



slalom

LEGAL & OPEN MODEL TERMS
FOR CLOUD SLA AND CONTRACTS

Model contract for Cloud Computing

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| Editor(s): | <i>Gian Marco Rinaldi (Bird & Bird)</i> <i>Debora Stella (Bird & Bird)</i> |
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A complete version of this document including a comparison with market clauses and the rationale as to why the provided position was adopted by SLALOM is available from www.slalom-project.eu



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Contents

| | |
|--|----|
| Introduction | 4 |
| Cloud Service Agreement..... | 4 |
| Section 1: Definitions - Interpretations | 4 |
| Section 2: Provision of services..... | 8 |
| Section 3: Service levels..... | 9 |
| Section 4: Variation of the services | 10 |
| Section 5: Obligations of the Adopter..... | 11 |
| Section 6: Charges..... | 11 |
| Section 7: Service credits | 12 |
| Section 8: Intellectual property | 12 |
| Section 9: Term and termination..... | 13 |
| Section 10: Consequences of termination and expiration | 13 |
| Section 11: Confidentiality obligations | 14 |
| Section 12: Warranties and liability..... | 16 |
| Section 13: Indemnification | 18 |
| Section 14: Insurance obligations | 19 |
| Section 15: Suspension of services | 19 |
| Section 16: Subcontracting | 19 |
| Section 17: Data protection | 20 |
| Section 18: Force majeure | 21 |
| Section 19: Notices – Parties’ team leaders | 22 |
| Section 20: Governing law | 23 |
| Section 21: Disputes - jurisdiction..... | 23 |
| Section 22: Final provisions | 24 |
| Section 23: Attachments..... | 25 |
| Attachment 1 to the Agreement: Services Description | 25 |
| Attachment 2 to the Agreement: Service Level Agreement – Service Credits | 26 |
| Attachment 3 to the Agreement: Acceptable Use Policy (AUP) | 26 |
| Attachment 4 to the Agreement: Charges..... | 28 |
| Attachment 5 to the Agreement: Data Processing Attachment..... | 28 |
| Attachment 6 to the Agreement: Security Policy | 37 |
| Document contributors..... | 38 |
| REFERENCES..... | 39 |

Introduction

The purpose of this document is to provide a revised version of the legal model previously published by SLALOM in the light of the recommendations that have been suggested by some stakeholders through their feedback. Moreover, this document is intended to reconsider some of the legal issues addressed in the previous model due to the ongoing changes in the European legal framework occurring in the past few months, especially in the context of the Digital Single Market initiatives.

Cloud Service Agreement

The Cloud Service Agreement or CSA is the main document which sets out the terms and conditions of the contractual relationship between the Provider and the Adopter in relation to the provision of cloud services.

As we are drafting a standard set of rules, we have not considered how this CSA will be concretely completed between the parties and we do not cover in this document possible legal issues deriving from the completion of the agreement, such as the application of legislation and regulations regarding e-commerce to the sale of cloud services.

The CSA is often executed via the internet especially in the case of a public cloud with standard terms and conditions.

In the case of customized services, or a contract specifically discussed by the parties, there more likely will be hardcopy contracts which are the final result of negotiations between the parties.

For ease of reference, the proposed SLALOM model CSA has "Attachments" in the same way as with a standard hardcopy agreement. In the event of execution via the internet, the contents of the Attachments can be provided in a specific document available online (e.g. through webpages linked to in the CSA).

Section 1: Definitions - Interpretations

- 1.1 *In this Cloud Service Agreement, unless otherwise stated or unless the context otherwise requires, each capitalised term will have the meaning set out below:*
- 1.1.1 ***"Adopter"**: the organization or natural person using the Services;*
- 1.1.2 ***"Adopter Data"**: means any and all data, information and content which are i) uploaded, stored or installed by the Adopter onto the System or ii) created, realised or developed by the Adopter while using the Services, including, without limitations, data, information, software, data-base, documents, pictures, images, photographs, text, files, music, video;*
- 1.1.3 ***"Cloud Service Agreement"**: means this agreement together with its Attachments under Section 23 below;*
- 1.1.4 ***"Confidential Information"**: means any and all information or data, in whatever form or storage medium, whether tangible or intangible, and whether disclosed directly or indirectly before or after this Agreement by or on behalf of the disclosing Party (hereinafter, "Disclosing Party") to the receiving Party*

(hereinafter, "Receiving Party") in writing, orally, through visual means, or by the Receiving Party's evaluation, observation, analysis, inspection or other study of such information, data or knowledge, which is now or at any time after the Effective Date of this Agreement, owned or controlled by the Disclosing Party. Confidential Information shall include i) the Adopter Data; ii) the Charge due for the Services and any applied discount, and, iii) the trade secrets, discoveries, know how, designs, specifications, drawings, present or future products or services and markets, inventions, prototypes, algorithms, software of any kind or nature, object or machine codes, source codes, computer models and applications, developments, processes, formulae, technology, engineering, architectures, hardware configuration information, diagrams, data, computer programs, business activities and operations, customer lists, reports, studies and other technical and business information, and any other information which, by its nature, would reasonably be considered to be of a confidential nature either intrinsically or due to the context and circumstances in which it was disclosed, including, for the avoidance of doubt, information concerning the Parties' clients, which is of a confidential nature; iv) all the information under points iii) concerning or related to the Group of the Disclosing Party;

- 1.1.5 **"Charges"**: means the charges due by the Adopter under Section 6;
- 1.1.6 **"Controller" or "Data Controller"**: means the natural or legal person, public authority, organisation, agency or any other body which alone or jointly with others determines the purposes and means of the processing of Personal Data;
- 1.1.7 **"Data Protection Laws and Regulations"**: means all applicable laws and regulations of the European Union (including the European Commission Data Protection Directive 95/46/EC⁴, as amended or replaced from time to time), the European Economic Area and/or the relevant implementing law of any such member state (in particular the data protection legislation of the country where the Adopter is established to conducts the business to which the Services are related) and with respect to any other country, any applicable data protection or data privacy legislation;
- 1.1.8 **"Data Subject"**: means an identified or identifiable person to whom the Personal Data relate;
- 1.1.9 **"Documentation"**: means all and any user guides and operating or other similar manuals and/or documentation, provided in hard copy or soft copy, necessary to enable the Adopter to make full and proper use of the System or the Service;
- 1.1.10 **"Effective Date"**: means the date of enforcement of the Cloud Service Agreement, which is [to be inserted];
- 1.1.11 **"Force Majeure Event"**: means any (i) fire, flood, earthquake or natural

⁴ To be read as "General Data Protection Regulation" – GDPR – (the formal approval of the General Data Protection Regulation (2012/0011(COD)) is still pending at the date of release of this D2.2. This paper covers some of the main topics ruled under the GDPR (e.g. subcontracting, portability, personal data breaches and notifications, cooperation duties) relying on the text agreed at political level by the EU Commission, Parliament and Council of Ministers on 15th December 2015 Trilogue.

phenomena, (ii) war, embargo, riot, civil disorder, rebellion, revolution, which is beyond a Party's control, or any other causes beyond a Party's control;

- 1.1.12 **"Group"**: in relation to each Party, means that Party, its subsidiaries, its holding companies and every subsidiary of each such holding company from time to time;
- 1.1.13 **"Intellectual Property Rights"**: means all vested and future intellectual property rights including but not limited to copyright, trade-marks, design rights, patents, know-how, trade secrets, inventions, semiconductor topography rights, and any applications for the protection or registration of these rights and all renewals and extensions thereof existing in any part of the world, and all other intellectual property rights protected by any applicable law;
- 1.1.14 **"Party"**: means the Adopter or the Provider;
- 1.1.15 **"Personal Data"**: means any information relating to an identified or identifiable natural person (as defined under Directive 95/46/EC⁵, as replaced from time to time, also known as Personal Identifiable Information under other legislations). This includes information that can be linked, directly or indirectly, to a natural person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or using all means which can reasonably be used by the Data Controller or a Third Party to identify a natural person (e.g. one or more factors specific to his physical, physiological, mental, economic, cultural or social identity);
- 1.1.16 **"Processing of Personal Data"**: means any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;
- 1.1.17 **"Processor" or "Data Processor"**: means the natural or legal person, public authority, agency or any other body which processes Personal Data on behalf of the Controller and according to its written instructions;
- 1.1.18 **"Provider"**: means the organization providing the Service;
- 1.1.19 **"Provider Content"**: means any and all content made available by the Provider to the Adopter onto the System, including, without limitations, data, information, software, data-base, documents, pictures, images, photographs, text, files, music, video;
- 1.1.20 **"Report"**: means the report under Section 3.4;
- 1.1.21 **"Sales Tax"**: means any applicable national, federal, state and local sales, use, value added, excise and other similar taxes, fees and surcharges that are legally or by custom borne by a purchaser of services;

⁵ See note no. 2.

- 1.1.22 "**Services**": means the services detailed in Attachment 1 to the Cloud Service Agreement, as such Attachment may be amended from time to time in accordance with this Cloud Service Agreement;
- 1.1.23 "**Service Credits**": means an amount in euro calculated each month in accordance with Attachment 2 in respect of a failure by the Provider to meet a Service Level Objective;
- 1.1.24 "**Service Levels**": means the characteristics of the Service defined under Attachment 2 to the Cloud Service Agreement;
- 1.1.25 "**Service Level Agreement**": means the Attachment 2 to the Cloud Service Agreement;
- 1.1.26 "**Service Level Objectives**": means the target numerical value of the Service Levels set out in Attachment 2 to the Cloud Service Agreement;
- 1.1.27 "**Subcontractor**": means any Third Party appointed by the Provider to perform some activities of the Services in accordance with Section 16.1;
- 1.1.28 "**System**": means the electronic information systems comprising any one or more of hardware, equipment, software, peripherals and communications networks owned, controlled, operated and/or used by the Provider to supply the Services;
- 1.1.29 "**Term**": means the term of the Cloud Service Agreement as specified under Section 9 of the Cloud Service Agreement;
- 1.1.30 "**Third Party**": means any company, natural person, body or organization different from the Provider, the Adopter and the relevant Group;
- 1.1.31 "**Third Party Content**": means any and all content owned by a Third Party made available or provided by the Provider to the Adopter onto the System including, without limitations, data, information, software (including open source software), data-base, documents, pictures, images, photographs, text, files, music, video;
- 1.1.32 "**Users**": means those employees, agents, subcontractors, consultants (including professional advisers) of the Adopter or other Third Parties authorized by the Adopter who are entitled to use the Service;
- 1.1.33 "**Working Days**": means any day which is not a [provide the day] or a bank or public holiday in [provide the Country].

