

MIKUJY | SaaS Terms and Conditions

These general terms and conditions (**GTC**) form, together with any subscription plan referring to these GTC (**Subscription Plan**) and any annex thereto (**Annex**), a contract (**Contract**) between MIKUJY Sàrl (CHE-230.585.233), Espace de l'Europe 2, c/o Microcity SA, 2000 Neuchâtel, Switzerland (the **Service Provider**) and any customer designated in a Subscription Plan (the **Customer**, and together with the Service Provider, the **Parties**).

1. Scope and acceptance

- 1.1. **Scope.** These GTC govern the rights and obligations of the Customer with regard to the provision by the Service Provider and the access and use by the Customer of the solution specified in the Subscription Plan for the Platform service subscribed to by the Customer (the **Solution**) and the services provided in this context (together with the provision of the Solution, the **Services**), with the features, modules, and limitations specified in the Subscription Plan.
- 1.2. **Categories of Users.** The Solution may be used by several categories of users, namely: (i) the Customer and (ii) the Customer's employees authorized by the Customer to use the Solution (collectively, the **Users**). Unless otherwise specified, these GTC apply to all categories of Users.
- 1.3. **No Other Obligations.** The Provider has no obligation to provide any services or software that are not specified in these T&Cs or a Subscription Plan signed by the Parties.
- 1.4. **Acceptance.** By subscribing to use the Solution, or by connecting to it, the Customer expressly agrees to be bound by these T&Cs.

If the Customer is a legal entity, any subscription for the use of the Services by one of its employees, agents, or representatives on behalf of the Customer shall be deemed to constitute acceptance of these T&Cs by the Customer.

2. Right of access and use

- 2.1. **In general.** Subject to the Customer's compliance with all of its obligations, in particular the payment of Fees in accordance with Art.9 , the Service Provider grants the Customer, during the Term of the Agreement, a revocable, non-exclusive, and non-transferable right to access the Solution, as well as the content made available by the Service Provider on the Solution or generated by its use (the **Content**), and to use them in strict compliance with the Contract and the documentation provided by the Service Provider, , for its own account and for its own internal needs only.
- 2.2. **Means of Access.** Access to the Solution is provided via a URL address communicated upon conclusion of the Contract.
- 2.3. **Account Creation.** Customers wishing to enter into a contract with the Service Provider must

first complete a form containing the information necessary to establish the contractual relationship. Upon receipt of this form, the Service Provider will contact the Customer to arrange for a Subscription Plan. A user account will then be created for the Customer. The Customer guarantees that the information provided in this context is accurate and true.

- 2.4. **Authorized Users.** Within the limits of the Subscription Plan, the Customer shall use the Solution and the Content solely through its own employees, agents, and/or representatives who have a user account (the **Authorized Users**), and shall take appropriate measures to ensure that its Authorized Users comply with the Agreement. The Customer is not authorized to use the Solution and/or Content on behalf of or for the benefit of third parties, or to sublicense them to third parties without the express prior written consent of the Service Provider. Users must comply with the following conditions:
 - (a) For the Customer. The Customer shall use the Solution and the Content for its own professional needs only, and shall take appropriate measures to ensure compliance with the GTC by its employees
 - (b) For the Customer's employees authorized by the Customer to use the Solution. The Customer's employees authorized by the Customer to use the Solution must use the Solution and the Content strictly on behalf of the Customer to which they are affiliated, and must comply with the instructions of the Customer to which they are affiliated in relation to all uses of the Solution.
- 2.5. **Types of users.** Within the limits specified by the Subscription Plan and upon signing the Agreement, the Service Provider may create the following accounts for the Customer:
 - (a) A Company account;
 - (b) One or more Authorized User accounts;
 - (c) A Client Administrator account for the purpose of managing the other Authorized User accounts associated with the Client.
- 2.6. **Metrics.** The rights granted by the Service Provider on the Solution and the Content may be limited according to certain criteria defined in the Subscription Plan or the documentation provided by the Service Provider, including the number of simultaneous or named users, the number of Enterprise accounts, the number of production

