insofar as practically possible co-operate with the Customer to enable the Customer to comply with the exercise of rights by a Data Subject under any Data Protection Laws in respect of Customer Personal Data and comply with any assessment, enquiry, notice or investigation under any Data Protection Laws in respect of Customer Personal Data or this Addendum by e.g. providing the Customer with the necessary information on the Supplier's Processing of the Customer Personal Data.
- 7.3 The Customer shall reimburse the Supplier for reasonable costs incurred by Supplier while providing assistance to Customer in accordance with sections 7.1 and 7.2 above.

## **8 PERSONAL DATA BREACH**

- 8.1 Supplier shall notify the Customer without undue delay upon becoming aware of a Personal Data Breach, providing the Customer with sufficient information which allows the Customer to meet its obligations to report a Personal Data Breach under the Data Protection Laws. Such notification shall include the information required under article 33 GDPR. The information can also be provided in instalments if the Supplier cannot reasonably provide all required information at once.

- 8.2 In the event of a Personal Data Breach, the Supplier shall not inform any third party without first obtaining Customer's prior written consent, unless notification is required by Applicable Laws to which the Supplier is subject, in which case the Supplier shall to the extent permitted by such law inform Customer of that legal requirement, provide a copy of the proposed notification and consider any comments made by Customer before notifying the third party.
- 8.3 The Customer shall reimburse the Supplier for reasonable costs incurred by Supplier while providing assistance to Customer in accordance with sections 8.1 and 8.2 above.

## **9 DATA PROTECTION IMPACT ASSESSMENT AND PRIOR CONSULTATION**

- 9.1 The Supplier shall provide reasonable assistance to Customer with any data protection impact assessments which are required under article 35 GDPR and with any prior consultation to any supervisory authority of Customer which are required under article 36 GDPR, in each case solely in relation to Processing of Customer Personal Data by the Supplier on behalf of the Customer, and taking into account the nature of the Processing and information available to the Supplier.
- 9.2 The Customer shall reimburse the Supplier for reasonable costs incurred by Supplier while providing assistance to Customer in accordance with sections 9.1 above.

## **10 DELETION OR RETURN OF CUSTOMER PERSONAL DATA**

- 10.1 Following the End Date, the Supplier shall within a reasonable time period but in any case within six (6) months delete and procure deletion of all copies of Customer Personal Data Processed by the Supplier or its Subprocessor(s), unless the Supplier is required to retain the Customer Personal Data due to mandatory requirements under Applicable Laws.
- 10.2 Further to Section 10.1 above, the Customer may request the Supplier to provide a copy of the Customer Personal Data. Such Customer Personal Data shall be delivered in an electronic form commonly in use. Supplier shall have the right to charge for the collection, processing and delivery of the information in accordance with its then current price list.
- 10.3 Supplier reserves the right to use volume and statistical information relating to Service usage, provided that such information is in anonymous and aggregate format, for Service improvement, marketing purposes, creating statistics and analyses, and for other commercial purposes.

## **11 AUDIT RIGHTS**

- 11.1 Upon request, the Supplier agrees to make available to Customer the information necessary to demonstrate compliance with this Addendum and allow for and contribute to audits, including inspections by Customer or a third party auditor approved by Supplier where such approval may not be unreasonably upheld, and agreed by both Parties of the Supplier's premises where the Processing of Customer Personal Data takes place in order to assess compliance with this Addendum. The Supplier shall permit Customer or its mandated auditor to inspect, audit and copy the Supplier's relevant records, and to inspect and audit processes and systems. The Supplier agrees to co-operate in respect of such audit. All audits by the Customer or a mandated auditor are subject to a thirty (30) days' prior written notice.
- 11.2 Unless otherwise agreed between the Parties, the Customer is allowed to conduct one (1) audit in every twelve (12) months. Any audit must be conducted during normal business hours and in a

way that does not cause substantial disturbance to Supplier's business operations. Customer shall bear all costs for such audit, unless the audit reveals that the Supplier has committed a substantial breach of this Addendum, in which case Supplier shall bear the audit costs.

- 11.3 The Customer also has the right to request and receive the information and material strictly necessary for regulatory supervision, auditing, or internal risk management and supervision relating to Customer's operations from the Supplier. This includes allowing audits at the Supplier's premises used for Processing Customer Personal Data performed by Supervisory Authorities or auditors. The Supplier shall ensure that its Subcontractors are likewise obligated to give necessary information and material and allow audits as stated above.

## **12 TRANSFERS**

- 12.1 The Customer accepts that Supplier may have Personal Data processed and accessible by Supplier or its subprocessors outside the European Economic Area ("EEA") to provide the Service. If personal data is transferred from the EEA for processing in any country outside the EEA that is not recognized by the European Commission as providing an adequate level of protection for personal data, the Customer authorizes Supplier to enter, on behalf of and in the name of the Customer, into the Standard Contractual Clauses adopted or approved by the European Commission applicable to processing outside the EEA, or Supplier shall provide for other appropriate safeguard for the protection of the personal data transferred outside the EEA as set out in the GDPR.

## **13 LIABILITY**

- 13.1 Each Party's liability for the damages incurred by any Data Subject in connection with the Processing of Customer Personal Data under the Agreement shall be defined in accordance with article 82 of the GDPR, or another corresponding and applicable provision of compulsory Data Protection Laws.
- 13.2 The Supplier shall not be liable for any indirect or consequential loss or damage caused in connection with this Addendum or the Agreement. Otherwise, the liability terms of the Agreement shall apply to Processing of the Customer Personal Data by the Supplier on behalf of the Customer.

## **14 GENERAL TERMS**

- 14.1 The Parties agree that this Addendum shall terminate automatically upon (i) termination of the Agreement; or (ii) expiry or termination of all service contracts, statements of work, work orders or similar contract documents entered into by Supplier with Customer pursuant to the Agreement, whichever is later.