1.2 The following interpretation rules apply in this Cloud Service Agreement:

- a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- b) the attachments form part of this Cloud Service Agreement and shall have effect as if set out in full in the body of this Cloud Service Agreement. Any reference to the Cloud Service Agreement includes the attachments;
- c) a reference to a company shall include any company, corporation or other body

corporate, wherever and however incorporated or established;

- d) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;*
- e) a reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Cloud Service Agreement;*
- f) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;*
- g) a reference to writing or written includes e-mail;*
- h) any obligation on a party not to do something includes an obligation not to allow that thing to be done;*
- i) a reference to this Cloud Service Agreement or to any other agreement or document referred to in this Cloud Service Agreement is a reference to this Cloud Service Agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this Cloud Service Agreement) from time to time;*
- j) references to Sections and Attachments are to the sections and attachments of the Cloud Service Agreement or order (as applicable); references to paragraphs are to paragraphs of the relevant attachments;*
- k) any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the preceding phrase.*

1.3 If and to the extent of any conflict or inconsistency between the terms of this Cloud Service Agreement, the order of priority for the purposes of construction is, in descending order:

- a) the Sections of the Cloud Service Agreement;*
- b) the Attachments under Section 23 of the Cloud Service Agreement; and*
- c) the Annexes to any Attachment, if any.*

Section 2: Provision of services

2.1 The Provider shall make available the Services to the Adopter from the Effective Date, in accordance with the Service Level Agreement in Attachment 2 and the other terms and conditions of the Cloud Service Agreement.

2.2 The Adopter shall have the right to use the Services in accordance with the Acceptable Use Policy under Attachment 3 and the other terms and conditions of the Cloud Service Agreement.

Section 3: Service levels

- 3.1 *The Provider shall provide the Services in accordance with the Service Levels under Attachment 2 to this Cloud Service Agreement.*
- 3.2 *Where the Provider fails to fulfil the Service Level Objectives during the Term of the Cloud Service Agreement, Section 7 below shall apply.*
- 3.3 *Without prejudice to any possible rights, remedies and/or actions of the Adopter in accordance with applicable law or this Cloud Service Agreement, the Provider shall inform the Adopter, as soon as reasonably practicable, of any anticipated failure to meet any Service Level Objective and of the steps that the Provider will take (or has already taken) to prevent the failure from occurring.*
- 3.4 *Within [to be inserted] ([to be inserted]) days after the end of each month during the Term of the Cloud Service Agreement, the Provider shall provide or make available to the Adopter a Report including the following information:*
- a) applicable Service Levels;*
 - b) Service Levels Objective accomplished;*
 - c) Service Levels Objective not-accomplished;*
 - d) application of possible Service Credits, in accordance with Section 7.1 of this Cloud Service Agreement.*

[ALTERNATIVE - 3.4

- 3.4 *The Adopter shall be entitled to remotely monitor the ongoing performance of the Services having the rights to access, on a continuous basis, a Report providing the following information:*
- a) applicable Service Levels;*
 - b) Service Levels Objective accomplished;*
 - c) Service Levels Objective not-accomplished;*
 - d) application of possible Service Credits, in accordance with Section 7.1 of this Cloud Service Agreement].*

[OPTIONAL 3.5 During the Term of the Agreement and for a period of 3 (three) months following its termination or expiration, the Adopter has the right, at its expense, to have the Provider data and information relating the performance of the Services inspected by an independent auditor (the "Auditor") appointed by the Adopter, who shall be approved by the Provider (and such approval cannot be unreasonably withheld), so as to verify compliance by the Provider with the Report provided or made available. The Provider shall render all necessary assistance and cooperation to facilitate such inspection and shall make available to the Auditor exclusively all relevant files, data and information used to determine the Service Levels and shall instruct its employees to act accordingly. The Auditor shall communicate promptly to the Adopter the findings and results of his audit. The Auditor shall not communicate to the Adopter any Confidential Information resulting

from the performance of his audit but shall only notify the Parties, if or if not, his audit concludes to different Service Levels Objectives than the ones communicated in the Reports. In the event of an audit result that shows a discrepancy of more than 5% (five-per-cent) to the detriment of the Adopter, the Provider shall bear the full costs invoiced by the Auditor.]

[OPTIONAL: 3.6 The Parties shall meet 30 (thirty) days before the end of each year during the Term to review the Service Levels and the Service Level Objectives. During the review, the Parties shall examine the Reports provided by the Provider during the year in accordance with above Section 3.4. Where one Party proposes to change the Service Levels and Service Level Objectives, the other Party shall not unreasonably deny its consent to such change].

Section 4: Variation of the services

4.1 Without prejudice of following Section 4.2, the Provider shall be entitled to change the Services during the Term unless such changes determine, directly or indirectly, a reduction of the functionalities or characteristics of the Services as originally provided at the Effective Date. Save for the changes under Section 4.2 of the Cloud Service Agreement, any change to the Services determining, directly or indirectly, a reduction of the functionalities or characteristics of the Services must be agreed in writing by the Parties.

4.2 The Provider shall be entitled at any time to improve or update the Services in case of: i) improvements or updates necessary to fix defects, bugs, malfunctioning or errors of the Services; and/or ii) to cure security vulnerabilities of the System; and/or ii) the application of any new laws, regulations acts or orders of the authorities. In case the changes under this Section 4.2 determine, directly or indirectly, a reduction of the functionalities or characteristics of the Services as originally provided at the Effective Date, the Parties shall agree a fair and proportionate reduction of the due Charges.

[OPTIONAL 4.3 The Adopter shall have the right to request a change to the Service by notifying to the Provider the requested change ("Change Request"). The Provider shall respond to the Change Request within [10 (ten)] working days or such period as agreed between the Parties by submitting a written response outlining the reasons for non-acceptance or agreeing to the Change Request by a specified time together with any terms of acceptance, including a quotation for implementation of the Change Request and any potential impact on the Charges, the performance and use of the Services and on the Service Levels. Where the Provider's response requires greater understanding and discussion of the Change Request both Parties agree to deal with the matter in an expeditious and timely manner].

[OPTIONAL 4.4 Changes to the Services under above Section 4.3 shall only have validity where the authorised representatives of both Parties have agreed and signed a change order (hereinafter, "Change Order"). Following the signature by both Parties of a Change Order, this Cloud Service Agreement shall be amended to include the Services and any other terms as amended by the Change Order].

Section 5: Obligations of the Adopter

- 5.1 *The Adopter shall use the Services in accordance with the Acceptable Use Policy under Attachment 3 to this Cloud Service Agreement.*
- 5.2 *The Adopter shall take all reasonable steps to ensure all the Users observe and fully comply with the terms of the Acceptable Use Policy when using the Services.*
- 5.3 *If any User breaches any of the terms and conditions of the Acceptable Use Policy (“AUP”), the Provider shall have the right to suspend the User's access to Service such upon [two (2)] Working Days prior notice and to ask the User and/or the Adopter to remedy the breach within a reasonable timeframe. The Provider shall inform the Adopter of the above Users' breach as soon as it becomes aware of it. If the Users and/or the Adopter fail to remedy said breach within the applicable timeframe, the Provider shall have the right to (i) remove the Adopter Data infringing the AUP; and/or ii) immediately terminate the User's access to the Services without having to file a claim with the competent Court to that effect.*
- 5.4 *If the Provider has reasonable evidence of i) possible serious risks to the System or Services provoked by the Adopter Data, or ii) fraudulent or illegal activities of the Adopter, the Provider is entitled to a) immediately suspend or terminate the accesses of the Users involved and b) to remove the relevant Adopter Data. If the circumstances in points a) and b) are proven to be false, the Adopter shall be indemnified for the damages suffered for the immediate suspension of the Services.*
- 5.5 *The Adopter shall co-operate with the Provider to such extent as is reasonably practicable and necessary to enable the Provider to provide the Services.*
- [OPTIONAL 5.6 The Adopter shall be responsible for maintaining, at its care and expenses, an appropriate and periodical back-up of the Adopter Data]*

Section 6: Charges

- 6.1 *As consideration for the Services, and all connected performance and obligations of the Provider under this Cloud Service Agreement, the Adopter shall pay the Provider the Charges as detailed under Attachment 4, save for the provisions under Section 7 below.*
- 6.2 *The Adopter shall pay all undisputed invoices issued by the Provider in accordance with the requirements and the terms and conditions provided under Attachment 4.*
- 6.3 *All Charges due to the Provider under this Cloud Service Agreement are exclusive of Sales Tax which where applicable shall be charged in addition thereto in accordance with the relevant regulations in force at the time of making the relevant taxable supply and shall be paid by the Adopter against receipt from the Provider of a valid Sales Tax invoice in respect thereof.*
- 6.4 *If the Adopter fails to make payment in accordance with this Section 6 then the Provider shall be entitled to charge interest on the overdue amount at a rate of [to be inserted] % per year above the base rate of [to be inserted] from time to time in force from the date on*

which such amount fell due until payment, whether before or after judgment.