- environments/instances that may be used/operated, etc. (**Metrics**), which the Customer undertakes to comply with.
- 2.7. Trial license. At the Customer's request and subject to acceptance by the Service Provider, the Solution and Content may be made available free of charge for a limited period of 30 days, subject to restrictions on access to a *FreeTrial* environment, for the sole purpose of evaluating the Solution with a view to acquiring a full license, to the exclusion of any commercial use (the Trial License).
- 2.8. Limited Licenses. Provided that this is specified in the Subscription Plan, and always subject to the Customer's compliance with all other terms and conditions of these GTC, the Service Provider may make the Solution available in the form of limited licenses, subject to the following additional terms and limitations:
- (a) Free Access. The Provider may offer free access to the Solution, but its features, functionality, and volume levels may be limited (**Free Plans**). The Provider may modify the Free Plans at any time, at its sole discretion, or even discontinue them completely without notice to the Customer.
- (b) Beta Services. From time to time, the Provider may make *Beta Services* available to the Customer at no additional charge. **Beta Services** are new or different services, or features thereof, made available to customers for testing and evaluation purposes, such as a pilot, limited release, early access, etc., and are clearly designated as beta or by a similar description. The Customer may choose to use these Beta Services, but is under no obligation to do so. Beta Services are intended for testing and evaluation purposes and not for production use, are not fully supported, and may be subject to additional terms and fees that may be presented to the Customer. Beta Services are provided "as is" and "as available" without any warranty, support, maintenance, storage, service level agreement, or indemnification obligation of any kind, which are hereby excluded notwithstanding any other provision in the Agreement. All restrictions and obligations of the Customer in the Agreement apply equally to Beta Services. The Provider may discontinue Beta Services at any time, at its sole discretion, and/or never make them generally available.
- 2.9. No Delivery and Access. The Solution is provided as a Software as a Service (SaaS) offering; therefore, the Provider grants the Customer only a right to access and use the Solution and does not deliver any copy of the Solution .
- 2.10. Developments. If, as part of the Services, the Provider customizes, develops, or makes available additional features of the Solution, or provides patches, bug fixes, updates, or upgrades to the Solution and/or the Content, such modifications shall automatically become part of the Solution, unless otherwise specified by the Provider.
- 2.11. Modifications, suspension, and deletion. The Customer acknowledges that the Service Provider may make changes to the Solution or the Content, which may include changes to the layout or functionality of the Solution, and may remove any Content or modify the functionality of the Solution. The Services may also be suspended in the event of force majeure, cyberattack, or any other event that jeopardizes the security of the Services. Finally, the Provider reserves the right to terminate the Services, subject to a refund of any Fees already paid by the Customer.
- 2.12. Account closure. The Customer may request the closure of their accounts at any time. The closure will take place within two (2) business days of the Customer's request, or on the specific date requested by the Customer.
- ### 3. Login details
- 3.1. Login details. If the Service Provider provides, or if Users themselves have defined, personal login details, these details must be used exclusively by the authorized individual Users for whom they were issued, on behalf of the Customer. If the login details are provided without specifying a specific user, they may be used by any Authorized User, again solely on behalf of the Customer.
- 3.2. Confidentiality. Each login ID and password is personal, individual, confidential, and non-transferable, so the Customer agrees to do everything possible to keep this data secret and not disclose it in any form to anyone other than the User of the Services. The Customer must immediately inform the Service Provider of any loss or unauthorized disclosure of these, which will then be deactivated and replaced by the Service Provider. The Service Provider may charge a fee for the replacement of any login. The Customer must also immediately inform the Service Provider if a named user for whom the Service Provider has issued a login leaves the Customer's organization.
- ### 4. Availability, maintenance, and other services
- 4.1. Availability. The Service Provider shall endeavor to maintain the availability of the Solution and the Content, without however guaranteeing their total availability, on the basis of an obligation of means.

4.2. Hosting. The Services are hosted by a third-party provider. The Service Provider reserves the right to use other providers for this purpose.

4.3. Maintenance Services. As part of the provision of the Solution, the Service Provider undertakes to provide maintenance services for the Solution in order to identify and resolve any problems that may adversely affect its proper functioning and availability (**Maintenance Services**). These Maintenance Services include repairs (correction of defects and errors to restore functionality) and maintenance (maintenance to maintain functionality).

Although the Service Provider continuously improves the Solution and the Content, the Customer may not claim, within the framework of the Maintenance Services, any development, adaptation, or improvement services (evolutionary maintenance), or additional Services (which may be provided under Art.4.6). The Service Provider will take into consideration any requests for upgrades made by the Customer, but does not commit to implementing them.

4.4. Maintenance windows. The maintenance and technical support service is usually available between 9 a.m. and 6 p.m. CET. The Service Provider reserves the right to change these hours and will inform the Customer accordingly.

4.5. Service suspension. For technical reasons, and in particular to carry out maintenance operations, the Service Provider may temporarily interrupt the operation of the Solution, subject to two (2) days' notice. The Service Provider will endeavor to carry out such interruptions outside office hours (9 a.m. to 6 p.m. CET).

4.6. Additional services. The Service Provider undertakes to provide assistance to the Customer for the Solution (**Support**), if and to the extent provided for in the Subscription Plan. Such support may include, depending on the Subscription Plan:

- (a) One or more training and familiarization sessions for the Solution, the scope and duration of which are defined in the Subscription Plan;
- (b) Technical support is available between 9 a.m. and 6 p.m. CET on working days (at the Service Provider's head office) by email (support@mikujiy.com), in accordance with the instructions provided by the Service Provider. The Service Provider reserves the right to change these hours. Technical support shall not be provided in any case if: the Customer refuses to cooperate with the Service Provider; the Customer has modified the Solution's features without authorization; the need for support arises from an

incompatibility between the Solution and the Customer's equipment, or from a failure of the Customer's equipment; or the Customer has failed to fulfill its contractual obligations.