- 6.5 *Save as otherwise expressly provided in this Cloud Service Agreement, all Charges set out in Attachment 4 shall be deemed as fixed charges for the entire Term and fully inclusive of any and all activities necessary to supply the Services and all direct and indirect costs, taxes, charges or expenses relating to the Services.*

Section 7: Service credits

7.1 *If at any time the Provider fails to meet any Service Level Objectives, the Provider shall pay the Adopter the appropriate Service Credits in accordance with the following Sections 7.2 and 7.3.*

7.2 *The amount of any Service Credits payable under above Section 7.1, will be calculated in accordance with Attachment 2. Service Credits may be recovered by the Adopter as a credit against the next invoice which may subsequently be due for issue under this Agreement in accordance with above Section 6 or, if no such invoice is due, as a debt due by the Provider and payable within 30 (thirty) days after demand.*

7.3 *The payment of the Service Credits under the above Section 7.1 states Provider's sole and entire obligation and liability, and Adopter's sole and exclusive right and remedy for any failure to meet the Service Levels under this Agreement.*

[ALTERNATIVE – 7.3 The payment of the Service Credits under the above Section 7.1 shall not limit the Adopter's right to claim compensation for any further damage and any other rights and remedies for the Provider's failure to meet any Service Level in accordance with the terms and conditions of Section 12.2.2 below.]

Section 8: Intellectual property

8.1 *The Parties acknowledge that all Intellectual Property Rights belonging to a Party prior to the execution of this Agreement or created by the Parties regardless of the execution of this Agreement shall remain vested in that Party.*

8.2 *The Provider shall own, or shall have the legitimate right of disposal, in all Intellectual Property Rights in the Service, the Provider Content, the System and the Documentation and nothing in this Agreement shall operate so as to transfer or assign any such Intellectual Property Rights in the Service, Provider Content, the System and the Documentation to the Adopter. The Provider hereby grants to the Adopter a non-exclusive, worldwide, royalty free, non-transferable and non-sub licensable licence to allow the Adopter to access the System and use the Provider Content as well as any Provider's software which could be required to use the Services for the Term of this Agreement.*

8.3 *The Adopter shall own all Intellectual Property Rights in the Adopter Data and nothing in this Agreement shall operate so as to transfer or assign any such Intellectual Property*

Rights in such Content to the Provider, save for the following Section 8.4.

- 8.4 *The Adopter hereby grants the Provider with a non-exclusive, worldwide, royalty free, non-transferable and non-sub licensable licence to use the Adopter Data solely and to the extent necessary to provide the Services, to the extent such access is required, without prejudice to the Intellectual Property Rights of the Adopter or any Third Party with respect to such Content.*
- 8.5 *In case the Provider installs on its System Third Party Content upon request of the Adopter, the Provider warrants and represents to own valid licenses on such Third Party Content and that it shall maintain the same licenses in full force for the all Term save otherwise agreed with the Adopter.*
- 8.6 *All Intellectual Property Rights related to Third Party Content installed on the System and used by the Adopter shall remain vested in such Third Party. The Adopter shall not be licensed or transferred with any right on such Third Party Content unless agreed by the Adopter with such Third Party.*
- 8.7 *The Adopter may upload in the System Third Party Content only upon prior authorisation of such Third Party.*

Section 9: Term and termination

- 9.1 *This Agreement shall commence on the Effective Date and shall continue in force for [x] years [or months] or until it is terminated in accordance with the Agreement.*
- 9.2 *Without prejudice to its other rights pursuant to law and this Agreement, if a Party is in material breach of one of its obligations under this Agreement, the other Party will have the right to terminate the Agreement by sending the other Party written notification via registered mail of any such breach, with the express invitation to remedy such breach within 30 (thirty) days of the date of receipt of the same notice. If such Party fails to remedy the material breach within such term, the Agreement shall be terminated.*
- 9.3 *To the extent permitted by the applicable law, either Party may by written notice to the other Party immediately terminate this Agreement where the other Party ceases to carry on business, is unable to pay its debts when they fall due, is declared bankrupt, or an order is made or a resolution passed for the winding up of that other Party or the appointment of an administrator, receiver, liquidator or manager of that other Party.*
- [OPTIONAL 9.4 Either Party may terminate without cause the Agreement upon [x] ([x]) days written notice to the other Party sent via registered mail].*

Section 10: Consequences of termination and expiration

- 10.1 *The Parties acknowledge and agree that in case of the expiration or termination for any cause of the Agreement:*

10.1.1 the Provider shall not delete the then existing Adopter Data until the Retrieval Period or the Transfer Period under Sections 10.1.2 and 10.1.3 have expired;

10.1.2 upon request of the Adopter to be sent within [x] ([x]) days after the termination or the expiration date, the Adopter shall be entitled to retrieve the Adopter Data stored on the System in a structured and widely-used format, capable of ensuring portability of the Adopter Data, for a period of [x+n] (x+n) days after the expiration or termination date (hereinafter, "Retrieval Period");

10.1.3 upon request of the Adopter to be sent within [x] ([x]) days after the expiration or termination date, the Provider, at the Adopter's expense, shall transfer the Adopter Data in the format under Section 10.1.2 to the Adopter or to any Third Party provided by the Adopter within the agreed timing (hereinafter "Transfer Period"). If the Cloud Service Agreement has been terminated due to breach of the Provider, the Provider shall reimburse the costs borne by the Adopter in relation to the above transfer of the Adopter Data;

10.1.4 once the Retrieval Period has expired, or upon completion of the Transfer Period, the Provider and its Subcontractors shall definitively destroy copies of, and erase, all Adopter Data stored in the System and all storage media and provides proof thereof to the Adopter within [x] ([x]) days following the expiration of the Retrieval Period or the Transfer Period, as applicable. The Adopter has the right to ask the deletion of the Adopter Data without any retrieval or transfer of the Adopter Data;

10.1.5 at the Provider's request, the Adopter will return or erase any of the Provider Content, data or software delivered or licensed to the Adopter for the purposes of providing the Services;

10.1.6 the Parties may agree any other possible activities or services connected with the expiration or termination of the Agreement upon mutual agreement of the Parties on the terms and conditions of such activities;

10.1.7 the rights, remedies, obligations or liabilities of either Party which have accrued up to the date of termination or expiry, will not be affected, including the right to claim damages in respect of any breach of the Cloud Service Agreement which existed at or before the date of termination or expiry;

10.1.8 any provisions of this Cloud Service Agreement which expressly, or by implication, are intended to come into or remain in force on or after termination or expiry of this Agreement, shall remain in full force and effect, including without limitation, Section 8 (Intellectual Property Rights), 10 (Consequences of Termination), 11 (Confidentiality Obligations), 12.2 and 12.3 (Warranties and Liabilities), 13 (Indemnification), 14 (Insurance Obligations); 17 (Data Protection); 19 (Notices – Party's Team Leaders); 20 (Governing Law); 21 (Disputes – Jurisdiction); and, 22 (Final Provisions).

Section 11: Confidentiality obligations

11.1 During the Term, Confidential Information of the Disclosing Party may be learnt,

developed or otherwise acquired by Receiving Party.

- 11.2 *The Receiving Party will treat and keep all Confidential Information of the Disclosing Party as secret and confidential and will not, without the Disclosing Party's written consent, directly or indirectly communicate or disclose (whether in writing or orally or in any other manner) Confidential Information to any other person other than in accordance with the terms of this Agreement.*
- 11.3 *Section 11.2 shall not apply to the extent that the Receiving Party needs to disclose the Confidential Information of the Disclosing Party to any of its Group, or any Subcontractor in order to fulfil its obligations, exercise its rights under this Agreement or to receive the benefit of the Services, provided always that the Receiving Party shall ensure that every person to whom disclosure is made pursuant to this Section 11 uses such Confidential Information solely for such purposes, and complies with this Section 11 to the same extent as if it were a party to this Agreement.*
- 11.4 *Clause 11.2 shall not apply to any Confidential Information to the extent that:*
- 11.4.1 *such Confidential Information is in the public domain at the Effective Date, or at a later date comes into the public domain, where such Confidential Information has come into the public domain other than as a result of breach of this Agreement;*
- 11.4.2 *the Receiving Party can show that such Confidential Information was known to it before receipt pursuant to this Agreement, and had not previously been obtained or otherwise learnt under an obligation of confidence;*
- 11.4.3 *the Receiving Party obtains or has available to it, such Confidential Information from a source other than the Disclosing Party without breaching any obligation of confidence;*
- 11.4.4 *such Confidential Information is required by applicable law, or any competent regulatory authority [or recognised stock exchange] to be disclosed by the Receiving Party provided that the Receiving Party shall, where not prohibited, give to the Disclosing Party prompt notice of such request and the opportunity to oppose such disclosure or obtain a protective order at its request;*
- 11.4.5 *the Receiving Party can show such Confidential Information was independently developed or created by or on behalf of itself [or any member of its Group] otherwise than in connection with this Agreement, without the aid of any personnel who have or have had access to the Disclosing Party's Confidential Information; or*
- 11.4.6 *Information which the Disclosing Party confirms in writing is not required to be treated as Confidential Information.*
- 11.5 *If the Provider is the Receiving Party, the Receiving Party will use the Confidential Information of the other Party for the sole purpose of performing or complying with its obligations under this Agreement.*
- 11.6 *If the Provider is the Receiving Party, it agrees to implement and maintain the security measures under Attachment 6 to the Agreement.*
- 11.7 *If the Adopter is the Receiving Party, it agrees to implement and maintain to the Disclosing Party's reasonable satisfaction all reasonable security measures to safeguard the Disclosing Party's Confidential Information from unauthorised access, use or disclosure,*

and to ensure proper and secure storage of all Confidential Information and any copies thereof. Such measures shall be at least the same standard, whichever is the higher, as:

11.7.1 the Receiving Party keeps its own Confidential Information; or

11.7.2 the standard reasonably accepted as in line with the practices practiced in the same market.

The Receiving Party shall not make any copies or reproduce in any form any Confidential Information except for the purpose of disclosure as permitted in accordance with this Agreement.

11.8 Upon the termination or expiration of this Agreement or otherwise at the request of the Disclosing Party, the Receiving Party shall promptly return to the Disclosing Party all documents or materials in its control, custody or possession which contain, reflect, incorporate or are based on the Disclosing Party's Confidential Information and not retain any copies, extracts or other reproductions thereof or shall at the request of the Disclosing Party destroy all of the Disclosing Party's Confidential Information (erasing all Confidential Information from its computer systems or which is stored electronically) and certify in writing to the Disclosing Party that it has complied with the requirements of this Section.

11.9 The obligations laid down in this Section 11 hereof shall remain the responsibility of each of the Parties, even after the termination or expiration of the Agreement on any ground, for the period of 6 (six) years from the said termination or expiration. With reference to any Confidential Information expressly identified as a trade secret, the confidentiality obligations shall extend indefinitely until a time when such information ceases to be a trade secret.

Section 12: Warranties and liability

12.1 Warranties

12.1.1 The Provider represents and warrants that:

12.1.1.1 the Services will be performed with reasonable skill and care in a timely and professional manner using appropriately qualified and experienced personnel and in accordance with good industry practice;

12.1.1.2 the Services will be performed in accordance with the security requirements provided under Attachment 6 to this Agreement and in accordance with all applicable laws and regulation on security in the communications and in the provisions of information society services;

12.1.1.3 it owns or has obtained valid licences of all Third Party Intellectual Property Rights relating Third Party Content or which are necessary for the performance of any of its obligations hereunder;

12.1.1.4 by performing the Services under this Agreement, the Provider will not infringe

any Intellectual Property Rights of any Third Party;

12.1.1.5 it shall use its reasonable efforts to ensure that the Services, the Provider Content, the System and the relevant software are free from all viruses and other contaminants including any codes or instruction that may be used to access, modify, delete or damage any data files, or other computer programs used by the Adopter from time to time, and that for this purpose, the Provider warrants and represents that it shall use the most comprehensive and up to date available virus checker;

12.1.1.6 it has the full capacity and authority and all necessary licenses, permits and consents from Third-Parties to enable it to enter into this Agreement and perform all of the Providers' obligations hereunder;

12.1.1.7 this Agreement is executed by a duly authorised representative of the Provider.

12.1.2 The Adopter represents and warrants that

12.1.2.1 It owns or has obtained valid licences of all Intellectual Property Rights in relation to the Adopter Data uploaded on the System including possible software of Third Party installed, uploaded or developed on the System;

12.1.2.2 It has the full capacity and authority and all necessary licenses, permits and consents from Third-Parties to enable it to enter into this Agreement and perform all of the Provider's obligations hereunder;

12.1.2.3 this Agreement is executed by a duly authorised representative of the Adopter.

12.2 Liability

12.2.1 Neither Party limits or excludes its liability:

- a) for acts or omission due to wilful misconduct of either party;*
- b) in respect of any deceit, theft, fraud or fraudulent misrepresentation by its employees, consultants or Subcontractors;*
- c) for death or personal injury caused by its negligence or that of its employees, consultants or subcontractors, as applicable;*
- d) under Section 8 (Intellectual Property Rights);*
- e) for breach of Clause 11 (Confidentiality);*
- f) for breach of Clause 17 (Data Protection);*
- g) to the extent that such limitation or exclusion is not permitted by law.*

12.2.2 Subject to Section 12.2.1, the maximum aggregate liability of either Party arising under or in connection with this Agreement (whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation (whether innocent or negligent), restitution or otherwise) shall be limited to the amount of [TO BE DETERMINED]. The limitation of liability under this Section 12.2.2 shall not apply in the event the Adopter is a consumer (i.e.: natural person acting for purposes which are outside his trade, business, craft or profession).

12.2.3 Service Credits shall be taken into account when assessing whether the liability caps set out in above Section 12.2.2 have been met or exceeded.

[ALTERNATIVE - 12.2.3 Service Credits shall not be taken into account when assessing whether the liability caps set out in above Section 12.2.2 have been met or exceeded].

Section 13: Indemnification

13.1 The Provider shall indemnify on demand the Adopter and the Adopter's assignees, directors, partners, officers, employees and agents against on demand against any and all losses, claims, damages, costs, expenses (including without limitation legal fees) and liabilities which the Adopter may sustain or incur or which may be brought or established against it by any Third Party in respect of any ascertained breach of the warranties set out in Sections 8.2, 8.5, 12.1.1.2, 12.1.1.3 of the Cloud Service Agreement ("IPR Claim").

13.2 The Adopter agrees:

- a) it shall promptly, upon becoming aware of any IPR Claim, notify the Provider and provide to the Provider reasonable assistance, at the Provider's expense, which the Provider may reasonably request in connection with the defence of any such IPR Claim; and*
- b) it shall not make any admission as to liability or compromise or agree to any settlement or any IPR Claim without the prior written consent of the Provider which consent shall not be unreasonably withheld or delayed.*

13.3 If any IPR Claim is made, the Provider shall at its own expense and sole option either:

13.3.1 obtain for the Adopter the right to continue using the Services, the Provider Content, and the Third Party Content in the manner permitted under this Agreement; or

13.3.2 modify or replace the infringing part of the Services, the Provider Content, or the Third Party Content so as to avoid the infringement or alleged infringement, without prejudice to the representations and warranties in Section 13.1.

13.4 The Adopter shall defend, indemnify and hold harmless the Provider and the Provider's assignees, directors, partners, officers, employees and agents on demand from and against any and all losses, claims, damages, costs, expenses (including without limitation legal fees) and liabilities which the Adopter may sustain or incur or which may be brought or established against it by any Third Party in respect of any ascertained breach of the warranties set out in Sections 5.2, 8.3, 12.1.2.1.

13.5 The Parties shall comply with the indemnification obligations provided by the present Section 13 in accordance with the terms and conditions provided under above Section 12.2.

Section 14: Insurance obligations

14.1 *The Provider shall maintain, during the Term of this Agreement [and for a period of at least 2 (two) years after the expiration or termination of the Agreement], appropriate insurance policies in relation to any liability connected with the execution of this Agreement with a reputable insurance company in respect of the Provider's performance of the Services, providing for the payment of a sum up to [TO BE DEFINED] for any claim or series of claims arising out of a single event occurring during such period.*

Section 15: Suspension of services

15.1 *The Provider may suspend the provision of the Services, by giving the Adopter no less than 10 (ten) Working Days' notice, in circumstances where it is necessary for the Provider to update or maintain the System. The Provider shall, in its notice, inform the Adopter of the timing, the duration and the reasons for the proposed suspension.*

15.2 *The Adopter shall be entitled to request in writing a postponement of the suspension. The Provider shall not unreasonably deny its consent to the above request of the Adopter. Without limitations, the Provider may reject the postponement if it is not feasible for technical reasons.*

Section 16: Subcontracting

16.1 *Pursuant to this Section 16, the Provider may subcontract any or all of the Services under this Agreement to Subcontractors by giving the Adopter [no less than [X] days'] prior notice which shall include the following information:*

- (a) the identifying data of the Subcontractor;*
- (b) an outline of the proposed subcontracted Services, including: the duration of the subcontract and the quantity or type of Services which will be sub-contracted to the Subcontractor.*

16.2 *Subject to Section 16.1 above, the Provider shall:*

16.2.1 remain the Adopter's sole point of contact regarding the Services, including with respect to payment of the Charges.

16.2.2 not disclose Confidential Information of the Adopter to a Subcontractor unless and until such Subcontractor has agreed in writing to protect the confidentiality of such Confidential Information in a manner substantially equivalent to that required of the Provider under this Agreement.

16.2.3 not, by virtue of entering into any sub-contract, be relieved of its liability to the Adopter for breach of its obligations under or in connection with the Agreement or otherwise arising from any acts or defaults of its agents and/or subcontractors for which it would otherwise have been liable.

Section 17: Data protection

- 17.1 Under this Agreement, the Adopter qualifies as Data Controller of the set of Processing carried out by the Provider on his behalf. The Provider qualifies as Data Processor upon signature of this Agreement and will remain as such as long as it (i) complies with the Adopter's reasonable and legitimate instructions, including the instructions set out under Attachment 5 to this Agreement, (ii) provides adequate monitoring procedures regarding compliance with such instructions, (iii) does not go beyond the mandate given by the Adopter by acquiring a relevant role in determining the purposes or the essential means of Processing.
- 17.2 The Provider shall provide an accessible, easy-to-use and comprehensive security-monitoring-tool [Note: where appropriate, it is possible to include a description of the tool or referring to a description of the tool to be attached to the Agreement]. The Adopter is fully liable for data protection law compliance. Therefore, the Adopter must comply with the applicable Data Protection Laws and Regulations, especially, but not limited to, requirements to ensure that the Processing of Personal Data complies with the applicable legislation in relation to the nature of the Personal Data and formal requirements with the local data protection authorities in relation to the transfer of Personal Data.
- 17.3 The Provider acknowledges and agrees that it has appropriate experience and capabilities, and will implement appropriate technical and organizational measures, to ensure that the Processing of Personal Data by the Provider in the course of providing the Services will meet such requirements of the applicable Data Protection Laws and Regulations as apply to the Provider in its capacity as a Data Processor, provided always that the Adopter acknowledges and agrees that the Provider shall not be in breach of this clause 17.3 where any failure to comply with Data Protection Laws and Regulations is caused by or results from the acts or omissions of the Adopter, its officers, employees or agents. The Provider acknowledges that failure to meet the obligation under this clause 17.3 will be deemed to be a material breach of this Agreement for the purposes of Section 9.2.
- 17.4 The Adopter shall remain liable for the damage which a Data Subject may suffer as a result of the Processing of Personal Data which is under its control and is not resulting from a breach by the Provider of its obligations under this Section 17.
- 17.5 The Adopter further acknowledges that the Provider is reliant on the Adopter for lawful direction and instructions as to the extent to which the Provider is entitled to process any Adopter Personal Data and, consequently, the Adopter agrees that the Provider will not be liable – and it will indemnify the Provider - for any claim brought by a Data Subject arising from any action or omission by the Provider, to the extent that such action or omission resulted directly from the Adopter's lawful instructions.
- 17.6 The Provider will remain fully liable in case of any breach of its direct obligations under this Agreement and the applicable Data Protection Legislations and Regulations with respect to the Processing of Personal Data validated under this Agreement, including failure to act in accordance with lawful instructions of the Adopter and where any such breaches are caused by any subcontractor engaged in compliance with the requirements set forth under this Agreement.
- 17.7 Each of the Parties acknowledges and agrees that, where the Adopter or the Provider has paid full compensation for the damages suffered by a Data Subject, where a joint liability

has been ascertained in the course of a proceeding, the Party that fully indemnified the Data Subject is entitled to claim back from the other Party that pro rata of the compensation corresponding to the its part of responsibility for the damage as resulting from the final court decision.