- (c) The Service Provider may also agree to provide additional Services (such as customization, development, and/or consulting services), subject to payment by the Customer of the applicable Fees and the Parties entering into an ad hoc agreement (which shall, unless otherwise specified, be governed by these GTC).

4.7. Diligence. The Service Provider shall provide the Services in accordance with best practices, exercising the care and diligence required of a specialized IT service provider. The Service Provider is bound by an obligation of means (and not of results).

4.8. Planning. The Service Provider shall use its best efforts to provide the Services within the time limits set out in the Subscription Plan. However, the agreed time limits are purely indicative, unless expressly stated to be binding.

5. Customer Obligations

5.1. Payment of Fees. Except for the Trial Licenses provided for in 2.7, the Customer must make the payments stipulated in the Subscription Plan or agreed with the Service Provider in another manner (**Fees**), in accordance with the payment terms set out in 9.

5.2. Use of the Services. The Customer shall comply with, and ensure that its Authorized Users comply with, all laws and regulations applicable to the use of the Services, as well as the terms and limitations of any license or other right granted, as set forth in the Agreement or otherwise specified by the Provider. In particular, the Customer and Authorized Users shall not, without the prior consent of the Provider, either during or after the Term of the Agreement: (i) use the Services for any unlawful purpose (ii) use the Services on behalf of or for the benefit of any third party; (iii) attempt to copy, modify, create derivative works, publish, transmit, distribute, make available, or otherwise make all or part of the Services, Content, Solution, or their infrastructure available to any third party (except Authorized Users); (iv) insert any malicious software into the Solution or its infrastructure; (v) access or attempt to access the source code of the Solution, using decompilation, reverse engineering or any other means, subject to mandatory law; or (vi) use any part of the Services for the purpose of creating a competing product or service or copying their features or user interface.

- 5.3. Customer Infrastructure. The Customer must procure and maintain, at its own expense, an infrastructure that complies with the minimum requirements for use of the Solution, as specified by the Service Provider in the Solution documentation (which may be updated by the Service Provider). In particular, access to and use of the Solution can only be carried out via the internet and therefore requires a connection to that network. The Customer is solely responsible for its connection to said network and assumes all costs and risks that may be incurred in this regard.
- 5.4. Licenses and authorizations. The Customer is required to obtain and maintain the necessary authorizations for its use of the Services.
- 5.5. Verifications. The Solution may contain tools enabling the Service Provider to verify the Customer's compliance with these T&Cs, including, in particular, verification of the number of active users and the duration of use of the Solution. The Service Provider has the right to temporarily or permanently suspend access to the Services and/or deactivate any ID issued for their use in the event of non-compliance with these GTC.
- 5.6. Audits. In addition, the Service Provider has the right to verify the Customer's compliance with the Agreement once a year during normal business hours. The Customer agrees to provide, free of charge, all assistance and information necessary for the purposes of such an audit. If an audit reveals that the Metrics or any other limitation specified in the Agreement have been exceeded, the Customer shall pay the Service Provider, upon request, the difference between the Fees actually paid and the Fees that should have been paid for its actual use of the Services, including for support and maintenance services, if applicable, plus interest at 5% from the first time the Metrics are exceeded. In this case, the Customer shall also pay the costs incurred for the audit. The right of termination provided for in Art.16.4 shall also apply.
- 5.7. Customer Default. In the event of a breach by the Customer of its obligations under the Agreement, the Service Provider shall be excused from performing its obligations under the Agreement and shall not be liable in this regard (without prejudice to the Service Provider's other rights under this Agreement).

6. Customer Content

- 6.1. Customer Content. The Customer and its Authorized Users may provide documents, information, and other data through their use of the Solution. (**Customer Content**).
- 6.2. Ownership. Subject only to Art.7.1 , as far as the Parties are concerned, the Customer Content is

and remains the exclusive property of the Customer, and nothing in these GTC shall be construed as a transfer of ownership of the Customer Content to the Service Provider.

- 6.3. Use of Customer Content. The Customer grants the Service Provider the non-exclusive, worldwide, royalty-free, and irrevocable right to use Customer Content for the sole and exclusive purpose of providing or improving the Services, including for the collection, processing, storage, use, generation, anonymization, modification, creation of derivative works, publication, translation, sublicensing, and transfer of Customer Content to third parties, as well as for training algorithms through the use of Customer Content, solely to the extent necessary to provide or improve the Services. For the sake of clarity, it is specified that the Service Provider will not sell or otherwise commercialize Customer Content, with the exception of anonymized Customer Content.
- 6.4. Warranty. The Customer warrants (i) that it has the necessary rights and, if applicable, that it has obtained all necessary authorizations and consents for the Service Provider to process the Customer Content in accordance with the Agreement, and (ii) that the Customer Content does not violate any applicable law or regulation, these GTC, or infringe upon any third-party rights. The Service Provider may remove any Customer Content that it considers to be in violation of this warranty.
- 6.5. Deletion and return of Customer Content. During the term of the Agreement, the Customer has access to its Customer Content and may delete it directly. The Service Provider reserves the right to retain Customer Content on the platform for a period of two (2) years after the termination or non-renewal of the Agreement. Customer Content may be used in anonymous form by the Service Provider for the purposes set out in Art.6.3 . Customer Content shall remain available in the Solution for two years in the event of subsequent reactivation of the Customer's account, before being permanently deleted from the Solution.