17.8 *[ONLY APPLICABLE IN CASE THE ADOPTER IS A CONSUMER/INDIVIDUAL OR IN CASE OF PROCESSING OF ELECTRONIC COMMUNICATION SERVICES. ANY SUCH NOTICE, IF REQUIRED UNDER THE APPLICABLE DATA PROTECTION LAWS AND REGULATIONS CAN BE SET OUT AS SEPARATE DOCUMENT. THE FOLLOWING IS ONLY A GENERIC EXAMPLE OF SUCH A NOTICE]*

In case of any Personal Data related to the Adopter, its officers, employees or agents, if applicable, the Provider and its staff will hold and Process, mainly using electronic devices, their Personal Data to execute and perform this Agreement (including management of administrative related matters, maintaining records, administering accounts receivable, fulfilling social security and tax obligations [to add other purposes, if applicable]. The Provider will implement appropriate security measures in line with those specified under Attachment 6 to this Agreement. The Adopter acknowledges that providing those Personal Data is necessary for the execution and administrative management of this Agreement and that the Personal Data may be shared by the provider with [to list the categories of Third-Parties, including service providers, sharing the Adopter's information with the Provider]. Where necessary for the purposes above, Personal Data may be transferred to a country or territory outside the European Economic Area [to list, if possible, countries of transfer and the reasons for the transfer], in accordance with the applicable Data Protection Laws and Regulations. Upon request, the Adopter, its officers, employees and agents are entitled to obtain access to and to supplement and rectify their Personal Data with the Provider and, on legitimate grounds, to object in writing to the processing of their Personal Data, emailing or contacting the Provider at the contact addresses under Section 19 below. If so required under the applicable Data Protection Laws and Regulations, by signing this Agreement the Adopter (i) consents, and warrants that it has the authority to consent, to the Provider collecting, using and disclosing the Adopter's, and (ii) warrants that it has obtained all necessary consents from the relevant Data Subjects, including its officers, employees and agents, and is entitled to transfer the relevant Personal Data to the Provider so that the Provider may lawfully use, Process and transfer the Personal Data in accordance with this Agreement on the Adopter's behalf.

Section 18: Force majeure

18.1 *If a Force Majeure Event occurs which prevents a Party (the "Affected Party") performing any of its obligations hereunder or causes a delay in performance, the Affected Party shall not be liable to the other Party and shall be released from its obligation to fulfil its obligations under this Agreement to the extent that its ability to fulfil such obligations has been directly affected by the Force Majeure Event, provided that:*

18.1.1 *the Affected Party notifies the other Party in writing as soon as reasonably practicable of the occurrence of the Force Majeure Event and the nature and likely duration of its impact upon the other Party;*

18.1.2 *the Affected Party takes all reasonable steps to mitigate the impact of the Force*

Majeure Event on the other Party, and in particular continues to perform those obligations affected by the Force Majeure Event but whose performance has not been rendered impossible to the highest standard reasonably practicable in the circumstances;

- 18.1.3 *the Affected Party continues to perform all its obligations which have not been affected by the Force Majeure Event; and*
- 18.1.4 *the Affected Party resumes normal performance of all affected obligations as soon as the impact of the Force Majeure Event ceases, and notifies the other Party in writing promptly of such resumption.*
- 18.2 *If the impact of the Force Majeure Event upon the Affected Party continues for a period of no less than [to be provided] consecutive days the Affected Party may, without incurring liability, terminate this Agreement either in whole or in part with immediate effect by providing written notice to other Party, without having to file a claim with the competent Court to that effect.*
- 18.3 *The Parties agree that, if the Affected Party is the Provider, in respect of the period during which any Force Majeure Event subsists, the Adopter shall not be required to pay the Charges relating to those Services which cannot be performed as a result of the Force Majeure Event, and in respect of those Services which are affected by the Force Majeure Event but can be performed, shall be required to pay an amount which reasonably reflects the standard to which those Services were provided during such period.*

Section 19: Notices – Parties’ team leaders

19.1 *Except as expressly provided elsewhere in this Agreement, any notice to be given under this Agreement, refer to the Agreement and to the respective team’s leaders.*

19.2 *The Parties’ respective representatives for the receipt of notices in relation to the Agreement are, until changed by notice given in accordance with this clause, as follows:*

For the Provider: [●]

Providers’ Team Leader: [●]

Email: [●]

Telephone: [●]

Fax: [●]

Address: [●]

For the Adopter: [●]

Adopter’s Team Leader: [●]

Email: [●]

Telephone: [●]

Fax: [●]

Address: [●]

19.3 *The Provider's Team Leader and the Adopter's Team Leader, as defined in Section 19.2 above, shall be responsible for the co-ordination of all matters relating to the Services and the execution of this Agreement.*

19.4 *Any change of the Provider's Team Leader or the Adopter's Team Leader shall be previously communicated in writing to the other Party to be effective.*

19.5 *Any notice shall be deemed to have been served:*

19.5.1 *if delivered by hand, at the time and date of delivery;*

19.5.2 *if sent by recorded delivery or registered post, forty-eight (48) hours from the date of posting (such date as evidenced by postal receipt etc.);*

19.5.3 *if sent by e-mail, at the time and date certified by the delivery confirmation; and*

19.5.4 *if sent by registered airmail, five days from the date of posting.*

Section 20: Governing law

20.1 *This Cloud Service Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (whether contractual or non-contractual, including tort, breach of statute or regulation or otherwise) shall be governed by and construed in accordance with the legislation of [to be provided]. In case the Adopter is a consumer, the above choice of the law shall apply to the extent permitted by the applicable law. The present Section 20.1 shall apply without prejudice to the mandatory applicable data protection legislation.*

20.2 *The parties expressly reject any application to this Cloud Service Agreement of (a) the United Nations Convention on Contracts for the International Sale of Goods, and (b) the 1974 Convention on the Limitation Period in the International Sale of Goods, as amended by that certain Protocol, done at Vienna on April 11, 1980.*

Section 21: Disputes - jurisdiction

21.1 *Without prejudice of Section 21.2, if any dispute should arise between the Parties relating to or deriving from this Cloud Service Agreement, it may be settled in the first instance in accordance with the following procedure:*

(i) *when a dispute arises, one Party may request the other in writing to start the settlement procedure;*

(ii) *the Parties undertake to appoint their own representative, holding suitable powers, selected from persons who are not directly involved in the performance or management of this Cloud Service Agreement and the corresponding activities; the*

said Parties' representatives shall meet with the aim of settling the dispute amicably, having regard above all to the primary need to maintain the continuity of the Services forming the subject of this Cloud Service Agreement;

(iii) if, after making all reasonable attempts at a settlement, the said representatives are unable to settle the dispute within 30 (thirty) days of the date of the request to initiate the settlement procedure, either Party may refer the dispute to the court as stated in Section 21.2 hereof.

21.2 The procedure of Section 21.1 shall not prevent either Party from taking such action as it deems appropriate (including any application to a relevant court) for injunctive or other emergency or interim relief.

21.3 The Parties irrevocably agree that the Court of [to be provided] shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Cloud Service Agreement or its subject matter or formation (including non-contractual disputes or claims). In case the Adopter is a consumer, the above choice of the competent court shall apply to the extent admitted by the applicable law.

Section 22: Final provisions

*22.1 **Assignment:** Neither Party may assign to Third-Parties the present Cloud Service Agreement without prior consent of the other Party. The consent of the Party will not be unreasonably withheld. Either Party shall have the right to assign any or all of its rights and obligations under this Cloud Service Agreement in whole or in part to its Group or to the successor to the whole or a part of Party's business, subject to such entity or successor undertaking in writing to the other Party that it will perform all assigning Party's obligations under this Cloud Service Agreement.*

*22.2 **Entire Agreement:** This Cloud Service Agreement (together with all other documents to be entered into pursuant to it) sets out the entire agreement and understanding between the Parties, and supersedes all proposals and prior agreements, arrangements and understandings between the Parties, relating to its subject matter.*

*22.3 **Language:** In case of discrepancy between the English language original text of the Agreement and other language translation, the English text shall prevail.*

*22.4 **No partnership or agency:** Nothing in this Cloud Service Agreement shall be deemed to constitute a partnership between the Parties, nor constitute either Party the agent of the other party for any purpose.*

*22.5 **Third Party:** A person who is not a Party to this Cloud Service Agreement shall not have any rights to enforce any term of this Cloud Service Agreement, but this does not affect any right or remedy of a Third Party which exists, or is available, apart from that Cloud Service Agreement.*

*22.6 **Severability:** If any term of this Cloud Service Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:*

22.6.1 *the legality, validity or enforceability in that jurisdiction of any other term of this Cloud Service Agreement; or*

22.6.2 *the legality, validity or enforceability in other jurisdictions of that or any other provision of this Cloud Service Agreement.*

22.7 **Amendments:** *Any amendment of this Cloud Service Agreement shall not be binding on the Parties unless set out in writing, expressed to amend this Cloud Service Agreement and signed by authorised representatives of each of the Parties.*

22.8 **Waiver:** *Delay in exercising, or failure to exercise, any right or remedy in connection with this Cloud Service Agreement shall not operate as a waiver of that right or remedy. The waiver of a right to require compliance with any provision of this Cloud Service Agreement in any instance shall not operate as a waiver of any further exercise or enforcement of that right and the waiver of any breach shall not operate as a waiver of any subsequent breach. No waiver in connection with this Cloud Service Agreement shall, in any event, be effective unless it is in writing, refers expressly to this clause, is duly signed by or on behalf of the party granting it and is communicated to the other party.*

Section 23: Attachments

23.1 *The following Attachments are an integral part of this Cloud Service Agreement:*

23.1.1 *Attachment 1: Services Description;*

23.1.2 *Attachment 2: Service Level Agreement;*

23.1.3 *Attachment 3: Acceptable Use Policy;*

23.1.4 *Attachment 4: Consideration;*

23.1.5 *Attachment 5: Data Protection*

23.1.6 *Attachment 6: Security.*

Attachment 1 to the Agreement: Services Description

Description of the SLALOM Attachment

This Attachment will provide a description of the Services that the Provider is committed to provide under Section 2 of the Agreement.