7. Intellectual property of the Service Provider

- 7.1. In general. As far as the Parties are concerned, the Service Provider is and remains the exclusive owner of all rights and prerogatives, whether registered or not, arising from Swiss legislation or any other national or international legislation, on copyright, databases, trademarks, domain names, designs and patents, know-how, confidentiality and/or trade secrets, and all other intellectual property or similar rights of any kind (**Intellectual Property Rights**) in the Solution, any Development, the Content and the Services provided , with the sole exception of Customer

Content. Nothing in these Terms and Conditions shall operate as an assignment or transfer of Intellectual Property Rights to the Customer.

- 7.2. Usage data. Furthermore, the Service Provider owns the rights to, and may freely use for any purpose (including, without limitation, for data mining, comparative analysis, or for the development and marketing of new services), all data or information (i) collected from cookies or other tracking and analysis technologies present on the Solution (including all tracking data related to user traffic), (ii) relating to access to and use of the Solution by the Customer and its Authorized Users or other Users, including the number and duration of visits to the Content, and (iii) provided that reasonable efforts are made to remove any reference to the Customer and any identifiable person. (**Usage Data**).
- 7.3. Notification of infringements. If the Customer becomes aware of an infringement or imminent risk of infringement of any Intellectual Property Rights relating to the Services, it must immediately notify the Service Provider and provide it with all relevant information about such infringement or risk of infringement. The Service Provider shall have sole discretion to decide on any action to be taken. The Customer shall provide the Service Provider, at its own expense, with all assistance reasonably required by the Service Provider to protect its Intellectual Property Rights, in accordance with the Service Provider's instructions.
- 7.4. Third-party claims. If a third party asserts claims against the Customer or the Service Provider in connection with an infringement of its Intellectual Property Rights related to the use of the Services by the Customer and its Authorized Users, or if the Service Provider has reason to believe that a third party may assert such rights, the Service Provider may, at its discretion, without being under any obligation to do so, (i) acquire the necessary rights to enable the Customer to continue using the Services concerned, in accordance with this Agreement; (ii) change the Services concerned in such a way that they do not infringe or no longer infringe the rights of the third party concerned; (iii) replace the Services concerned at any time with other reasonably equivalent software or services; or (iv) withdraw the Customer's rights to access and use the Services concerned, in which case the Service Provider shall reimburse the Customer for any fees already paid in connection with the Services concerned (provided that no fault can be attributed to it and subject to deduction of the usual depreciation during the period of use) and this Agreement shall terminate in relation to the Services concerned only. Any liability on the part of the Service Provider is excluded if the claims

of third parties are related to the actions or inaction of the Customer or third parties.

- 7.5. Remedy. The Customer expressly acknowledges that any violation of the Service Provider's Intellectual Property Rights is likely to cause irreparable harm to the Service Provider, for which damages alone would be insufficient, and that the Service Provider may therefore seek provisional measures or any other legal remedy available in any jurisdiction.

8. Third-party content

- 8.1. General. The Services may contain content and/or software components incorporated into or provided with the Services that are developed, distributed, and/or licensed by third parties. In such cases, the license terms relating to such third-party content shall apply in addition to the Agreement, and the Customer agrees to comply with them. The Service Provider shall endeavor to identify any Third-Party Content in the documentation for the Services.
- 8.2. Open source licenses. Nothing in these T&Cs shall have the effect of restricting, limiting, or affecting in any way the rights or obligations that the Customer may have, or the conditions to which it may be subject, under the *open source* licenses of the components provided with the Services.

9. Financial Terms

- 9.1. Fees. Fees stipulated as a one-time flat fee and/or recurring amounts must be paid in advance and are non-refundable in the event of termination of the Agreement. The Subscription Plan may provide for different payment terms. Unless otherwise specified in the Subscription Plan, Fees for Services provided on a time and materials basis or arising from the Customer's use of the Services must be paid within 30 days of the date of issue of the invoice sent to the Customer.
- 9.2. Taxes. Fees and other amounts due under the Agreement are exclusive of all taxes and duties, including VAT, which are the sole responsibility of the Customer.
- 9.3. Payments. Amounts due to the Service Provider shall be paid by credit card or bank transfer to the Service Provider's bank account, or by direct debit from the Customer's account, to the account indicated to the Customer. In the event of payment by credit card, the Customer authorizes the card issuer to pay all amounts and authorizes the Service Provider (or its billing agent) to debit the credit card account until the Contract is terminated in accordance with these GTC. The Customer must provide current, complete, and accurate billing and credit card information. The Customer agrees to pay all collection costs, including administrative fees and attorneys' fees,

on any unpaid balance. In some cases, the bank or credit card issuer may charge foreign transaction fees or related fees, which the Customer shall be responsible for paying.

- 9.4. Delay. In the event of non-payment of an invoice by its due date, the Service Provider may charge interest at a rate of 8% from the first day of delay, in addition to a fixed collection fee of 40 Swiss francs per unpaid invoice.
- 9.5. Suspension of Services. The Customer's continued use of the Services is subject to timely payment of all Fees. Any delay in payment exceeding 30 days may result in the temporary termination of the Services or the suspension of any right to access or use the Solution and/or any login credentials issued to the Customer, if applicable.
- 9.6. Compensation. The compensation of claims requires the prior written consent of the Service Provider.
- 9.7. Modifications. The Service Provider may modify the Fees with 2 months' notice, in which case the modifications shall automatically take effect from the next Renewal Period, unless terminated by the Customer in accordance with Art.16.3 . If the Customer's subscription model is no longer available, the subscription will be automatically converted to a subscription under the closest existing subscription model as of its Renewal Period, as indicated by the Provider in its notification to the Customer.
- 9.8. Legacy Plans. The Provider reserves the right to discontinue certain Subscription Plans, in which case it will use reasonable efforts to continue to support them until the end of their current term. Notwithstanding the foregoing, the Provider reserves the right to discontinue support for Subscription Plans that have been withdrawn at any time.

10. Data Protection

- 10.1. Principle. If the provision of the Services involves the processing by the Service Provider of (i) any personal data transmitted by the Customer or the Customer's Authorized Users (**Customer Personal Data**), in particular with Customer Content, or (ii) personal data relating to Usage Data (**Usage Personal Data**), the Service Provider and the Customer shall fully comply with their respective obligations under applicable data protection laws and regulations.
- 10.2. Roles of the Parties. In this case, the Service Provider shall process the Customer's Personal Data (i) as a processor, exclusively for the purposes agreed in these GTC and only to the extent necessary to fulfill the obligations set forth herein, in accordance with the instructions of the Customer, who acts as the controller; and

(ii) for its legitimate business operations related to the provision of the Services. The Service Provider processes Personal Data of use as the sole controller of such data.

- 10.3. Nature and purpose. When acting as data controller, the Service Provider processes the Customer's personal data for the following purposes: verification, identification, and authentication of data transmitted by the customer; user account management; and management of any disputes with third parties. It may process any personal data necessary for these purposes, including any identification and contact data.
- 10.4. Cookies. In order to provide the Solution, the Service Provider uses cookies that process the Customer's preferences for using the Solution. The data collected in this way is stored for a period of six months.
- 10.5. Obligations of the Service Provider. The Service Provider undertakes to comply with Swiss data protection legislation. If the European General Data Protection Regulation (GDPR) is applicable, the Service Provider further undertakes to comply with the obligations set out in Articles 28 and 29 of the GDPR.
- 10.6. Obligations of the Customer. The Customer is responsible in particular for the quality, lawfulness, and relevance of the Customer's Personal Data processed in connection with the Services and is liable to third parties affected by the processing and to the competent data protection authorities. In particular, the Customer undertakes to:
- (a) have valid grounds for processing the Customer's Personal Data in connection with the Services, in particular by obtaining the valid consent of the data subjects for the processing of their personal data, if such consent is required under applicable data protection legislation; and
 - (b) provide sufficient information to the persons concerned regarding the collection and processing of their personal data.
- 10.7. Responsibility. The Customer is solely responsible for the processing of the Customer's Personal Data, if any, in connection with the Services. The Customer confirms that the Service Provider may consider any processing of the Customer's Personal Data in connection with the Services, as well as any instructions from the Customer, to be in compliance with applicable data protection laws and regulations.
- 10.8. Communication. The Service Provider may be required to disclose personal data to third parties in the following cases, in particular where required by law or if the Service Provider is involved in a merger, acquisition, or asset sale.

- 10.9. Transfer. By accepting the GTC, the Customer expressly acknowledges and agrees that the Customer's Personal Data or Personal Usage Data may be transferred and processed on servers located outside Switzerland, including potentially in countries that do not have data protection regulations deemed equivalent to those of Switzerland.
- 10.10. Requests and inquiries. The Service Provider may forward to the Customer any request, inquiry, or other action from any supervisory authority and/or third party (including data subjects) directed at the Service Provider and concerning the processing of any of the Customer's Personal Data, and the Customer shall be responsible for responding to such requests. If the Service Provider is required to take action itself, for example to respond to any request from any supervisory authority or third party, or to cooperate in investigations, and/or to provide assistance to the Customer, the Customer shall fully indemnify the Service Provider for such actions and the internal and external costs, including reasonable attorneys' fees, incurred in this connection. Requests, inquiries, or actions relating to Personal Data of Use shall be handled exclusively by the Service Provider.
- 10.11. Ad hoc DPA. The Parties may agree in a separate agreement or other document on specific provisions concerning the processing of the Customer's Personal Data in connection with the Services, in which case such provisions shall prevail over and supersede the provisions of this Article10 .