SLALOM Introduction of this Attachment

The Provider shall provide to the Adopter the Services detailed in this Attachment 1.

Attachment 2 to the Agreement: Service Level Agreement – Service Credits

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| <p>Description of the SLALOM Attachment</p> <p>This Attachment shall provide the Service Levels and the Service Level Objectives of the Services in accordance with Section 3 of the Agreement.</p> <p>The Service Levels are detailed in Deliverables D3.1 Initial Position Paper (technical), D4.1/5.1 Initial Position Paper (Provider and Adopter’s perspectives).</p> <p>In connection with the Service Levels and the Service Level Objectives the Parties shall agree the Service Credits.</p> |
| <p>SLALOM Introduction of this Attachment</p> <p><i>The Provider shall, during Term, fulfil the Service Level Agreements detailed under the present Attachment 3, in accordance with Section 3 of the Agreement.</i></p> |

Attachment 3 to the Agreement: Acceptable Use Policy (AUP)

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| <p>Description of the SLALOM Attachment</p> <p>The Attachment 2 to the Agreement will provide the Acceptable Use Policy as provided under Section 5 of the Agreement</p> <p>The Acceptable Use Policy of SLALOM concern the following main issues:</p> <ol style="list-style-type: none"> 1) IPR rights (of the Provider or Third Party) 2) Illegal activities; 3) Security of the Provider; 4) Data Protection rights. <p>We have not received feedbacks by the stakeholders on this Attachment.</p> |
| <p>SLALOM Acceptable Use Policy</p> <p style="text-align: center;">ACCEPTABLE USE POLICY</p> <p><i>In accordance with Section 5 of the Agreement, the Adopter shall comply with the following terms of use of the Services:</i></p> <p>➤ <u>While using the Services, the Adopter SHALL NOT:</u></p> <ol style="list-style-type: none"> 1) <i>infringe any Third Party’s Intellectual Property Rights;</i> 2) <i>infringe Providers’ Intellectual Property Rights;</i> 3) <i>breach any applicable law, regulations and order of the authorities;</i> |

- 4) *process Third Party's Personal Data illegally;*
- 5) *breach any other Third Party's rights which are different from above points 1) and 4);*
- 6) *upload or introduce malicious code, viruses, trojan horses, e-mail bombs, spyware, malware, and other similar software;*
- 7) *allow Third-Parties external to the Adopter's organization to use the Services unless authorised in writing by the Provider;*
- 8) *send unsolicited e-mail or communications of any kind;*
- 9) *support in any way illegal activities;*
- 10) *misrepresent or obscure the identity of the Adopter's users;*
- 11) *upload illegal Contents on the System;*
- 12) *violate any applicable export and re-export control legislation and regulations;*
- 13) *upload or introduce encryption software in violation of national and international exporting legislation;*
- 14) *use means which can cause a breach of security of the Provider's equipment;*
- 15) *use means which can cause a disruption of the Services.*

➤ **While using the Services, the Adopter SHALL:**

- 16) *adopt secure id and passwords in relation to the access to the System in line with any possible instructions provided by the Provider;*
- 17) *inform the Provider in case of loss of the id and passwords for accessing the Services not later than 3 (three) Working Days from the discovery;*
- 18) *inform the all Adopter's Users (employees, officers, consultants) of the terms and conditions of the AUP;*
- 19) *process Personal Data of Third-Parties in accordance with the applicable legislation (e.g. , if so required under the applicable law, provide full notice to the Data Subjects and obtain their valid consent, notify the Processing of Personal Data with the competent data protection authority, implement any security measures on its side of the Service to ensure full compliance with the legislation, monitor the Services);*
- 20) *obtain the consent of the owners of the Intellectual Property Rights to use their works on or through the Services.*

Attachment 4 to the Agreement: Charges

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| Description of the SLALOM Attachment |
| This Attachment shall provide the Charges payable by the Adopter to the Provider for the provision of the Services according to Section 6 of the Agreement. |
| SLALOM Introduction of this Attachment |
| <i>In accordance with above Section 6 of the Agreement, the Adopter shall pay to the Provider the amounts detailed under the present Attachment 4 in accordance with the following terms and conditions.</i> |

Attachment 5 to the Agreement: Data Processing Attachment

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| Description of the SLALOM Attachment |
| <p>This attachment is intended to cover the data protection rules governing the processing of personal data processed by the Parties under the Cloud Service Agreement. In most countries the Adopter should be made aware of how the process works, who operates the data centres and who has access to them, and the fact that unlimited copying of data in long sub-processing chains is likely to be considered by the courts and regulatory authorities in some countries (e.g. Greece) as a major privacy risk.</p> <p>It is not possible, typically, to identify by default the Adopter as Data Controller of the Personal Data under the Cloud Service Agreement, even though this often reflects the scenarios on the market. Sometimes the Adopter is a Data Processor itself, and in that case the terms and conditions below cannot apply as is, but require to be amended to properly reflect the data protection obligations that the Adopter agrees when it negotiates with the Data Controller (e.g. the Adopter's customer/final user). For the purpose of this Deliverable D2.2, the scenario described below ideally applies to Adopters entering into the Cloud Service Agreement as Data Controllers.</p> <p>Although the Adopter, acting in the capacity of Data Controller, typically has the main interest in ensuring compliance with the applicable Data Protection Legislation and Regulations and drafting this attachment in sufficient detail, it is also in the interests of the Provider to clarify how responsibilities are shared between the Parties.</p> <p>Directive 95/46/EC, and the GDPR⁷⁴ requires the Data Controller (or cloud computing users) to enter into a written agreement with the data processor governing the Provider's obligations and/or prohibitions regarding Personal Data processing and the Adopter's obligations.</p> <p>Attachment 5 to the Agreement will provide detailed rules governing:</p> <ol style="list-style-type: none"> a. Definition of categories of personal data. b. The Adopter's responsibility as Data Controller: the Adopter, acting in the capacity of Data Controller, must accept responsibility for complying with all applicable Data |

⁷⁴ See note no. 2.

- Protection Legislation and Regulations.
- c. Purpose limitation: the Provider is entitled to process Personal Data only within the scope of the Services, and is prohibited from using the Personal Data for any independent or additional purpose not required for the provision of Services, including a prohibition on sharing data with Third Parties unless a legitimate interest or any other justifications provided by the applicable Data Protection Legislation and Regulations apply. For information about some of the current concerns on the market and at institutional level regarding possible secondary use of personal data by the Providers, see Section 4.8.1 of Deliverable 4.1 and 5.1.
- d. Subcontracting: the Provider's obligations are as follows:
- to inform the Adopter and obtain its consent if Third Parties or Subcontractors (whether based abroad or not) are used to perform operations relating to the Services, and to identify them to the Adopter. The Adopter's consent will usually be given, with the proviso that the Provider is obliged to inform the Adopter (a Data Controller) of any intended changes. The Adopter, however, retains the right to object to such changes or to terminate the Cloud Service Agreement;
 - to impose on these Third Parties similar obligations in relation to their contracts addressing how Personal Data will be protected and to what extent the Third Party is liable; and
 - to put in place procedures allowing Data Subjects to exercise their rights (rights of access, alteration or deletion, etc.).
- e. Cooperation obligations between the Provider and the Adopter, including the Provider's obligation to cooperate with the Adopter to give the Adopter all useful information about the processing of Personal Data, also for the purpose of demonstrating compliance with the obligations laid down under the Data Protection Legislations and Regulations and of notifying the competent data protection authority where required by the applicable Data Protection Legislation and Regulations, and to cooperate with the competent data protection authorities, when requested.
- f. Notification obligations: the Provider shall notify the Adopter of any security breach and any law enforcement act requiring the Provider to grant access to Personal Data (unless this is prohibited by the applicable legislation, e.g. secrecy obligations relating to criminal investigations). For information about some of the current positions taken by stakeholders and legal experts, see Sections 4.8.2.2 and 4.8.7.1 of Deliverable 4.1 and 5.1.
- g. Data transfer: data location is closely linked to matters such as law enforcers' access, data security and transparency. It is important to establish not only where Personal Data are located but also from where Personal Data are accessible and who guarantees the security of the cloud Service. Moreover, data location is important to determine the applicable law and to define the risks. Knowing where the infrastructure is located (e.g. to be provided at a list of locations) or the structure of the Provider is more important than the exact location of the data at a specific time (e.g. in the event of an e-discovery procedure). In practice, the Cloud Service Agreement must outline the Provider's obligations:
- to inform the Adopter of all locations in which data may be stored or processed by the Provider and/or its subcontractors (notably, if some or all locations are outside the European Economic Area); and
 - to ensure adequate protection for data transfer outside the EEA (e.g. by means of the EU Model Clauses, Binding Corporate Rules ("BCR") or alternative means approved at EU level).
- For information about some of the current positions taken by stakeholders and legal

- experts, see Section 4.8.7.3 of Deliverable 4.1 and 5.1.
- h. Security measures: most of the applicable Data Protection Legislation and Regulations require Data Controllers to implement adequate security measures. In some countries (e.g. Italy – primarily Sections 31-35 and Annex B to the Italian Data Protection Code – and Germany – Sections 9 and 11 of the German Federal Data Protection Act, and also Greece, which requires, among other things, specific training for staff about the confidentiality, integrity and availability of personal data and information systems, availability of systems according to Service Level Agreements, installation of services properly partitioned and configured to ensure contractual obligations are met, and encryption) the Data Protection Legislation and Regulations also detail the main security measures that must be implemented when processing Personal Data, and these security requirements must be detailed in the agreement (or in any attachment thereto, e.g. the security or data processing attachment). The data processing attachment also needs to detail the Provider’s obligation to ensure that the processing complies with the applicable security measures and to implement physical, technical and organisational safeguards accordingly to ensure the availability, integrity and confidentiality of the Personal Data (including via a cross-reference to security-focused sections and attachments to the agreement, covering, among other things, traceability, e.g. traceability of users’ operations and anomalies, and continuity of services, backups and integrity, e.g. backup system, redundancy of servers, etc.). For additional evaluations of security issues, please refer to Sections 4.17 and 4.18 of Deliverable 4.1 and 5.1.
- h. Audit: the Adopter is entitled to audit the Provider to ensure that the Provider is processing Personal Data in compliance with the applicable Data Protection Legislation and Regulations.
- i. Certifications: proof of relevant certifications, if any, by independent qualified auditors of the Provider’s services according to the most relevant national and international standards (e.g. ISO/IEC 27001, ISO/IEC 27018 and any upcoming standard for cloud computing, e.g. ISO/IEC 19086). The Adopters may also negotiate to obtain a copy of the certification report relevant to the Services, provided that they comply with the applicable confidentiality obligations. See also the comments on this point under Section 4.9.3 of Deliverable 4.1 and 5.1.
- j. Deletion of data: the Provider shall erase (and have its subcontractors erase) personal data from wherever they are stored as soon as they are no longer necessary for the specific purposes, i.e. after the agreed maximum retention time (including back-up needs) during the course of the agreement, and in any event after a fixed maximum period agreed by the parties after termination of the Cloud Service Agreement.

Slalom Introduction of this Attachment

This Data Processing Attachment (“DPA”) is made a part of the Cloud Service Agreement between the Adopter and the Provider to reflect the Parties’ agreement with regard to the Processing of Personal Data as specified under the Cloud Service Agreement and all documents, attachments and exhibits incorporated therein, in accordance with the requirements of the applicable Data Protection Legislation and Regulations, and especially for the purpose of Section 17 of Directive 95/46/EC, as amended or replaced from time to time⁷⁵, as applicable.

This DPA is subject to the terms of the Cloud Service Agreement and is annexed as an attachment to the Cloud Service Agreement. In the event of any conflict between the terms of the Cloud

⁷⁵ See note no.2.

Service Agreement and the terms of this DPA, the relevant terms of this DPA shall prevail, by way of exception to Section 1.3 of the Cloud Service Agreement.

1. DEFINITIONS

1.1 *All capitalized terms not defined herein shall have the meanings set forth in the Cloud Service Agreement.*

[Note: for additional definitions, as applicable according to the applicable Data Protection Legislation and Regulations, see the example below]

For the purposes of this DPA,

“Controller” means the Adopter;

“Model Clauses” means the standard contractual clauses annexed to EU Commission Decision 2010/87/EU of 5 February 2010 for the Transfer of Personal Data to Processors established in Third Countries under Directive 95/46/EC of the European Parliament and of the Council of October 24, 1995, as amended, on the protection of individuals with regard to the Processing of Personal Data and on the free movement of such data;

“Processor” means the Provider.

2. DESIGNATION OF PROVIDER AS PROCESSOR

2.1 *By signing the Cloud Service Agreement the Adopter designates the Provider as Data Processor with regard to the Adopter’s Personal Data within the scope of the Cloud Service Agreement as specified under Section 2.1 of the Cloud Service Agreement, and the Provider agrees to act as Data Processor in accordance with the terms of the Cloud Service Agreement and this DPA.*

2.2 *If the Processor is based outside the European Union, in a country that has not been subject to an adequacy (or equivalent) finding by the European Commission, its Personal Data Processing shall also be governed by the terms of the Model Clauses [Note: Model Clauses to be attached to this DPA as an Addendum] and this Data Processing Attachment applies insofar as it does not contradict the Model Clauses.*

3. DURATION

3.1 *This DPA shall be effective as from the Effective Date, and shall remain in force for the entire duration of the Agreement unless terminated in advance on any ground.*

3.2 *Upon termination of this DPA, the Provider shall return or otherwise make available for retrieval the Personal Data, or destroy all Personal Data (and certify that such Personal Data has been destroyed on the Systems and all storage media, including media of any Subcontractors) as specified under Section 10 of the Cloud Service Agreement, except as otherwise required by the applicable Data Protection Legislation and Regulations.*

4. TYPES AND CATEGORIES OF PERSONAL DATA AND PURPOSES OF PROCESSING

4.1 *In order to execute the Cloud Service Agreement and to perform the Services on behalf of the Adopter, the Controller authorizes and requests the Processor to Process the following Personal Data:*

a) *Categories of Personal Data: Personal Data may include, among other information, [Note: list of Personal Data that may be Processed by the Provider under the Cloud Service Agreement depending on the services carried out by the Provider, e.g. personal contact information such as name, home address, home telephone or mobile number, fax number, email address, and passwords, financial details, etc.];*

b) *Categories of Data Subjects: Data Subjects include [Note: list of Data Subjects to whom Personal Data relate depending on the services carried out by the Provider, e.g. the Adopter, in case of a consumer using the Provider's Services; Adopter's employees, job applicants, contractors, customers, end users, Third-Parties, injured parties, etc.].*

4.2 *The Provider shall Process Personal Data solely for the purpose of the provision of the Services under the Cloud Service Agreement as described in details in Attachment 1 to the Cloud Service Agreement.*

5. *ADOPTER'S RESPONSIBILITY*

5.1 *The Adopter, as Controller of the Personal Data, is fully responsible for abiding by Data Protection Laws and Regulations and for compliance with its obligations, including providing legal basis for the Adopter's and Provider's lawful Processing of Personal Data under the Cloud Service Agreement, e.g. filing any required notifications or authorization, providing notices to and obtaining consent (as applicable) from the Data Subject.*

6. *ADOPTER'S INSTRUCTIONS*

6.1 *If necessary to comply with the Data Protection Laws and Regulations, during the term of the Services the Adopter may provide instructions to the Provider in addition to those specified in the Cloud Service Agreement.*

6.2 *The Provider will comply with all instructions provided by the Adopter without additional charge to the extent necessary for the Provider to comply with laws applicable to its performance of the Services as Data Processor.*

6.3 *The Provider will inform the Adopter if, in the Provider's opinion and without any obligation to perform any legal assessment, an instruction breaches Data Protection Laws and Regulations.*

6.4 *The Adopter and the Data Processor will negotiate in good faith with respect to any other change in the Services and/or fees resulting from such instructions.*

7. *PROVIDER'S OBLIGATIONS*

7.1 *The Provider shall not Process or use Personal Data for purposes other than those set forth in the Cloud Service Agreement or as instructed by the Adopter and shall not disclose, or otherwise share the Personal Data with Third-Parties other than its Subcontractors for the aforementioned purposes or as required by European Union or EU Member State law to which the Processor is subject.*

7.2 *If the Processor is required by European Union or EU Member State law to process or disclose Personal Data for purposes other than set forth in the Cloud Service Agreement, the Provider shall promptly inform the Adopter of that legal requirement before*

Processing the Personal Data, unless that law prohibits such information on important grounds of public interest (e.g. secrecy duties related to criminal investigations).

- 7.3 *The Provider will ensure that access to Personal Data will be limited solely to those of its staff, employees and representatives, under strict confidentiality provisions, who require access to the Personal Data as necessary for the provision of the Services and suitably trained in the Processing of Personal Data and in the technical and organizational security measures to apply.*
- 7.4 *The Personal Data will be erased from the System and any storage media no later than [●] days after the termination of any retention period specifically agreed with the Adopter and in any case upon deletion of the Personal Data by the Adopter. The erasure will be carried out according to the procedure defined under Section 10 of the Cloud Service Agreement or any alternative procedure mutually agreed in writing by the parties.*
- 7.5 *The Provider will promptly inform the Adopter of any demand from an executive or administrative agency or other governmental authority that it receives and relates to the Personal Data under the Cloud Service Agreement. At request of the Adopter, the Provider will provide the Adopter with reasonable information required for the response to the demand and any assistance reasonably required for the Adopter to respond to the demand in a timely manner, being excluded any responsibility of the Processor to liaise directly with the relevant authority unless otherwise required under the applicable Data Protection Laws and Regulations.*
- 7.6 *In addition, the Processor will provide reasonable cooperation to the Adopter, at the Adopter's reasonable request and within the timescales reasonably specified by the Controller, to provide all information, at its hand and strictly relevant to the Services, necessary to the Adopter (i) to make the processing notification with the competent data protection authority, (ii) to comply with any authorization or privacy assessment procedure to comply with the Data Protection Laws and Regulations, (iii) to allow the Adopter to comply with the rights of Data Subjects, including subject-access rights, or with notices served by any law enforcement authority and (iv) to demonstrate compliance with the Adopter's obligations under the Data Protection Laws and Regulations.*
8. **SUBCONTRACTING**
- 8.1 *In the event of any subcontracting enlisted by the Provider in accordance with the relevant provision of the Cloud Service Agreement of any Processing operations of the Personal Data, the Provider will timely inform the Adopter of any intended subcontracting and of the Processing operations to be enlisted to the Subcontractor.*
- 8.2 *The Adopter will retain the right to object to the subcontracting and it may withhold its consent, within a period of [●] days from the date of receipt of the notice, or terminate the Cloud Service Agreement with a [●] [days] written notice only on the basis of reasonable grounds, including any restriction prescribed under the Data Protection Laws and Regulations.*
- 8.3 *[Note: to be included, as applicable] A list of Subcontractors as of the Effective Date is provided in Annex [●] to this DPA and, by signing the Cloud Service Agreement, the Adopter approves this list. Any addition or replacement to this list will be notified by the Provider to the Adopter via email to the contact addresses identified under the Cloud*

Service Agreement or via any other electronic form capable of being evidentiary documentation. The Adopter will retain the right to object to the intended changes and it may withhold its consent, within a period of [●] days from the date of receipt of the notice, or terminate the Cloud Service Agreement by written notice after [●] [days] written notice only on the basis of reasonable grounds, including any restriction prescribed under the Data Protection Laws and Regulations.]