11. Confidentiality

- 11.1. Definition. For these GTC, "**Confidential Information**" means any information disclosed by one of the Parties (depending on the context, the **Disclosing Party**) to the other (depending on the context, the **Receiving Party**), directly or indirectly, in writing or orally, that is designated as "confidential," "proprietary," or any other similar designation, or that may reasonably be considered to be of a confidential nature. Confidential Information includes the contents of the Agreement (but not the fact that the Parties are collaborating), all information about the Disclosing Party's activities and operations, and more generally all information relating to the Disclosing Party or held or controlled by it, which the Receiving Party becomes aware of in the course of performing the Agreement. The Solution, Content, Services, and all Usage Data are considered Confidential Information and the sole property of the Service Provider, with the Service Provider acting as the Disclosing Party with respect thereto. Confidential Information does not, however, include any information that: (i) was publicly available without restriction prior to disclosure by the Disclosing Party; (ii) becomes publicly known without restriction after disclosure by the Disclosing Party without any action or inaction on the part of the Receiving Party; (iii) is already in the possession of the Receiving Party at the time of disclosure by the Disclosing Party, as evidenced by the Receiving Party's files, records, and/or other evidence immediately prior to the time of disclosure; (iv) is obtained by the Receiving Party from a third party without breach of that third party's confidentiality obligations; or (v) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information, as evidenced by the Receiving Party's records.
- 11.2. Confidentiality Obligation. The Receiving Party agrees not to, and to cause its employees, agents, subcontractors, or representatives to refrain from (a) disclosing, selling, licensing, transferring, or making available to any person or entity the Confidential Information of the Disclosing Party, except to its employees, agents, subcontractors, or representatives who have a legitimate need to know such Confidential Information for the performance of the Receiving Party's obligations under the Agreement (and only to that extent), and/or (b) use, reproduce, or copy the Disclosing Party's Confidential Information, except as and to the extent necessary for the performance of the Agreement. Disclosure of the Client's Confidential Information to a third party with the Client's consent is permitted.
- 11.3. Ownership and Returns. With respect to the Parties, the Disclosing Party is and shall remain the exclusive owner of all Intellectual Property Rights relating to the Confidential Information. Upon termination of the Agreement or at any time upon request by the Disclosing Party, the Receiving Party shall return all copies of documents and media containing the Disclosing Party's Confidential Information.
- 11.4. Compliance. Nothing in the Agreement shall prevent the Service Provider or the Customer from complying with applicable laws. The Receiving Party may disclose Confidential Information in connection with court orders, other judicial or administrative proceedings, or if required by law, provided that the Receiving Party promptly notifies the Disclosing Party in writing of such requirement prior to disclosure (unless it is legally prohibited from doing so) and takes reasonable steps to protect the Confidential Information from disclosure, and provided also that such disclosure is limited to the minimum necessary to comply with the legal requirement .
- 11.5. Damages. The Customer acknowledges that a breach of its confidentiality obligation may cause

irreparable harm to the Service Provider, which may not be adequately compensated in the form of monetary damages. Accordingly, the Service Provider may seek and obtain injunctive relief in the event of a breach or threatened breach of the above commitments, in addition to any other rights available to the Service Provider.

- 11.6. Feedback. The Service Provider has not agreed and does not agree to treat as confidential any Feedback (as defined below) that the Customer provides to the Service Provider, and nothing in the Agreement limits the Service Provider's right to use, profit from, disclose, publish, keep secret, or otherwise exploit the Feedback, without any obligation to compensate or credit the Customer. ("**Feedback**" means any suggestion or idea for improving or modifying the Services or other products or services of the Service Provider in any way).

12. Marketing and Advertising

The Service Provider may refer to the Customer as a customer of the Service Provider for the Services, and the Customer grants the Service Provider a limited license to use its name, logos, and trademarks for the sole purpose of referring to them in connection with its marketing activities.

13. Service Provider Warranties

- 13.1. The Services (including, for clarity, any Development, the Solution, and the Content) are provided "as is" and "as available." To the fullest extent permitted by law, the Service Provider makes no warranties regarding them, whether express, implied, or statutory, including any warranty of quality, fitness for a particular purpose, quiet enjoyment, and non-infringement of third-party rights. In particular, the Service Provider does not warrant that the Services will meet the Customer's requirements, that their operation will be uninterrupted or error-free, that any errors will be corrected, that it will ensure the continued compatibility of the Services with all third-party products, even if they were compatible at a given time, that the Services will always be available and remain available without modification, or that certain subscription models available at a given time will still be available at the end of the applicable subscription period.