8.4 *The Adopter may request the Provider (i) to provide the Adopter with copies of the relevant terms of subcontracting agreement with Subcontractors (with omission of any confidential information, if any) and (ii) to audit, at least once per year, the Subcontractors in relation to their compliance with the security measures and the Processing of Personal Data in accordance with the instructions of the Adopter under Section 6 to this DPA, or confirm that such an audit has occurred (or, where available, obtain or assist the Adopter in obtaining a Third-Party audit report concerning the Subcontractor's operations), providing a copy of such report according to Section 12 below.*

8.5 *Where the Provider engages any Subcontractor for the processing of Personal Data, the Provider will ensure that the subcontracting agreement includes (i) an explicit designation – in the name, and on behalf, of the Adopter – of the Subcontractor as Adopter's Data Processor or any other legal act valid under the European Union or the EU Member State law, (ii) obligations upon the Subcontractors in relation to the Processing of Personal Data, including implementation of security measures, at least equivalent to those set forth under the Cloud Service Agreement (especially, but not limited to those set forth under Attachment 6) and (iii) the Subcontractors' liability towards the Provider and the Adopter.*

8.6 *Where any of the Subcontractors fails to fulfil its data protection obligations, the Provider shall remain fully liable to the Adopter for the performance of that Subcontractor's obligations.*

9. TRANSFER OF DATA

9.1 *The Provider declares and warrants that for the provision of the Services it will use exclusively data centres located within the EU.*

[Note: if transfer outside the EU is permitted by the Adopter, Section 9.1 will be the following:

The Provider represents, and the Adopter agrees, that Personal Data will be stored in the data centres located outside the EU [Note: listed below/under Annex [●] to this DPA/available at [●]].

9.2 *Any addition or replacement to this list will be notified by the Provider to the Adopter via email to the contact addresses identified under the Cloud Service Agreement. The Adopter will retain the right to object to the intended changes and it may withhold its consent, within a period of [●] days from the date of receipt of the notice, or terminate the Cloud Service Agreement by written notice after [●] [days] written notice only on the basis of reasonable grounds, including any restriction prescribed under the Data Protection Laws and Regulations.*

9.3 *[Note: if transfer outside the EU is permitted by the Adopter, the following clause should*

also be included: The Provider represents and warrants that [Note: insert details of the guarantees implemented by the Provider to ensure the transfer of Personal Data outside the EEA or the countries that have been subject to an adequacy (or equivalent) finding by the European Commission pursuant to Articles 25 and 26 of the Directive (“adequacy finding”), offer equivalent protection to the data. Please refer to any documentation attached to the Cloud Service Agreement specifying whether the transfer is based on (i) Binding Corporate Rules , (ii) on Model Clauses or (iii) on any other adequacy ground approved by the EU Commission, e.g. the EU-US Privacy Shield⁷⁶].

9.3 *[Note: if transfer outside the EU is permitted by the Adopter, the following clause should also be included: If the Adopter approves any subcontracting outside the EEA in a country that does not offer an adequate protection of Personal Data as provided under the Directive 95/46/EC⁷⁷, the Adopter hereby expressly mandates the Provider to enter– in the name, and on behalf, of the Adopter –into the Model Clauses whose Annex 1 and Annex 2 shall be substantially in line with the information under this DPA and to provide, at request of the Adopter, copy of the signed Model Clauses.*

10. RIGHTS OF THE DATA SUBJECTS

10.1 *To the extent legally permitted, the Provider agrees to promptly notify the Adopter if it receives any requests, notices or other communication from Data Subjects for the Adopter for access to, correction, amendment, blocking, deletion of that Data Subject’s Personal Data or objection to the Processing Personal Data of that Data Subject.*

10.2 *Upon written request of the Adopter [and at no additional cost/ upon payment of reasonable fees associated with the performance of any such operation], the Adopter will be granted electronic access to the Adopter’s Service environment that holds Personal Data to permit the Adopter to extract, access, correct, amend, block access or delete specific Personal Data. If that is not practicable and to the extent permitted by Data Protection Laws and Regulations, the Provider will perform such operations upon the Adopter’s detailed written instructions.*

10.3 *The Provider shall not respond to any such Data Subjects’ request without the Adopter’s prior written consent.*

11. SECURITY

11.1 *When Processing Personal Data on behalf of the Adopter in connection with the provision of the Services, the Provider will cooperate with the Adopter to have in place appropriate physical, technical and organizational security measures for the Processing of such data in compliance with the security requirements set forth under the applicable law, including Data Protection Laws and Regulations, as applicable, to protect Adopter Personal Data against accidental or unauthorized loss, destruction, alteration, disclosure or access, and against all other unlawful forms of processing.*

⁷⁶ Adequacy of the measures set forth under the former US-EU Safe Harbor has been challenged by the Court of Justice of the European Union (*Maximillian Schrems v. Data Protection Commissioner (Safe harbor – Case C-362/14)*) ruling that the US-EU Safe Harbor data transfer agreement is invalid. A new EU-US Privacy Shield has been negotiated at political level between the EU Commission and the U.S. Department of Commerce on February 2nd, 2016; formal approval of the Umbrella Agreement is expected during 2016.

⁷⁷ See note no.2.

- 11.2 *Among others, the Provider agrees to maintain for the entire Duration of the Cloud Service Agreement, the physical, organizational and technical security measures specified in Attachment 6 to the Cloud Service Agreement to ensure the availability, integrity and confidentiality of the Personal Data, including monitoring use of the System by any “administrator”.*
- 11.3 *The Provider will not materially decrease the overall security of the Services during the term of the Cloud Service Agreement.*
- 11.4 *In the event that the Provider becomes aware of any confirmed or suspected security breaches or breaches of any provision of the DPA and/or any irregularity in the processing of the Personal Data, or in the event that the Provider is contacted by a supervisory authority for data protection violation, the Provider will promptly notify the Adopter. In the event of a security breach triggering notification obligations for the Adopter under applicable Data Protection Laws and Regulations, the Provider shall cooperate with the Adopter to identify and remediate the cause of such breach. The Provider will maintain security incident management policies and procedures as described in Attachment 6 (as amended from time to time, provided that the overall efficacy of the procedure will not decrease).*
12. **REPORTING AND AUDIT**
- 12.1 *On an annual basis (starting from the end of the first annual year of duration of the Cloud Service Agreement) and occasionally, upon a reasonable and motivated request of the Adopter, the Provider will monitor its compliance with its data protection obligations in connection with the Services provided to the Adopter and will provide the Adopter with a written report on the results of such controls.*
- 12.2 *[Note: if applicable] The Provider has obtained the third-party certifications and/or audits set forth in Attachment 6 to the Cloud Service Agreement. Upon the Adopter’s written request at reasonable intervals (i.e. once per year or earlier if grounded on valid legal reasons) the Provider will provide a copy of the Provider’s then most recent third-party certifications and/or audits, as applicable, or any summaries thereof, as generally made available to its customers at the time of such request.*
- 12.3 *The Adopter may audit, at its expenses, the Provider’s compliance with the terms of the Cloud Service Agreement and this DPA up to once per year. The Data Controller may perform more frequent audits of the Systems that Process Personal Data to the extent required by laws applicable to Data Controller or, at the Provider’s expenses, based on a valid reason (e.g. actual or reasonably suspected unauthorized disclosure of Personal Data). If the audit is to be conducted by a Third-Party, the Adopter and the Provider will identify, by mutual agreement, this Third-Party. The Third-Party will sign a written confidentiality agreement before conducting the audit.*
- 12.4 *Any request of audit is submitted with appropriate notice (at least [●] weeks in advance of the audit).*
- 12.5 *The audit will be conducted during regular business hours at the applicable facility, subject to the Provider’s policies and may not unreasonably interfere with its business activities.*
- 12.6 *A copy of the audit report will be provided by the Adopter to the Provider, unless*

prohibited by law. The Provider will submit to the Adopter an action plan to remedy any non-conformity identified during the audit and will put in place adequate measures to remedy within the timescale agreed with the Adopter.

12.7 *Audit reports can only be used by the Parties to achieve their regulatory requirements and/or confirming compliance with the requirements of the Cloud Service Agreement.*

13. **GOVERNING LAW**

13.1 *This DPA shall be governed by, and construed in accordance with, the Data Protection Laws and Regulations of [country of establishment of the Adopter].*

Attachment 6 to the Agreement: Security Policy

Description of the SLALOM Attachment

This policy concerns the responsibilities of the Parties in relation to security measures to be implemented by the Provider.

Security measures must be outlined in the document and must be aligned at least with suitable set of physical, technical and organizational measures as set out by the applicable Data Protection Laws and Regulations.

SLALOM Introduction of this Attachment

The Provider shall implement and maintain the following security measures in the provision and the use of the Services.

Document contributors

Gian Marco Rinaldi (Bird & Bird)

Debora Stella (Bird & Bird)

Roger Bickerstaff (Bird & Bird)

Barry I Jennings (Bird & Bird)

Alexander Duisberg (Bird & Bird)

Stephane Leriche (Bird & Bird)

Leonidas Kanellos (UPRC)

Aimilia Bantouna (UPRC)

Panagiotis Vlaheas (UPRC)

Andreas Georgakopoulos (UPRC)

Konstantinos Tsagkaris (UPRC)

Panagiotis Demestichas (UPRC)

Mavreta Stamatii(UPRC)

REFERENCES

- [1] SLALOM D3.1 Initial Position Paper (Technical)
- [2] SLALOM D3.2 SLA Specification and reference model a
- [3] SLALOM D4.1/5.1 Initial Position Paper (Provider and Adopter's perspectives)
- [4] SLALOM website: www.slalom-project.eu