14. Liability of the Service Provider

- 14.1. Principle. To the fullest extent permitted by law, the Service Provider is exempt from any liability resulting in particular from any faults, errors, or omissions on the part of the Service Provider—except in cases of fraud or gross negligence on the part of the Service Provider—as well as any faults, errors, or omissions on the part of its subcontractors, causing any direct or indirect

damage to the Customer. In particular, without prejudice to the generality of the foregoing, to the extent permitted by law, the Service Provider declines all liability for simple negligence as well as for any indirect, intermediate, and/or consequential damages to the Client and/or third parties, whether foreseeable or not, or whether or not the Service Provider was informed of the risk involved – including, in particular, lost profits, commercial or reputational damage, loss of turnover or profit, loss of customers, loss of an opportunity or fortuitous event, the cost of obtaining a substitute product, service, or technology, as well as the loss, damage, or corruption of data—in connection with or arising from the non-performance or faulty performance of any Service or other provision by the Service Provider, regardless of the nature of the action or damage.

- 14.2. Use of the Internet. Use of the Internet involves risks, including the risk that transmitted data may be intercepted, modified, or deleted. By using the Services, the Customer accepts these risks. The Service Provider declines all responsibility in this regard.

- 14.3. Use of the Services. Use of the Services is entirely at the Customer's risk, and the Service Provider expressly disclaims any warranty regarding the Customer's use of the Services and/or any decision made by the Customer based on information obtained from its use of the Services. Furthermore, the Service Provider shall not be liable for any damages arising from the Customer's use of the Services in a manner contrary to the Agreement or the Documentation or in an unlawful manner.

- 14.4. 4 . The Service Provider shall not be liable in any way if the Customer fails to apply or misapplies the advice provided by the Service Provider in connection with technical support and maintenance as described in the section above.

- 14.5. Limited Amount. In no event shall the Service Provider's total liability during any 12-month period exceed the amount of Fees actually paid by the Customer for the Services during the 12-month period preceding the damaging event, to the extent that such limitation is permitted under applicable law.

- 14.6. Auxiliaries. The exclusions and limitations provided for in this Article 14 extend to the Service Provider's directors, officers, employees, representatives, subcontractors, and auxiliaries.

15. Indemnification

- 15.1. Indemnification. The Customer agrees to defend, hold harmless, and indemnify the Service Provider, its directors, officers, employees, and agents from any liability, loss, cost, damage, or expense, including reasonable attorneys' fees,

resulting from (i) the Client's use of the Services other than in the manner authorized by these GTC and in strict compliance with any documentation provided for the Services; or (ii) the Service Provider's use of any Client Content in a manner consistent with these GTC.

- 15.2. Indemnification Procedures. In the event of any claims or proceedings brought against the Service Provider, its directors, officers, employees, or agents in connection with the Customer's use of the Services or the Service Provider's use of the Customer Content, the Service Provider shall (i) notify the Customer without undue delay; and (ii) allow the Customer to assist the Service Provider in the defense and settlement of such claims or proceedings with counsel of its choice and at its own expense, if and as permitted by applicable rules of procedure.

16. Term and Termination

- 16.1. Effective Date. The Agreement shall become effective upon the occurrence of the first of the following events: the Customer's subscription to use the Solution or the first use of the Services.
- 16.2. Term. The Agreement is entered into for the initial term specified in the Subscription Plan or by any other appropriate means by the Service Provider, and in the absence of a specified term, for an initial term of 12 months from its entry into force in accordance with Article 16.1 above, subject to its termination in accordance with this Article 16 (the **Initial Term**).
- 16.3. Renewal. The Subscription Plan is automatically renewed upon expiration of the Initial Term, or the current renewal period (each being a **Renewal Period**, and together with the Initial Term, the **Term of the Agreement**), for a consecutive Renewal Period of the same duration as the Initial Term, subject to any provision to the contrary in the Subscription Plan or prior notification by registered letter of non-renewal by either Party with one month's notice. The notification shall be confirmed, where applicable, by the Service Provider.
- 16.4. Termination for just cause. Furthermore, the Service Provider may terminate the Contract with immediate effect in the event of a serious breach by the Customer of its obligations under the Contract (including, in particular, failure to pay invoices when due or infringement of the Service Provider's intellectual property rights), it being specified that if the Customer's breach can be corrected, at the sole discretion of the Service Provider, the Service Provider shall first give the Customer 8 days' written notice to correct such breach to the Service Provider's complete satisfaction. The Service Provider may also terminate the Contract in the event of a breach of

third-party rights or a risk of such rights being breached as a result of the Customer's use of the Services.

- 16.5. Effects of termination. In the event of non-renewal or termination of the Contract, and in addition to the consequences described elsewhere in the GTC:
- (a) the Service Provider shall cease to provide and the Customer shall cease to use the Services;
 - (b) all rights of use and access granted to the Customer hereunder (in particular under Art.2) shall automatically terminate. All access to the Solution and login details shall be deactivated and deleted;
 - (c) all Fees already paid by the Customer shall be retained by the Service Provider and shall not be refundable to the Customer. The Customer shall immediately pay all amounts owed to the Service Provider.

After the termination of the Contract, the provisions relating to limitation of liability, confidentiality, data protection and payments, as well as other provisions which, by their nature, are intended to remain in force, shall survive.

- 16.6. Reversibility. From the date of termination of the Contract, for any reason whatsoever, the Service Provider undertakes to return or destroy, free of charge, at the Client's discretion, and at the Client's first request made by registered letter with acknowledgment of receipt, all data belonging to the Client.

17. Miscellaneous

- 17.1. Independence. The Parties are independent of each other, and neither Party has the right or authority to bind or obligate the other. Nothing in the Contract shall be construed as creating an employment contract or a simple partnership agreement between the Parties.
- 17.2. Subcontractors. The Service Provider may use subcontractors to provide the Services. The use of subcontractors by the Service Provider does not release it from its obligations hereunder, which are imposed on the subcontractors.
- 17.3. Force Majeure. Neither Party shall be deemed to be in default if the performance of its obligations (except for its payment obligations), in whole or in part, is delayed or prevented as a result of a force majeure event such as a natural disaster of particular intensity, war, epidemic, riot, strike, hacking or power or Internet network failure, or any other cause reasonably beyond its control. The defaulting Party must notify the other Party of the occurrence of the situation within five business days of its occurrence. The defaulting Party shall take all necessary measures to eliminate the cause of the delay and to resume its

activities as soon as the force majeure situation has ceased. If the force majeure situation continues for more than fifteen days from the date of notification, each Party shall be entitled to terminate the contract without the possibility of claiming damages. Termination shall take effect upon receipt of the registered letter announcing it. In the event of termination by the Customer, all amounts due up to the date of termination must be paid to the Service Provider.

- 17.4. **Modification.** The Service Provider reserves the right to modify these GTC or to modify the pricing of the Services. The Service Provider shall inform the Customer in advance, by email or by any other appropriate means, of any significant changes to the terms and conditions before they come into effect. The Customer's continued use of the Service after such notification shall constitute acceptance of the GTC as modified.
- 17.5. **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties and supersedes all prior representations, understandings, or agreements that the Parties may have made in connection with its subject matter.
- 17.6. **Hierarchy.** In the event of any inconsistency or contradiction between the provisions of the GTC and those of any other contractual document (such as the Subscription Plan, the End User Documentation, or any Appendix), the GTC shall prevail, subject to any exceptions, deletions, or additions contained in such document, citing the articles of these GTC that are modified. In the event of a translated version, the French language version of these GTC shall prevail.
- 17.7. **Severability.** If any provision of the Agreement is found to be invalid or unenforceable for any reason, the Parties shall replace it with a provision that produces legal and economic effects as close as possible to those of the invalid provision. In any event, the remainder of the Agreement shall remain in full force and effect and shall continue to bind the Parties.
- 17.8. **Electronic form.** The terms "signature," "sign," and other similar terms in the Agreement are deemed to include unqualified electronic signatures (including Docusign or any other equivalent electronic signature provider), which have the same legal effect, validity, and probative force as a handwritten signature. Furthermore, the term "in writing" and other similar terms include communications by email or other electronic format.
- 17.9. **No waiver.** The failure of a Party to exercise a right conferred upon it by the Agreement, or any delay in exercising such right, shall not be deemed a waiver of that right and shall not prevent or restrict the subsequent exercise of

that right or any other right conferred upon it by the Agreement.

- 17.10. **Assignment.** Neither Party may assign or transfer all or part of its rights and obligations under the Contract to a third party without the prior written consent of the other Party; however, the Service Provider may assign and transfer all of its rights and obligations under the Contract to any third party acquiring all or substantially all of its activities related to the Services and/or the Solution, without the Customer's consent.
- 17.11. **Third Parties.** Subject to Article 15 of the GTC, the Contract is binding only on the Parties (and their respective successors and legal representatives) and applies only for their benefit. The Contract does not have the purpose or effect of conferring any rights, benefits, or remedies of any kind on any third party.
- 18. Applicable law and jurisdiction**
- 18.1. **Applicable Law.** The Contract and the provision of the Services are governed by Swiss substantive law, to the exclusion of its conflict of law rules.
- 18.2. **Jurisdiction.** Any dispute relating to the Agreement or the Services shall be subject to the exclusive jurisdiction of the Commercial Court of Neuchâtel, Switzerland. Notwithstanding the foregoing, nothing in these GTC shall prevent the Service Provider from seeking provisional measures or any other legal remedy available in any jurisdiction in the event of a violation of its intellectual property rights or confidentiality clauses.
- 18.3. **Mediation.** In the event of a dispute concerning this Agreement, the Parties hereby agree to resort to mediation before taking legal action.

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